AMERICAN STATE PAPERS.

CLASS I.

FOREIGN RELATIONS.

VOLUME II.

AMERICAN STATE PAPERS.

DOCUMENTS,

LEGISLATIVE AND EXECUTIVE,

OF THE

CONGRESS OF THE UNITED STATES,

FROM THE FIRST SESSION OF T[illegible] FIRST TO THE THIRD SESSION OF THE THIRTEENTH CONGRESS, INCLUSIVE:

COMMENCING MARCH 3, 1789, AND ENDING MARCH 3, 1815.

SELECTED AND EDITED, UNDER THE AUTHORITY OF CONGRESS,

BY WALTER LOWRIE, *Secretary of the Senate,*

AND

MATTHEW ST. CLAIR CLARKE, *Clerk of the House of Representatives.*

VOLUME II.

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AMERICAN STATE PAPERS.

FOREIGN RELATIONS.

5th CONGRESS.] No. 121. [1st SESSION.

FRANCE AND SPAIN.

COMMUNICATED TO CONGRESS ON THE 19TH DAY OF MAY, 1797.

DEPARTMENT OF STATE, *May* 17, 1797.

SIR:

By the direction of the President of the United States, I have the honor to present the enclosed papers, numbered from one to eighteen, as noted below, to be laid before the House of Representatives.

And am, &c.

TIMOTHY PICKERING.

The SPEAKER *of the House of Representatives of the United States.*

No. 1. General Pinckney's letter to the Secretary of State, dated at Paris, December 20th, 1796.
No. 2. Report of Major Mountflorence to General Pinckney, dated at Paris, December 18th, 1796.
No. 3. Extract of a letter from General Pinckney to the Secretary of State, dated at Paris, January 6th, 1797.
No. 4. Extract of a letter from General Pinckney to the Secretary of State, dated at Amsterdam, February 18, 1797.
No. 5. Extract of a letter from General Pinckney to the Secretary of State, dated at Amsterdam, March 5th, 1797.
No. 6. Extract of a letter from Major Mountflorence to General Pinckney, dated Paris, February 14, 1797.
No. 7. Extract of a letter from Major Mountflorence to General Pinckney, dated Paris, February 21, 1797.
No. 8. Extract of a letter from General Pinckney to the Secretary of State, dated Amsterdam, March 8, 1797.
No. 9. Speech of Mr. Barras, president of the Executive Directory of the French republic, to Mr. Monroe, December 30, 1796.
No. 10. Decree of the Executive Directory of the French republic, dated March 2, 1797.
No. 11. Extract of a letter from John Quincy Adams, Esq. to the Secretary of State, dated at the Hague, November 4th, 1796.
No. 12. Extract of a letter from the committee of foreign relations of the Batavian National Assembly to John Quincy Adams, Esq. dated at Hague, September 27th, 1796.
No. 13. Extract of a letter from John Quincy Adams, Esq. minister of the United States, at the Hague, to the committee of foreign relations of the Batavian National Assembly, dated at the Hague, October 31st, 1796.
No. 14. Extract of a letter from John Quincy Adams, Esq. minister of the United States, at the Hague, to the Secretary of State, dated February 17, 1797.
No. 15. Extract of a letter from Rufus King, Esq. minister of the United States in London, to the Secretary of State, dated March 12, 1797.
No. 16. Letter from the Chevalier de Yrujo, envoy extraordinary and minister plenipotentiary of his Catholic Majesty, to the Secretary of State, dated May 6, 1797.
No. 17. Letter from the Secretary of State to the Chevalier de Yrujo, the minister of his Catholic Majesty to the United States, dated May 17, 1797.
No. 18. Letter from General Pinckney to the Secretary of State, dated Paris, February 1st, 1797.

No. 1.

PARIS, 30*th Frimaire*, (*December* 10*th*, 1796.)

DEAR SIR:

We left Bordeaux on the 25th of November, having been detained there until that time: first by the badness of the weather, which prevented the unloading of the baggage, and afterwards by some necessary alterations being made to my carriage, to encounter the bad roads we were threatened with. The roads were even worse than the horrible description we had heard of them; and we broke down twice, and were obliged to get three new wheels, out of four, before we reached this city, which we at length did on the evening of the 5th of December. I here met Major Henry Rutledge, my secretary, and, on the morning of the next day, (December 6) I transmitted by him, to Mr. Monroe, his letters of recall, with my compliments, and that I would wait upon him at any hour he would appoint: I received for answer, that Mr. Monroe would see me whenever I pleased. I immediately waited on him, and we had a long conversation on the affairs of America; in which he, with a great deal of frankness, communicated all the late measures of this Government with respect to ours, and of which you must, long before this, have been apprised, both by Mr Adet and the despatches of Mr. Monroe. He also showed me a letter which he had received from M. De la Croix, the minister of foreign affairs, in the following words:

The Minister of Foreign Affairs to citizen Monroe, Minister Plenipotentiary of the United States.

PARIS, 12*th Frimaire*, 5*th year of the French republic.*

CITIZEN MINISTER:

The arrival of Mr. Pinckney, at Paris, appearing to be near at hand, if it has not already taken place, I conceive that I should communicate to you certain formalities which you are to fulfil on the occasion. The usage is, that the minister recalled and his successor send to the Minister of Foreign Affairs, a copy of their letters of credence and recall. As I presume your letters of recall have already been sent to you, I request you to communicate them to me as soon as possible.

Greeting and fraternity.

CH. DE LA CROIX.

I told Mr. Monroe that I thought it would be more respectful to the minister to acquaint him with my arrival, and to inform him, that we would wait upon him at any hour he should appoint, with my letters of credence, and his letters of recall. Accordingly Mr. Monroe, in my presence, and with my approbation, sent him the following letter:

The Minister Plenipotentiary of the United States of America to the Minister of Foreign Affairs of the French republic.

PARIS, *December* 6, 1796, (16*th Frimaire*,)
21*st year of the independence of the United States of America.*

CITIZEN MINISTER:

I have the honor to inform you, that my successor, Mr. Pinckney, is arrived, and is desirous of waiting upon you, for the purpose of presenting a copy of his letter of credence for the Directoire Exécutif of the French republic. By him I have also received my letter of recall. Permit me, therefore, to request that you will be so obliging as to appoint a time when Mr. Pinckney and myself shall have the honor to attend you, for the purpose of presenting you copies of those documents.

Accept the assurance of my respect.

JAMES MONROE.

On Friday morning, December 9, I received a letter from Mr. Monroe, informing me, that M. De la Croix had appointed that day, between one and four o'clock, P. M. to receive us. M. De la Croix's letter was conceived in the following terms:

The Minister of Foreign Affairs to citizen Monroe, Minister Plenipotentiary of the United States of America.

PARIS, 19*th Frimaire*, 5*th year*, (*December* 9, 1796.)

CITIZEN MINISTER:

I have received the letter which you did me the honor to write to me, in which you request an interview for citizen Pinckney, designated for your successor, for the purpose of delivering copies of his letters of credence, and your letters of recall. I shall be glad to receive you between the hours of one and four o'clock this afternoon, if convenient to you. I pray you to propose this to citizen Pinckney.

Greeting and fraternity.

CH. DE LA CROIX.

Mr. Monroe and myself, with my secretary, Major Rutledge, about two o'clock, waited upon M. De la Croix, and I was introduced by Mr. Monroe as the person appointed as his successor. The minister at first received us with great stiffness, but, afterwards, on our conversing on some general subjects, he unbent and behaved with civility; and, on receiving the official copies of our letters of credence and recall, said he would deliver them, without delay, to the Directory. He desired Major Rutledge to let him have our names of baptism, and our ages, that cards of hospitality might be made out: which he said were necessary to reside here unmolested. This requisition was immediately complied with, and he promised to send the cards the next morning. When this interview was known, the reports, which had been spread abroad before my arrival, of my not being received by the Directory, vanished, and the general idea seemed to be that there would be no objection to receive me as minister from America. At 11 o'clock, on Monday, December 12th, Mr. Prevost (Mr. Monroe's secretary) called upon me, and told me that Mr. Monroe had just received a letter from M. De la Croix, and desired to know if I had received one. I said no; he then showed me M. De la Croix's to Mr. Monroe, which was as follows:

The Minister of Foreign Affairs to Citizen Monroe, Minister Plenipotentiary of the United States of America.

PARIS, 21*st Frimaire*, (*December* 11, 1796)
5*th year of the French republic, one and indivisible.*

CITIZEN MINISTER:

I hasten to lay before the Executive Directory the copies of your letters of recall, and of the letters of credence of Mr. Pinckney, whom the President of the United States has appointed to succeed you, in quality of minister plenipotentiary of the United States near the French republic. The Directory has charged me to notify to you "that it will not acknowledge nor receive another minister plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French republic has a right to expect from it."

I pray you to be persuaded, citizen minister, that this determination having become necessary, allows to subsist between the French republic and the American people the affection founded upon former benefits and reciprocal interests: an affection which you yourself have taken a pleasure in cultivating by every means in your power.

Accept, citizen minister, the assurance of my perfect consideration.

CH. DE LA CROIX.

I waited until next morning, expecting to receive a notification from M. De la Croix, when, not hearing from him I wrote him the following letter:

PARIS, *December the* 13*th, in the* 21*st year of the independence of the United States of America.*

CITIZEN MINISTER:

Colonel Monroe has been so good as to communicate to me your letter to him of the 21st Frimaire, wherein you inform him that you had submitted to the Executive Directory his letters of recall, and my letters of credence as minister plenipotentiary from the United States of America, and that the Directory had instructed you to notify him 'qu'il ne reconnoitra et ne recevra plus de ministre plenipotentiaire des Etats Unis jusqu'après le redressement des griefs demandé au Gouvernement Americain, et que la république Françoise est en droit d'en attendre.' [That it will not acknowledge nor receive another minister plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French republic has a right to expect from it.] This communication has filled me with real sorrow, as I am thoroughly convinced that the sentiments of America and its Government—for they are one—are misunderstood, and that I am not permitted even to attempt to explain them, or, in the terms of my letters of credence, to endeavor "to efface unfavorable impressions, to banish suspicions, and to restore that cordiality which was at once the evi-

dence and pledge of a friendly union." Devoted, as I am, to the liberty, prosperity, and independence of my own country, the freedom, happiness, and perfect establishment of the French republic have always been dear to me, and to have been instrumental in cementing the good understanding which, from the commencement of their alliance, has subsisted between the two nations, would have been the height of my ambition. I most fervently pray that there may be a speedy and candid investigation of those points in which you differ from us, that affection may banish distrust, and that the alliance of the two republics may be perpetual.

In your letter to Colonel Monroe you do not desire him to make any communication to me, and I am indebted to his politeness for the knowledge I have of the intentions of the Directory. I submit to you, citizen minister, that, as the letters of recall had been received by Mr. Monroe, and official copies of his letters of recall, and my letters of credence, had been delivered to you, that the sentiments of the Directory should be communicated by you immediately to me, that I may, without delay, transmit them as from the Executive of this republic to the Government of the United States; and that I may be informed, by you, whether it is the intention of the Directory that I should immediately quit the territories of the republic, or whether I and my family may remain until I hear from my Government. As I have not received the cards which, in your interview, you said I ought to possess in order to enable me to reside here, and that they should be transmitted to me the next morning, I am the more doubtful on this subject than I should otherwise be.

Accept my best respects.

CHARLES COTESWORTH PINCKNEY.

Citizen De la Croix,
Minister of Foreign Affairs of the French republic.

This letter I sent by Major Rutledge, who delivered it to M. De la Croix, and made the following report of what passed between them, which he immediately reduced to writing:

Paris, 23*d Frimaire*, (13*th December.*)

I this day waited upon M. De la Croix, the Minister for Foreign Affairs, at two o'clock, as bearer of a letter from General Pinckney. I was admitted immediately on sending in my name, and delivered the letter. Having informed him from whom it came, and that there was a French translation annexed, he opened it and proceeded to read the letter in my presence, which, when he had finished, he desired me to return to General Pinckney as his answer: That the Executive Directory knew of no minister plenipotentiary from the United States of America, since the presentation of Mr. Monroe's letters of recall, and that the Executive Directory had charged him to notify to Mr. Monroe (here he read the quotation contained in the letter) qu'il ne reconnoitra et ne recevra plus de ministre plenipotentiaire des Etats Unis, jusqu'après le redressement des griefs demandé au Gouvernement Americain, et que la république Françoise est en droit d'en attendre. Which notification the Directory relied upon Mr. Monroe's imparting to his own Government, as well as communicating to General Pinckney. Upon my asking him if I understood him rightly, he stopped me, by repeating the substance of what I have mentioned, with the alteration, when he came to the notification of the word *American* into *Federal.* He then went on to say, that, with respect to the second subject of General Pinckney's letter, he could return no answer until it was laid before the Directory. I then suggested to him the inconveniences to which General Pinckney was exposed; he replied, that he would take an early opportunity of submitting his letter to the Directory, probably the next day. I asked if General Pinckney should expect an answer; he replied, that their intentions should be signified either to himself or to Mr. Monroe. I then took my leave, and withdrew.

HENRY M. RUTLEDGE.

On the 25th of Frimaire, (15th of December) about three o'clock in the afternoon, a Mr. Giraudet called on me, and said he was chief secretary in the Department of Foreign Affairs; that he came on the part of the Minister of Foreign Affairs, to signify to me that, with respect to my letter to him, (which he produced, together with the translation) he could not directly communicate with me on it, as such direct communication would be acknowledging me as minister, when the Directory had determined not to receive me; that, as to the other part of my letter, relative to remaining here, that he supposed I was acquainted with the laws of France, as they applied to strangers. I told him that I was not acquainted with the local laws of the republic; he said that there was a decree which prevented all foreigners from remaining at Paris without particular permission, which, as the Directory did not mean to grant to me, of course the general law would operate. I answered, that I could not conceive the having a direct communication with me would involve the consequences he stated; that if Mr. Monroe had died before my arrival, the information that they would not acknowledge me, must, of course, have been made to myself. Mr. Monroe having received his letter of recall from our Government, could not now act officially any more than if he had ceased to exist; that I was indebted to Mr. Monroe's politeness for the information I had received of the intention of the Directory not to acknowledge me, but that he had not intended it as an official communication. That, with regard to the laws of France relative to strangers, the law which he had cited did not apply to the requisition of my letter, which was to know whether it was the intention of the Directory that I should quit the territories of the republic, or whether I might remain here until I should hear from my Government. He said, he rather believed that it was the intention that I should quit the territories of the republic; but, as it admitted of a doubt, he would mention it to the minister, with whom he was to dine, and acquaint me with the result in the evening. I told him I should be obliged to him, should it be the intention of the Directory that I should quit the republic, to inform me in what time I was to set out, as my baggage was not arrived from Bordeaux; that I meant not to ask any personal favor, but to have the intention of the Directory clearly expressed, as it related to me, in the situation in which I came to France. He said he would, and expressed a regret at being the bearer of disagreeable information, and then departed. His behavior and manners were very polite.

In the evening, about eight o'clock, he returned, and informed me that, in answer to the doubt which had been entertained in the morning, (a doubt, he observed, which had proceeded from his own inattention to the words of M. De la Croix) the minister could only reply that he understood the Directory to mean the territory of the republic, and not Paris alone, which was to be quitted; that as to the time in which it was necessary to depart, the minister could not designate it, but that he would have another communication with the Directory, and that their intentions should be made known to me in a more explicit manner upon both points; that, at the same time, he must inform me that, in all probability, M. De la Croix would not be the organ through which they would be addressed, as the Minister of the Police Générale would be the officer under whose department my case would come. I replied that I apprehended M. De la Croix was the proper organ through which information should come to me, as he knew the capacity in which I had come to France: whereas, the minister of police might regard me as a mere stranger, and throw me into confinement; that it was in the power of the Directory to receive me, or not: but they could not divest themselves of the knowledge which they had of the public character in which I came to France; that, before I arrived, M. De la Croix had, on the 12th of Frimaire, written to Mr. Monroe, that, as my arrival at Paris might be soon expected, if it had not already taken place, that the custom was for the recalled minister and his successor to send, respectively, copies of their letters of credence and recall to the Minister of Foreign Affairs; that, in consequence of this notification, M. De la Croix was informed in writing, on the 16th Frimaire, the morning after my arrival, by Mr. Monroe, that I was arrived as his successor, and was desirous of waiting on him, for the purpose of presenting a copy of my letter of credence for the Executive Directory of the French republic; that, on the 19th of Frimaire, M. De la Croix informed Mr. Monroe, by letter, that he would receive us, with our letters of credence and recall, between the hours of one and four, if it suited us: agreeably to which notification, we waited on him, and I was introduced to him by Mr. Monroe as his successor; that we presented official copies of our letters of recall and credence; that he promised to lay them before the Directory, and also promised that cards of hospitality should be sent to me and Major Rutledge the next morning; that M. De la Croix, on the 21st Frimaire, wrote to Mr. Monroe, and

informed him "that he had laid before the Directory the copy of his letters of recall, and of the letters of credence of Mr. Pinckney, whom the President of the United States had named to succeed him in quality of minister plenipotentiary of the said States near the French republic." From all which circumstances, the character with which I was invested must be apparent both to the Directory and to the Minister of Foreign Affairs; and that, in that character, I was entitled to the protection of the laws of nations, whether the Directory received me or not. If they permitted me to remain until I heard from my Government, I was under the protection of those laws: if they ordered me to quit the territories of the republic, I was still entitled to letters of safe conduct, and passports on my journey out; that this was the case even with ministers of belligerent Powers, much more ought it to apply between us, who were at peace. He said, supposing M. De la Croix had been mistaken in having desired my letters of credence, in seeing me, and in his laying those letters of credence before the Directory, such mistake of the minister could not be binding on the Directory. I replied that it was impossible for me to admit that the Minister of Foreign Affairs had committed a mistake in his official duty: he was held forth to the world as minister; all his acts must be accredited as performed within the line of his duty, and under a competent authority; and that his letter to Mr. Monroe showed he was desirous that the established usage should be complied with. He said he did not allege that there was a mistake: he had only, for argument's sake, urged a supposition, which might be unfounded; that he would communicate what I mentioned to M. De la Croix. I desired him, at the same time, to inform M. De la Croix that I requested whatever further passed might be in writing, that no mistakes might happen by verbal communication, and that I might know explicitly what were the intentions of the Directory. Since this conversation, I have not heard from the Directory, or any of the ministers or their agents. My situation, as you may easily conceive, is unpleasant; but if I can ultimately render any services to my country, I shall be fully compensated: at all events, it shall be my study to avoid increasing the discontent of this Government, without committing the honor, dignity, and respect due to our own. Should I fail in doing this, or should I err in the measures I pursue to accomplish it, the failing will not be in my zeal, but should be charged to my want of ability. At present, I think the ground I have taken has puzzled them: they wish me gone, but they apprehend that it would be too harsh a measure to send off, in a peremptory manner, the minister of my country; though there is no saying what their conduct will ultimately be, as I am informed that they have already sent off thirteen foreign ministers: and a late emigrant, now here, has assured them that America is not of greater consequence to them, nor ought to be treated with greater respect, than Geneva or Genoa. Those who regard us as being of some consequence, seem to have taken up an idea that our Government acts upon principles opposed to the real sentiments of a large majority of our people, and they are willing to temporize until the event of the election of President is known; thinking that, if one public character is chosen, he will be attached to the interest of Great Britain; and that, if another character is elected, he will be (to use the expression of Du Pont de Nemours, in the council of ancients) devoted to the interest of France; entertaining the humiliating idea that we are a people divided by party, the mere creatures of foreign influence, and regardless of our national character, honor, and interest. To eradicate this ill-conceived and unfounded opinion, will be a work of time and labor, so greatly have they been prejudiced by misrepresentation. The reasons that are alleged here for the conduct of the present Government of this country to us, you have already been apprised of from Mr. Adet and Mr. Monroe. The letter of the 21st Frimaire, from M. De la Croix to Mr. Monroe, above recited, shows the distinction which this Government attempts to make between the American people and their Government; at the same time, Major Mountflorence's report to me, which I enclose, shows that the property of the American citizens is not respected in the cases he mentions. I trust that America will show that her sentiments and those of her Government are one; and that she will never suffer any foreign nation to interfere in her concerns; and that an attempt to divide her citizens will be the "signe de ralliement,"* and render them the more united. As much as I am averse to a sea voyage, I should immediately have sailed for Philadelphia, on knowing the determination of the Directory not to acknowledge me, that I might receive personally the instructions of the administration of our Government, more particularly at a time when Congress was sitting; but, as I am informed, the orders to Mr. Adet were issued about the 19th of August, and that the vessel which carried them sailed from L'Orient about the 7th of September, I thought it probable that new instructions might be forwarded to me before I could arrive in America: and I have therefore determined, if the Directory will not suffer me to remain upon the territory of the republic, until I hear from you, to proceed to Amsterdam, and stay there, until I shall receive orders how to act, or whether to return home.

I have seen Mr. Monroe very often since my arrival: his conduct has been open and candid, and I believe he has made me every communication which he thought would be of service to our country. He undoubtedly felt himself hurt at his being superseded; but I am convinced he has not, on that account, left any thing undone which he thought would promote the objects of my mission. The Directory and ministers had, for some time before they were informed of his removal, treated him with great coolness; but, as soon as they heard of his recall, their attentions to him were renewed. Should this Government attempt to make any further communications to me, through him, he has promised me to inform them that he cannot comply with their desire, as his powers have ceased.

I remain, with great respect, &c.

CHARLES COTESWORTH PINCKNEY.

Colonel PICKERING, *Secretary of State.*

No. 2.

Major Mountflorence's report, given in to General Pinckney, the 19th December, 1796.

CONSULAT AMERICAIN.

PARIS, *December* 18, 1796.

SIR:

In the absence of Mr. Skipwith I will endeavor, at your desire, to make you a succinct general report of the present situation of our commercial interests in this country, in the best manner that the shortness of the time will admit of.

Since several months, the Executive Directory has given evident symptoms of displeasure towards our Government; which has been generally attributed to the treaty of commerce with Great Britain. In consequence of which, orders have been given to their cruisers to visit every neutral vessel going in, or coming from, an English port, *but these orders are common to the Danish and Swedish vessels as well as to our own.* Numbers of our vessels have been brought into the ports of France by virtue of these orders, and, in a subsequent report, I shall have the honor of submitting to you a nominative list of all of them, informing you of the several proceedings respecting each of them; several of them have been already released; some of the cargoes temporarily sequestered; and others now libelled before the tribunals of commerce. During the government of the Convention, the committee of public safety had exclusively the cognizance of all matters respecting prizes or captures at sea; which committee gave judgments on the reports of the executive commission of marine; but since the organization of the present constitution, the legislature has passed a law on the 27th of April last, giving power to the tribunals of commerce in every port of France, to take cognizance, in the first instance, of every matter relative to captures at sea; from whose judgments appeals may be carried before the civil tribunals of the respective departments; and one of the articles of the aforesaid law enacts, that in cases of appeals before the departmental tribunals, should the interests of neutrals be concerned, the commissaries of the Executive Directory near the tribunals (whose duties are similar to those of our attorneys general) may, if they see cause, refer the whole proceedings to the minister of justice, to take the opinion of the Directory thereon, before judgment be given by the said tribunals. I deemed it necessary, sir, to enter into these particulars in order to elucidate the proceedings which have lately taken place in respect to some of our vessels, captured and libelled. The tribunals of commerce are chiefly composed of merchants, and most of them are directly or indirectly, more or less, interested in the fitting out of privateers, and therefore are often parties concerned in the controver-

* Signal for rallying.

sies they are to determine upon. This happened in the case of Captain John Bryant, of Norfolk, in Virginia, which I beg leave to relate to you: Captain John Bryant, master of the Fanny, of Portsmouth, in Virginia, lost that vessel at sea, having a sea-letter, which he preserved, and was taken up by the brig Francis, of Salem, and carried to Spain; from whence he returned to Norfolk, where, having received the command of the Powhattan, of Richmond, he proceeded in her to London, where the said vessel was sold by the owners. He purchased in England, from our consul, Mr. Joshua Johnson, a prize vessel, the Royal Captain, and traded with her under the flag of the United States, and made several coasting voyages from one French port to another, his ship's papers having been found regular. But lately bound from Flushing to Bordeaux, with a cargo belonging to him, he was captured by a privateer from Boulogne, and brought into that port. The judges of the tribunal were most of them concerned in the privateer, and of course declared the Royal Captain a lawful prize, under pretence that she had no sea-letter. Appeal has been made from that judgment and the case referred to the minister of justice. Mr. Skipwith and myself waited on the minister and had a long conference with him on the proper construction to be made of the 25th article of the treaty of commerce between the United States and France. The minister having acknowledged the Royal Captain and her cargo to be American property; but insisting upon its being liable to condemnation, not being furnished with a sea-letter, we urged to him, that the very article of the treaty upon which he founded his opinion, did not specify seizure or confiscation of vessels which should not be provided with sea-letters; that every penal law was to be construed liberally; that the object of the treaty must have been reciprocal benefit to the merchants and commerce of both countries; that the interpretation given by him to that article would operate in a quite opposite manner, and place the merchants of the United States in a worse situation than if there had been no treaty, which most certainly could never have been the intention of either of the contracting parties; for if there existed no treaty, most undoubtedly an American vessel being brought into a French port would be immediately released, upon due proof being made of her being American property, and consequently neutral. Besides, we alleged that this doctrine had been sanctioned in France since the commencement of hostilities, several hundreds of our vessels having visited their ports, and no exception being taken to the want of sea-letters; indeed they have never been heretofore asked for; that the French Government had sold a very considerable number of prize vessels to our merchants in payment of supplies by them furnished, or otherwise; some of which had been chartered by the very agents of the Government, for sundry voyages in Europe, all of which had no sea-letters, nor could they ever obtain any before they made a voyage to the United States. All we could obtain from the minister, was his saying, that he would reconsider the matter and take the decision of the Directory. Nothing yet has transpired on this subject; but, two days ago, letters from Brest mentioned that the Diana, Captain Ingraham, from Savannah to Europe, sent into Brest by a French privateer, has been condemned by the tribunal of commerce of that port, and that the only motive for condemnation was the want of a sea-letter. I have wrote to Mr. Barnet, the consular agent at Brest, to instruct the counsellor on the appeal to apply to the commissary of the Directory near the tribunal of the department, to have the matter referred to the minister of justice. Should the Directory, sir, decide this important question upon the construction of the 25th article, in the same manner as the tribunals of commerce have done, it would be very alarming to our trade, as we have a vast number of vessels in that predicament, many of which are now in the several ports of France. As to the several claims of the American citizens against the French Government, for supplies furnished here and in the West Indies, spoliations, embargoes at Bordeaux, and at Brest, and other ports, indemnities for illegal captures and detention of our vessels, freights of vessels chartered by the French agents in the United States, drafts of the colonial administrations upon the national treasury, delegations of the said administrations on the ministers of France near the United States; nothing can be done with them for the moment: but this suspension is common to all the claimants of other neutral nations, as likewise to the French creditors; for indeed the embarrassment of their finances is such that many of the officers of Government cannot obtain the payment of the arrears due to them. I deem it also my duty, sir, to inform you that a foreign built sloop, the Nancy, Captain Berry, having been detained at Calais by the custom house officers of that port, the tribunal of commerce ordered her to be released, provided the minister of the United States near the French republic, would countersign her ship's papers. Having at this moment no minister acknowledged by the French republic, Captain Berry writing a very pressing letter to be able to comply with the orders of the aforesaid tribunal, which orders are conformable to a late regulation of the Directory, I have waited on the Minister of Foreign Relations, to submit the difficulty we labor under in that respect, and shall have the honor of communicating to you his answer when it shall be given.

With great respect, &c.

J. C. MOUNTFLORENCE.

Major General PINCKNEY,
Minister Plenipotentiary of the United States of America, Paris.

A true copy. HENRY M. RUTLEDGE, *Secretary.*

No. 3.

Extract of a letter from General Pinckney to the Secretary of State.

PARIS, *January* 6, 1797.

DEAR SIR:

The cessation of Mr. Monroe's functions, and the dormancy of mine in this country, have been attended with many inconveniences to our fellow citizens; among others, the difficulty of obtaining passports to come from the out-ports to Paris, and to go from Paris out of the republic, were complained of; and I conceived it my duty, though not acknowledged by this Government, to endeavor to remedy this grievance: for to our countrymen, arriving here from the territories of a Power at war with the republic, it was really so, as they were put into confinement on their arrival at the port, unless they could give security for their good behavior until they could obtain passports from our minister at Paris—which passports were countersigned by the minister of foreign affairs; and present circumstances did not even admit of these dilatory passports. I, therefore, requested my Secretary, Major Henry Rutledge, to wait upon M. De la Croix on this subject, and desired him, at the same time, to obtain from him, unofficially, an account of what the Directory had resolved, with regard to the points concerning my residence, which Mr. Giraudet had informed me M. De la Croix would submit to their determination. Major Rutledge waited upon M. De la Croix, and made me the following report:

PARIS, *December* 26, 1796.

I this day, at twelve o'clock, called upon the Minister of Foreign Affairs, and being admitted, after waiting some little time, I informed him that I came on the part of General Pinckney, who had desired me to say that, although he had not the honor to address him in an official capacity, yet his feelings would not excuse him from communicating an article of intelligence, in which the humanity of both nations was interested—it was upon the subject of such of our citizens as had of late arrived in the different ports of France. That, in conformity to the regulations of the police, all foreigners, upon their arrival on the territories of the republic, were arrested and put into confinement until they had obtained from the ministers of their respective countries, near the republic, a passport countersigned by the minister of Foreign Affairs. That the circumstance of having no minister acknowledged by the French republic, had thrown the American citizens into a predicament which had rendered them incapable of complying with the accustomed forms. That the consequence was their having remained for some time past in prison, which, at the present season, was a situation from which they could not be too soon released; it was, therefore, to know in what manner to answer their various applications, and to be informed to what authority he should refer them for relief, that General Pinckney had, at this moment, taken the liberty to trouble him. The minister replied, that an arrêté had been made on the subject, and that, in future, all petitions for passports on behalf of the

American citizens, should be addressed to the Minister of the Police Générale. That he would, however, charge himself with any which General Pinckney might have at that moment by him, if he preferred the channel of his department. I thanked him for his politeness, and made a motion to go, but stopped and asked him if he had heard any thing further from the Directory as to their intentions respecting General Pinckney's remaining where he was. He answered, with marks of great surprise, that he thought he had already explained himself with sufficient clearness on the subject; that he had signified to General Pinckney, long since, the impossibility of his staying; that he thought he had exercised much "condescendance," in having been so long silent; which he had been induced to do by General Pinckney's having complained of the delay of his baggage, which, he supposed, must, by this time, have arrived from Bordeaux; that, in short, he should be sorry if his further stay should compel him to give information to the Minister of the Police. To this I replied, that, if he would permit me, I would recall his recollection to the communication which he had been pleased to make to General Pinckney, through his Secretary, Mr. Giraudet; that that gentleman had called on General Pinckney, and had very clearly expressed the wishes of the Directory, in answer to a letter which he had written to the Minister of Foreign Affairs, requesting to know their will; which desire was, that General Pinckney should consider himself in the light of any common stranger, to whom a card of hospitality was refused, and who was compelled, by the laws respecting foreigners, to withdraw from the territories of the republic. That General Pinckney had refused to regard himself in any other light than the one in which he had entered France, which had not been in a private capacity, but in a public character; which circumstance had been officially announced to the Directory, by his having delivered to the Minister of Foreign Affairs a copy of his letters of credence and by other acts. That this precluded all laws relative to strangers from operating on him, and put him under the protection of the law of nations, which he claimed in his favor. That Mr. Giraudet had taken leave with a promise to communicate to the Minister of Foreign Affairs the ground which General Pinckney had taken. That he returned again in the evening, and then said, that the minister would again lay General Pinckney's letter before the Directory, and that their intentions should be made known to him as soon as possible, All this had, no doubt, been faithfully related to him by his secretary. He answered that General Pinckney must have mistaken Mr. Giraudet as to his intention of again laying his letter before the Directory. I told him that it was impossible: for that I had been present at both conversations, in which the material points had passed in English, and been repeated in French. He then said Mr. Giraudet had acted without his authority. I replied, that General Pinckney had, however, waited until this moment in expectation of hearing from him, agreeably to Mr. Giraudet's promise; that he was very far from intending to dispute the will of the Executive Directory; what he wanted was a communication of their wishes in *writing*. He said that it had already been given. I desired to know when; he answered in the notification which he had made, by their order, to Mr. Monroe; that it had contained their sentiments on Mr. Pinckney's staying, inasmuch as that his not being received, implied that he should depart. I denied that it was a fair deduction; he insisted that it was; I declared that it had not struck General Pinckney or any person with whom he had conversed; but that, however, if such was the construction which he had put upon it, I flattered myself that he could have no objection to throwing his idea upon paper, that General Pinckney might have something more substantial, than the authenticity of the *word* of his secretary to justify himself to his own Government, for quitting a spot to which he had come in obedience to their orders. The minister here turned from me with some warmth, and said that he should do no such thing; that General Pinckney might make his own deductions; he desired to have no more communications with him. I only replied by a bow, satisfied to end a conversation which had already lasted near half an hour; during which I had not been admitted to the honor of a seat.

HENRY M. RUTLEDGE.

This behavior of M. De la Croix's did not induce me to alter my conduct; I considered that I was at the post where my duty required me to remain until I received orders from my Government how to conduct myself, or till this Government should give me a written mandate to depart, or send me passports as a minister of my country whom they would not suffer to remain here; or would do some unequivocal act respecting me, as would justify me in going. M. De la Croix's conversation with Major Rutledge I did not deem such; I have therefore staid; though notwithstanding the inclemency of a journey for my family, at this season of the year, to Amsterdam, it would have been more agreeable to me to have gone away than to have remained here in this situation. This interview, however, prevented me, until three days ago, from changing my lodgings, which were very expensive and inconvenient; when, not receiving any further intimation to depart, I changed them, and have not yet heard from M. De la Croix. When I was sending away the triplicate and quadruplicate of No. 2, the speech of M. Barras, President of the Directory, to Mr. Monroe, appeared, I, therefore, transmitted it to you in those enclosures. I need not comment on so strange a composition; it, however, evinces the disposition of the directors of this country towards us, and the system which they have adopted, by endeavoring to persuade our countrymen that they can have a different interest from their fellow citizens, whom themselves have chosen to manage their joint concerns. One circumstance, however, attending this speech, you ought not to be unacquainted with. Mr. Monroe assures me that the Directory were not acquainted with a syllable contained in the valedictory address he delivered, till the moment he pronounced it; and that, as soon as he finished, President Barras read his own speech. Of course, the speech of M. Barras was not an answer to Mr. Monroe's specific harangue; but was an answer to every speech which, on that occasion, could possibly have been made. This anecdote does not make the present sentiments and views of the Directory respecting our country less evident.

Whatever the decision of this country may prove with regard to me be assured that I shall endeavor to behave in such a manner as shall neither injure nor compromit the respect due to our own; and that no personal slights can prevent me from most earnestly praying, that the independence and liberty of France may be firmly secured by a speedy and honorable peace.

No. 4.

Extract of a letter from General Pinckney to the Secretary of State, dated

AMSTERDAM, *February* 18, 1797.

DEAR SIR:

I arrived here last night, after an expensive and tedious journey, through some very bad roads, from Paris. My letters No. 6,* of which I forwarded to you quadruplicates from that city, will inform you that the day after accounts were received of Bonaparte's successes in Italy, Mr. De la Croix gave me, by direction of the Executive Directory, official notice *in writing* to quit the territories of the French republic: as this was complying with what I had declared to be a requisite preliminary to my departure. I did not think it proper to remain longer at Paris than was necessary to prepare for my journey; and, having received the customary passports for this city, I set out with my family and secretary on the fifth instant. I shall remain here, or in some part of the United Provinces, till I receive directions from you how to act. I regret that my mission to Europe, at the same time that it has been very unpleasant to myself, should be both expensive and unprofitable to my country. Could I be of any service, I should disregard personal inconvenience, and the idea of benefiting my country would soften the asperities of a situation rendered particularly disagreeable by the conduct of a Government with whom we wish to be on the most amicable terms, and yet who disregards and annihilates the usual mode of conciliatory explanation established between independent nations. Mr. Giraudet, the chief secretary in the Department of Foreign Affairs at Paris, mentioned to Major Rutledge, a few days before I left Paris that, as we were not going far, he hoped he should soon see us return. This I imagine was only the language of politeness; it certainly was not spoken officially, and I have not the least idea that I shall receive any invitation from France; though I ardently wish for a return of the good sense and good humor of that republic.

T. PICKERING.

* The letters Nos. 5, 6, from General Pinckney, have not yet come to hand.

No. 5.

Extract of a letter from General C. C. Pinckney, to the Secretary of State, dated

AMSTERDAM, *March* 5, 1797.

Some time before I left Paris, I was informed that the Directory had requested the Dutch to join them in treating neutral vessels in the same manner as by their decree in Messidor they had determined to treat them. As I did not obtain this information from a source that I could depend on, I did not trouble you with it; but I have since had reason to believe that it was either true, or the Dutch were apprehensive such requisition would be made; for I have just received intelligence, which I am persuaded I may rely on, that the Dutch have informed the Directory, that it would be exceedingly prejudicial to them to join in so hostile a measure, for that they would thereby lose the friendship and trade of America, which (considering their commercial losses) were of extensive benefit to them, and they would be deprived of the means of affording the French those aids which their commerce enabled them to do. In these reasons, my information adds, the French have acquiesced, and there is now no apprehension that our commerce will be molested by the Dutch. If the French had not consented to this, there is little doubt but the Dutch would have been obliged to have treated us as the French do: for there are twenty-five thousand French troops in Batavia, and it is here no secret, that they can direct what measures they please.

I transmit you extracts of Major Mountflorence's letters to me of the 14th and 21st of February, relative to the infamous conduct of some of our countrymen, (I blush to call them so) in fitting out privateers under French colors, and plundering our fellow-citizens. Something energetic, I trust, will be done by our Government with respect to these unprincipled marauders.

No. 6.

Extract of a letter from Major Mountflorence to General Pinckney, dated

PARIS, *February* 14, 1797.

A letter from Mr. Barnet, our consular agent at Brest, under date of the 3d instant, informs me that a French privateer, owned by Captain Cowell, a citizen native of the United States, and formerly master of the Jane, has captured lately two of our vessels, and sent them to L'Orient; one of them is a ship of four hundred tons, belonging to Boston, and bound from New Orleans to London; the other is a brig from Baltimore to London, with a very rich cargo of sugar, cotton, &c. Another letter of the said agent of the 7th informs me, that though he is certain that these two vessels and their cargoes are American property, yet it is generally believed that, by the intrigues of the aforesaid Captain Cowell, and of a certain Captain Benjamin Lewis, of Marblehead, that the whole will be condemned. I blush when I think on the conduct of some of our countrymen in this country; not satisfied with violating the laws of the United States, respecting our neutrality, but arming vessels under French colors to plunder their co-citizens. Besides, sir, I have it from good authority, that those Americans, who are interested in fitting out privateers, are constantly teasing this Government with applications for more severe orders to cruise against our vessels, and it is really our own countrymen who endeavor to irritate matters between us. The same agent informs me that a large number of our sailors, found on board of English vessels, are now detained as prisoners of war at Brest. I had formerly recommended to that officer to use all his endeavors to procure the release of such as he should be satisfied were really Americans, and that he has done; but his last letter mentions that the Minister of the Marine has lately given orders not to release any more of the citizens of the United States, who may be taken on board British vessels. A new embargo was laid on the 7th instant at Brest, which is the third since General Hoche's expedition.

No. 7.

Extract of a letter from Major Mountflorence to General Pinckney, dated

PARIS, *February* 21, 1797.

Without any of your favors to answer, it is my duty to inform you that a letter from Mr. Vail, our consular agent at L'Orient, under date of the 12th instant, informs that the American ships Hope, Captain Rogers, and Antelope, of Boston, Captain Benjamin Hilton, captured by the privateer Hardy, Captain Cowell, (the man I mentioned in my last) and carried into L'Orient, are now libelled; and the only reason upon which this American captor grounds his claim, is that the seamen's articles are not countersigned by an American public officer; I cannot find that the laws of the United States require that formality; and the truth is, that not an American vessel in an hundred has the seamen's articles countersigned in that manner; but Cowell's attorney pretends that an antiquated, an *obsolete ordonnance* of France, of the year 1750, authorizes all ships of war to arrest such vessels, as have them not, as pirates. The tribunal of commerce has refused pronouncing in this question till they receive instructions from the Executive, having written on the subject to the three ministers of Justice, Marine, and Foreign Relations, and I am going to do the same, but my application will be signed by Mr. Skipwith. Mr. Vail further adds, with much truth, "the American commerce very much depends upon the fate of these two vessels, and the hopes of the privateers are placed greatly on these vessels being condemned;" and in another place he writes that most of the privateers are owned or commanded by Americans, who create these difficulties.

Another letter from Mr. Le Baron fils, our consular agent at Dieppe, informs that the American ship Hare, of New York, Captain Nathan Haley, of the burthen of two hundred and eighty tons, has been sent into Dieppe on the 17th instant, having been captured by a French privateer. These captures alarm very much our traders. If this Government sanctions the doctrine held out at the tribunal at L'Orient, it would be tantamount to a state of warfare, as almost every vessel we have now in Europe are in that predicament.

J. C. MOUNTFLORENCE.

Major General PINCKNEY.

A true copy: HENRY M. RUTLEDGE.

No. 8.

Extract of a letter from General Pinckney to the Secretary of State, dated

AMSTERDAM, *March* 8, 1797.

I have just received intelligence from Major Mountflorence, that the tribunal-civil of the Department of the Pas de Calais has confirmed the judgment of the tribunal of commerce, condemning, as lawful prize, the American vessel Royal Captain, John Bryant master and owner, for want of a sea-letter. I understand that it is a Captain Nathan Haley, an American, who commanded the privateer under French colors, which captured and carried into Dieppe, the 17th ultimo, the American ship Hare, commanded by a namesake and cousin of his, bound from England to New York with a cargo, it is said, of fifty thousand pounds sterling. Mr. Barnet, our consular agent at Brest, informs me that several citizens of the United States, who were captured in British vessels, on board of whom they had been pressed, are at present confined in the prisons of that place as prisoners of war, and suffer

much by close confinement and bad provisions, and that all his solicitations in their behalf, since the latter end of January, have been in vain. These injurious acts to our countrymen and trade are exceedingly distressing, nor can it be said when they will cease. It is thought by many, and I believe justly, that the election of their new third will determine France either to conciliation or avowed hostilities; as much as I wish for the former, I wish the measures of our Government will be dispassionate and candid, but firm. Mean submissions are generally returned with contempt and renewed oppression.

No. 9.

To Mr. Monroe's Valedictory Address to the Executive Directory, the President replied:

Mr. minister plenipotentiary of the United States of America: By presenting to-day your letters of recall to the Executive Directory, you give to Europe a very strange spectacle.

France, rich in her liberty, surrounded by a train of victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of her former tyrants; moreover, the French republic hopes that the successors of Columbus, Ramhiph,* and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh, in their wisdom, the magnanimous benevolence of the French people with the crafty caresses of certain perfidious persons who meditate bringing them back to their former slavery. Assure the good American people, sir, that, like them, we adore liberty; that they will always have our esteem; and that they will find in the French people republican generosity, which knows how to grant peace, as it does to cause its sovereignty to be respected.

As to you, Mr. minister plenipotentiary, you have combated for principles; you have known the true interests of your country: depart with our regret. In you we give up a representative to America, and retain the remembrance of the citizen whose personal qualities did honor to that title.

No. 10.

Decree of the Executive Directory.

March 2, 1797.

The Executive Directory having consulted the law of the 9th of March, 1793, considering that the flags of neutral Powers being no longer respected by the enemies of the French republic, and all the rights of men being violated to their prejudice, it is no longer permitted to the French people towards those Powers, in general, that wish which they have so often manifested, and which they will constantly entertain for the full and entire freedom of commerce and navigation, directs, among other dispositions:

I. That ships of war and privateers may stop and bring into the ports of the republic neutral ships, which shall be charged in whole or in part with merchandise belonging to the enemy.

II. That merchandise belonging to the enemy shall be declared good and lawful prizes, and be confiscated to the profit of the captors.

III. That, in all cases, neutral ships shall be released the moment that the merchandise seized is discharged; that the freight of it shall be paid at the rate which shall have been stipulated by the consigners; and that a just indemnity shall be granted, on account of their detention, by the tribunals competent to decide on the validity of prizes.

IV. That these tribunals shall be directed, besides, to send, three days after the decision, a double inventory of the merchandise to the Minister of Marine, and another to the Minister for Foreign Affairs.

V. That the present law, applicable to all the captures that have been made since the declaration of war, shall cease to have effect as soon as the enemy shall have declared non-seizable, although destined for the ports of the republic, the merchandise laden on board neutral ships which shall belong to the Government or to French citizens.

Having seen the law of the 27th of July, 1793, which directs the foregoing law to be fully executed; having also seen the seventh article of the law of the 13th Nivose, third year, which enjoins all the agents of the republic to respect and observe, in all their dispositions, the treaties which unite France to the neutral Powers of the continent, and to the United States of America; considering that this last is not derogatory to the law of the 9th of May, 1793, resolves as follows:

Art. I. The commissaries of the Executive Directory, with the civil tribunals of the department, shall take care that, in the contests upon the validity of maritime prizes, no decision shall be founded on the seventh article of the law of the thirteenth Nivose, without the minister of Justice having been previously consulted, conformably to the third article of the law of the eighth Floreal, fourth year, relative to the treaties, in virtue of which neutral persons pretend to withdraw themselves, by means of the first of these laws, from the execution of that of the 9th of March, 1793.

Art. II. The minister of Justice shall examine whether the treaties still subsist, or whether they have been modified since the conclusion of them; there shall be furnished to them, by the Minister of Foreign Affairs, all the documents of which they shall stand in need, and reference shall be made to the Executive Directory, as it is prescribed by the law of the eighth Floreal, fourth year.

Art. III. The Directory remind all the French citizens that the treaty concluded on the 6th of February, 1778, between France and the United States, has been, on the terms of the second article, modified of full right by that which has been concluded at London, on the 19th of November, 1794, between the United States of America and England: in consequence,

1. After the article seventeen of the treaty of London, of the 19th of November, 1794, all merchandise of the enemy's, of merchandise not sufficiently ascertained to be neutral, conveyed under American flags, shall be confiscated; but the ship on board of which such merchandise shall be found, shall be released, and given to the proprietor. The commissaries of the Directory are enjoined to accelerate, by all means in their power, the decision of the contests which shall arise, either upon the validity of the captures or the cargoes, or upon freights and insurances.

2. According to the eighteenth article of the treaty of London, dated the 19th of November, 1794, relative to articles declared contraband by the twenty-fourth article of the treaty, dated February 6th, 1778, are added the following:

Ship timber; oakum, pitch, and rosin; copper for sheathing vessels; sails, hemp, and cordage; and every thing which serves, directly or indirectly, to the arming and equipping of vessels, excepting bar iron, and fir in planks. These articles shall be confiscated as often as they shall be destined or attempted to be carried to the enemy.

3. According to the first article of the treaty of London, of the above date, every American who shall hold a commission from the enemies of France, as well as every seaman of that nation composing the crew of the ships and vessels, shall, by this fact alone, be declared piratical, and treated as such, without suffering the party to establish that the act was the consequence of threats or violence.

4. In pursuance of the law of the 14th of February, 1793, the regulations of the 21st of October, 1744, and of the 28th of July, 1778, respecting the manning of vessels and neutral merchandise, shall be complied with, according to their form and tenor.

Every American ship shall therefore be deemed a lawful prize, which shall not have on board a bill of lading in due form, according to the plan annexed to the treaty of the 6th of February, 1778, the execution of which is enjoined by the twenty-fifth and twenty-seventh articles of that treaty.

* Probably intended for Raleigh.

5. The commissioners of the Executive Directory are required to carry into effect the penalties that attach on all clandestine attempts that may be made by American, or vessels belonging to any other nation, to pass as neutral, on board the vessel where the fraud is attempted to be practised, in the manner that these penalties have been repeatedly carried into effect during the present war. The penalty shall attach where the blanks in the consignments and invoices are not filled up, though signed and sealed; where the papers are in the form of letters, containing fictitious signatures; where are double passports or policies, specifying different destinations; where consignment is made to two or more factors; and where there are different receipts or papers of any kind, which consign the whole or part of the same goods to different owners or different destinations.

6. By this article, provisions of the treaty of the ninth Frimaire last, relative to the freight and insurance, are repealed as far as they apply to insurance.

7. The present treaty shall be published in the bulletin of the laws. The ministers of Marine and of the Colonies, of Justice, and of Foreign Affairs, are charged with the execution of it in their respective departments.

REWBELL, *Pres.*
LEGARDE, *Sec. Gen.*

No. 11.

Extract of a letter from John Q. Adams, Esquire, minister resident of the United States near the Batavian republic to the Secretary of State, dated

THE HAGUE, *November* 4, 1796.

In the letter from the committee of foreign affairs, a copy of which was enclosed with my last, they have raised pretensions and used expressions, upon which I have not thought it necessary to anticipate the opinion which you will form or the notice which you may think proper to take of them. But, as it is possible that the tone and ideas may appear extraordinary, I think it necessary to add a few observations, and some particulars of information, which will make them more accountable.

The general disposition, even of the patriotic party in this country, favors cordially and sincerely the neutrality of the United States. They have a very substantial reason for this disposition, as they are continually receiving remittances of interests upon their moneys loaned to the United States, and as these are almost the only public funds upon which the payments are still punctual, they apprehend that the difficulties and the necessities of war might produce a suspension or postponements on the part of the United States similar to those of which many of the belligerent Powers have given examples. But at the same time, the patriotic party can have no avowed will different from that which may give satisfaction to the Government of France. They feel a dependence so absolute and irremoveable upon their good will, that they sacrifice every other inclination, and silence every other interest, when the pleasure of the French Government is signified to them in such a manner as makes an election necessary.

I received, not long ago, an intimation, that one of the members of the committee of foreign affairs had confidentially communicated to a friend, a circumstance which was intended to be kept profoundly secret: it was, that the French Government had determined to defeat, if possible, the treaty lately concluded between the United States and Great Britain, and had signified to the committee of foreign affairs here their expectation, that they would concur, with all their influence, towards the same object. The tenor of their letter strongly serves to show the accuracy of the information. The object which the last paragraph of their letter aims at, is not at all equivocal; but in considering the manner in which they urge their proposals, the address with which they pursue their point may be ranged on a level with their logic. After having undertaken formally to justify the condemnation of the Wilmington Packet's cargo, because they concluded it to be French property, they make no difficulty to assume a right to *insist* upon the protection of Batavian property on board of American vessels. They call very loudly upon the United States to go to war with Great Britain, and make a *common cause* with the French and Batavian republics. The whole of this singular passage might have excited a stronger sentiment than it did, had I not previously received the intimation mentioned above. Considering their language as dictated by an irresistible external impulse, an excuse for its singularity was derived from the necessities of their situation. In the answer which I have given, therefore, it was my endeavor to avoid every unnecessary discussion, and, as far as possible, every unpleasant expression; but the inconsistency of their pretensions with their own argument, could not be passed without notice. Their oblique insinuation, of treaties formed by the United States militating with that before contracted with this republic, I thought it necessary to repel in the most decided and explicit manner. Their assertion of *numerous services* rendered by their republic to the American nation, authorized the reference in the answer to the reciprocal services and common utility, upon which I conceived the engagements between the two nations to be founded. As they very clearly hint a wish that the United States should violate some treaty concluded after that with the Batavian republic, and make a common cause with them and France, I thought the honor and dignity of my country, and its Government, required an explicit declaration in answer, that they would inviolably maintain their engagements with all other nations, as faithfully as with this; but I did not think it necessary, though it might have been not unfair, to observe that their proposal, of a common cause to be made with the French republic, could not be made by them without her concurrence, or that the energy which they would insist upon for the protection of their property in American vessels would be unnecessary, if it were efficaciously employed in giving security to the navigation of their own flag. It may be mentioned here, that the American flag is not the only one, for the honor of which these gentlemen have taken so deep and so generous a concern. They, some time since, interested themselves in a similar manner for the honor of the Danish neutrality, until they were given to understand, by the Count de Bernstorff, that the Government of Denmark was the proper judge of its own honor, and was not disposed to listen to their instigations upon its concerns with other nations.

No. 12.

Extract of a letter from the Commission of Foreign Affairs of the Batavian National Assembly, to the minister resident of the United States of America, dated

THE HAGUE, *September* 27, 1796.

We cannot let the present opportunity pass, without requesting you to state to your Government how useful it would be to the interests of the inhabitants of the two republics, that the United States should at last seriously take to heart the numberless insults daily committed on their flag by the English; to represent to them, that when circumstances oblige our commerce to confide its interests to the neutral flag of American vessels, it has a just right to insist that that flag be protected with energy, and that it be not insulted at the expense of a friendly and allied nation. Deign to recall to the remembrance of the nation of which you are minister, that the numerous services which our republic has rendered to it, our reciprocal relations, as well as mutual utility, imperiously require that it should cease to view with indifference the manner in which the English act, who carry off, with impunity, from on board American vessels the property of Batavians. Lead them to perceive that reasons of convenience, treaties concluded subsequent to that with the Batavian republic, cannot change or annul a treaty formally concluded and ratified between our two nations, between two nations who have equally suffered from the arrogance and despotism on the seas of proud Albion: in a word, between two nations *who, making common cause with the French republic,* and governing themselves by the imprescriptible rights of nature, and of men, may render to the two hemispheres a peace for which humanity languishes.

No. 13.

Extract of a letter from John Quincy Adams, Esquire, minister resident of the United States at the Hague, to the Committee of Foreign Relations of the Batavian National Assembly, dated

THE HAGUE, *October* 31, 1796.

I shall not fail to transmit also to the Government of the United States, the other observations which you have thought proper to make to me on this occasion. It does not belong to me to judge, with what sentiments it will view that part of your letter, in which you complain of the seizure of Dutch property on board American vessels, when it compares it with the other part where you suppose that the quality, necessary to procure the protection of the American flag for the lading of a vessel, did not exist, because the lading appeared to you to be French property. But you, yourselves, on reflection will, I hope, be convinced, that these two claims are not easy to be reconciled.

But I will take upon myself, citizens, to assure you, that it is unnecessary to remind the nation, whose minister I have the honor to be, that "reasons of convenience, or treaties posterior to that concluded with the Batavian republic, cannot destroy or annul that treaty." I can answer, before hand, that the Government of the United States is perfectly sensible of this truth, and has always conducted itself agreeably to the principles on which it is founded. In all posterior engagements it has reserved to itself the power of fulfilling all prior ones; it will ever fulfil those which reciprocal utility and services have caused it to contract with the Batavian republic; and, while it religiously observes all the obligations of its treaties with other nations, it will, in like manner, observe all those which you have a right to demand from it.

No. 14.

Extract of a letter from John Quincy Adams, Esquire, minister resident of the United States at the Hague, to the Secretary of State, dated

THE HAGUE, *February* 17, 1797.

The neutrality of every other nation is as little respected by the French Government as that of the United States. They have recently proposed to Denmark to shut up the mouth of the Elbe against all British vessels.

No. 15.

Extract of a letter from Rufus King, Esquire, minister plenipotentiary of the United States, to the Secretary of State, dated

LONDON, *March* 12, 1797.

Mr. Adams will inform you from the Hague of what is passing in that quarter; but, lest his opportunities of writing should be less frequent than mine, it may be proper to state, that I have reason to believe, though the French Government assign our treaty with England as the cause of their maritime conduct towards us, that they have recently demanded of Hamburg and Bremen to suspend all commerce with England. These cities have not yet complied, and the French minister has been recalled from Hamburg. The same demand has been made at Copenhagen, and the refusal has produced a sharp diplomatic controversy. These Powers have made no late treaties with England.

No. 16.

Letter from the Minister of Spain to the Secretary of State, dated

MAY 6, 1797.

SIR:

The King, my master, desirous of drawing closer the connexions of friendship and good correspondence already subsisting between Spain and the United States, concluded with them, on the 27th of October, 1795, a treaty dictated by the most generous principles, opening to the Americans the navigation of the Mississippi to the ocean, and ceding to the United States a considerable portion of territory, by agreeing to draw a line of demarcation between the possessions of both parties. Equally animated by the desire of diminishing for humanity the horrors of war, he adopted the liberal principle, *that free ships shall make free goods*. This stipulation was in reality an incalculable advantage for the American citizens, who, by the extension of their navigation, the geographical situation of their country, and the nature of their political connexions at that epoch, promised a neutrality as advantageous as durable. At the same time, His Majesty agreed by the said treaty, that articles necessary for the construction and repair of vessels should not be deemed contraband. In a word, the concessions on the part of Spain for cementing a sincere union between both nations were such, that the treaty was received throughout the United States with enthusiasm, and with the most evident marks of general approbation. In these circumstances, the King, my master, who had so efficaciously advanced the interests of America, promised himself, by the effect of a good correspondence, as sacred among nations as between individuals, that the United States at least would not contribute to the injury of Spain. What should be the surprise [*admiracion*] of His Majesty on knowing that this country had contracted engagements with England prejudicial to his rights, and to the interests of his subjects, nearly at the same time in which, with so much liberality, he was giving to the United States the most striking proofs of the most sincere friendship.

Upon the whole, the King, my master, well persuaded that England, in her treaty with America, had *surprised* the good faith of the Federal Government, reserved to himself to make, on a proper opportunity, the necessary representations; not doubting but that the equity of the United States would place Spain, in relation to other Powers, upon that footing of equality, without which the neutrality adopted by America would exist only in appearance, and be purely nominal; but experiencing, since the declaration of the war against Great Britain, injuries and evils which he had foreseen, from the moment he was informed of the English treaty, he finds himself under the necessity of anticipating this step, and therefore has ordered me to make to this Government, through you, the following observations:

By the 15th article of the treaty concluded between His Majesty and the United States, it is stipulated, that the subjects of the King, and the American citizens, may navigate with their vessels and cargoes freely to all the ports, except such as are declared blockaded, making the neutral flag secure the goods which they may have on board, so that they cannot be seized, even though they should belong to an enemy. His Majesty hastened with pleasure to adopt a principle so useful to humanity, although for the reasons hinted above, it was to operate more advantageously to the American citizens than to his subjects. His Majesty ought to have expected, on the part of the American Government, dispositions equally friendly, and as their adoption would not prove injurious to those Powers who should establish them, that this should form a general rule in all their engagements of a like nature; but, unfortunately, the 17th article of the English treaty has dissipated this agreeable hope: for, it not only permits English vessels to take and carry into port those of America, upon the arbitrary ground of suspicion, but also to take and seize enemy property or merchandise found under the American flag. In short, the principle, *that free ships make free goods*, was then destroyed; and His Majesty is reduced to the disadvantageous situation of seeing the property of

his subjects seized with impunity, under the safeguard of neutrality, whilst a state of war requires that his squadrons and ships should respect English property on board of American vessels. Can it then be supposed, with good faith, that the King intended voluntarily to go into a stipulation, the observance of which should require from his subjects nothing but detriment and injury? An adherence to the principle adopted by the King implicitly leads him to a reciprocity complete in all its circumstances.

Nor are the injuries to Spain, arising out of the 18th article of the treaty with Great Britain, less palpable. From it, like the preceding, arise great losses to the American navigation; but the damages which the subjects of the King and his royal service experience, are still of much greater consideration. By that article, England and the United States agree, that timber for ship building, tar, rosin, copper, in sheets, sails, hemp, cordage, and, generally, whatever may serve directly to the equipment of vessels, shall be declared contraband. In the 16th article of the treaty with Spain, after enumerating those articles which should be deemed such, it is stipulated, that all kinds of cotton, hemp, flax, tar, pitch, ropes, cables, sails, sail cloth, anchors, wood of all kinds, and all other things proper for the construction and repair of vessels, shall be looked upon as articles of free commerce. What then is the consequence of these contradictory stipulations? Is it not abandoning to England the exclusive commerce of naval stores? And is it not giving her, in a maritime war like the present, a powerful arm, which she uses to the injury of Spain, whilst the latter must suffer from avarice, or the high price of an article to her so absolutely necessary? You will say in reply, that Spain entered voluntarily into these stipulations; but could it ever have been expected, that America would have made, almost at the same moment, such, on her part, as should cause the King, my master, to repent of his generosity and great beneficence.

In the preamble to the Spanish treaty, its object is said to be for the mutual advantage and reciprocal utility of both countries. I leave you to determine what advantages either Spain or America can derive from the 15th and 16th articles of their treaty, whilst those of the 17th and 18th of the English treaty remain in full force.

Thus far, I have represented merely the injury done to the interests of Spain; but I shall now state to you a point in which her rights are essentially concerned—I mean the navigation of the Mississippi.

The just ground upon which Spain refused to acknowledge the mutual and illegal cession which England made to the United States, in the 8th article of the treaty of 3d September, 1783, of the free navigation of the Mississippi to the ocean; the necessity in which America has found herself of recurring to a special treaty with Spain for obtaining it, and above all, the tenor of the 4th article of the said treaty, in which it is agreed, that the free navigation of the said river to the ocean belongs *exclusively* to the subjects of the King, and to the citizens of the United States, had given His Majesty reason to believe, that the federal Government, by this stipulation, annulled, as illegal, the claim which it had made with England, as to this point, in the 8th article of the treaty of 1783. But His Majesty has seen with equal surprise, that the United States not only pretend to confirm that right to England by the 3d article of their commercial treaty, but that they have, since the conclusion of that with Spain, in which the navigation of the Mississippi is confined *exclusively* to the Spaniards and Americans, agreed to the explanatory article signed here by yourself and the English chargé des affaires, Mr. Bond, on the 4th of May, 1796, in which it is declared, *that no other stipulation or treaty concluded since by either of the contracting parties, with any other Power or nation, is understood in any manner to derogate from the right to the free communication and commerce guarantied by the 3d article of the treaty to the subjects of His Britannic Majesty.*

The King, my master, finds so much the more difficulty in reconciling this stipulation concerning the navigation of the Mississippi, in article 3d, of the English treaty, confirmed by the explanatory article of the 4th of May, with the 4th article of that with Spain, as on examining the original right of England, none is found to exist, and the United States alone hold that which Spain ceded in the said article of the treaty with them. In order to convince you of this, let us examine the stipulations of the former treaties, from which I give the following extract:

By the 6th article of the preliminary treaty made on the 3d November, 1762, between France and Great Britain, and by the definitive treaty signed on the 10th of February, 1763, it is stipulated that all that part of Louisiana situated on the east of the Mississippi, excepting New Orleans and its dependencies, should belong to Great Britain.

By the 8th article of the provisional treaty concluded between the United States of America and Great Britain, on the 30th November, 1782, and the definitive treaty signed on the 3d of September, 1783, it is stated, that the navigation of the Mississippi, from its source to the ocean, shall for ever remain and be free to the subjects of Great Britain and the citizens of the United States.

By the preliminary articles of the treaty concluded between Spain and England, and the definitive treaty signed on the 3d of September, 1783, Great Britain ceded to Spain all East and West Florida, which two provinces were the only territory that that nation had remaining in this part of the continent.

In the 5th article, in which this session is stipulated, not a single word is said relative to the navigation of the Mississippi, nor do the other articles say any thing on the subject.

When England signed these preliminary articles with the United States of America, in 1782, Great Britain *still held* all the right to East and West Florida, because *then* she had not ceded *for ever* those provinces to Spain, as is proved afterwards by the treaty of 1783, and without the least mention therein of the Mississippi.

Therefore, England having ceded East and West Frorida in 1783, and not having reserved the right to the navigation of the Mississippi, of course lost it entirely when she made Spain mistress of the two banks.

The only right which the United States had in the navigation of that river was founded on the stipulations derived from England; but having changed their political existence by the declaration of their independence, and having by this act separated their interests from those of Great Britain, the liberty of navigating the Mississippi did not follow to the United States, but by a special treaty which has just been concluded between Spain and this country.

So far good; how can the United States without the consent of Spain, cede to England the right of navigating the Mississippi which is granted only to themselves? And in virtue of what privilege can the Federal Government give the navigation of this river to a nation who has renounced all her rights through the medium of solemn treaties, and who not only does not hold a single port, but also does not possess a single inch of land on its banks?

This simple exposition, in conjunction with the opinion of all jurists, that the navigation of rivers naturally belongs to him who possesses the two banks, evidently manifests the injury done to the rights of Spain in the 3d article of the English treaty, and the explanatory article signed on the fourth of May, 1796.

The King of Spain, desirous of preserving the best harmony and friendship with this country, as protector of the interests of his subjects, has ordered me to represent to this Government what I have just mentioned, and his Majesty, relying upon the equity of his demands, hopes that the United States, animated by the same sentiments, will come to a composition, which, without injuring the American citizens, shall ensure the happiness of his subjects, and guard the rights of his sovereignty.

I with pleasure embrace this opportunity of renewing my wishes to serve you, and that God may preserve your life many years.

Your most obedient servant,

CARLOS MARTINEZ DE YRUJO.

TIMOTHY PICKERING, Esq. *Secretary of State.*

PHILADELPHIA, *May* 6, 1797.

Faithfully translated from the original, by

GEORGE TAYLOR, Jun.

No. 17.

Letter from the Secretary of State to the Minister of His Catholic Majesty, dated

DEPARTMENT OF STATE, *Philadelphia, May* 17, 1797.

SIR:

I have the honor to acknowledge the receipt of your letter of the 6th instant, which has been laid before the President of the United States. It contains three subjects of complaint, as arising out of the treaty of amity, commerce, and navigation, between the United States and Great Britain.

1. That the principle, that *free ships make free goods*, is thereby destroyed; the 17th article not only permitting, English vessels to take and carry into port those of America, upon the arbitrary ground of suspicion, but also to take and seize enemies' property or merchandise found under the American flag.

2. That by the 18th article of that treaty, timber for ship building, tar, rosin, copper in sheets, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels, are declared contraband.

3. That by the third article of that treaty, and the explanatory article added thereto, the United States have ceded and confirmed to Great Britain the right of navigating the river Mississippi; a right which you say the United States themselves acquired *only by virtue of their treaty with Spain.*

Your letter also contains various intimations, which, in connexion with these three topics of complaint, it will be proper for me to notice.

It is very true, that our treaty with Spain was received throughout the United States with satisfaction and general approbation, because it closed a dispute, which had been pending many years between the two countries, by His Catholic Majesty's acceding to the claims of the United States (which they deemed founded in right) to the free navigation of the Mississippi, from its source to the ocean, and to their southern boundary line as described in the treaty of peace of 1783, between the United States and Great Britain. We were also satisfied with the engagement of His Catholic Majesty to compensate our mercantile citizens for the losses they had sustained by the capture of their vessels and cargoes by the subjects of His Majesty, during the late war between Spain and France. All these were acts of substantial justice, which were necessarily approved by every upright mind. All the other stipulations of the treaty between the United States and His Catholic Majesty were wholly voluntary, and perfectly reciprocal; so that neither of the two contracting parties could say, that they had granted or received a favor. I make this observation, because of the numerous intimations in your letter, that by these other stipulations, benefits and advantages had been granted by His Catholic Majesty to the United States, without receiving from them any equivalent: intimations for which we see no foundation. To instance in the articles which constitute the two first subjects of your complaint.

1. *Free ships shall make free goods.* It is impossible that the two contracting parties should ever have conceived that this rule, as between themselves, could have any operation, except when one was at war and the other at peace. The United States, being in the latter situation, have a right to carry in their vessels goods of the enemies of Spain, without being liable, on that account, to capture. On the other hand, if the United States were at war, and Spain at peace, her subjects would have a right to transport in their vessels the goods of our enemies, free from capture by the armed vessels of the United States. And thus this stipulation is exactly equal on both sides.

2. *Ship timber and naval stores are, by the law of nations, contraband of war.* But the United States and Spain, for their mutual benefit, agreed to consider them as *free goods*, in order that either party remaining at peace might safely continue its commerce in those articles, even by carrying them to the enemies of the other. And thus this rule will operate equally, like the former.

You compare the liberal stipulations in these two articles with those of a contrary nature in the treaty between the United States and Great Britain, and ask, what should be the surprise [*admiracion*] of His Catholic Majesty on knowing of the latter engagements? After remarking, that, if those stipulations were liberal on the part of Spain, they were alike liberal on the part of the United States, seeing they were perfectly reciprocal;—permit me to say, that the engagements with Great Britain do not appear to offer any cause for "surprise" on the part of His Catholic Majesty: because His Majesty had seen, during the whole course of the American war, how steadily Great Britain persisted, in opposition to the demands of all the maritime powers, to maintain her claims under the law of nations, *to capture enemies' property, and timber, and naval stores, as contraband, in neutral ships.* His Majesty had also seen in the present war, in which he was for a time a party with Great Britain against France, that Great Britain continued to avow and practise upon the same principles. And with such a perfect knowledge of the principles and conduct of Great Britain, and while she was still engaged in the war with a Power, which she strenuously endeavored to deprive of timber and naval stores, and whose mercantile shipping was greatly reduced, could His Catholic Majesty expect that Great Britain would relinquish her legal rights to a nation (the United States) which abounded in materials for building and equipping ships, and whose vessels adapted to the carrying trade traversed every sea and visited every quarter of the globe? You seem to imagine there is the more reason for "surprise," because, as you say, the engagements between the United States and Great Britain were contracted "nearly at the same time"—"almost at the same moment" with our stipulations with His Catholic Majesty. But allow me to bring to your recollection the periods when these different treaties were formed. That with Great Britain was concluded on the 19th day of November, 1794: that with Spain, on the 27th of October, 1795. Further, the treaty with Great Britain was published in Philadelphia, on the first day of July, 1795: almost four months before the treaty with His Catholic Majesty was concluded; and nearly ten months before it received his ratification, at which time (Spain and the United States being then at peace with all the world) it does not appear that His Catholic Majesty found the smallest difficulty in giving his final sanction to his treaty with the United States, on account of their prior treaty with Great Britain. Moreover, Mr. Thomas Pinckney, who negotiated the treaty with Spain, being privy to the whole negotiation with Great Britain, and perfectly acquainted with every article of the British treaty, it is hardly to be doubted, that he communicated to the Prince of Peace every information concerning it which had any relation to his negotiation with Spain. The mode of proceeding in the cases of captures of American vessels is precisely the same in both treaties, and the most material expressions in the 7th article of the British treaty are copied into the 21st of the treaty with Spain.

I am now to consider your third complaint—that relating to the navigation of the Mississippi.

You enter into an examination of the right of the United States to this navigation, and draw this conclusion, that their right is derived *solely from the cession of His Catholic Majesty* by the 4th article of his treaty with the United States. Hence you are induced to ask, "How can the United States, without the consent of Spain, cede to England the right of navigating the Mississippi, which is granted only to themselves?" If, sir, your statement was correct, there could be no question in the case. If the right of the United States to the navigation of the Mississippi *originated* in their treaty with Spain, which was concluded on the 27th of October, 1795, it requires no argument to prove that they could not have granted the right of that navigation to Great Britain on the 19th of November, 1794.

But I might deny that the United States *ever* granted the right of navigating the Mississippi to Great Britain. A recurrence to the treaties, to which you refer, will prove that she possessed that right by the peace of 1763, and that she has never formally relinquished it. I do not, indeed, conceive the inquiry essential to the subject of your present complaint; but as you have thought fit to go into it, you will allow me to follow you.

By the definitive treaty of peace concluded the 10th of February, 1763, France, then possessed of Louisiana, ceded to Great Britain all her possessions on the east side of the Mississippi, except the town and island of New Orleans. And it was likewise stipulated "that the navigation of the river Mississippi shall be equally free, as well to the subjects of Great Britain as to those of France, in its whole length and breadth, from its source to the sea, and expressly that part which is between the said island of New Orleans and the right bank of that river, as well as the passage both in and out of its mouth." The people of the United States being then subjects of the King of Great Britain, they of course participated in the right of navigating the river Mississippi, and by the 8th article of

the provisional treaty between the United States and Great Britain, concluded the 30th of November, 1782, and the definitive treaty of peace concluded the 3d of September, 1783, this right was confirmed, it being therein stipulated, that "the navigation of the river Mississippi, from its source to the ocean, shall for ever remain free and open to the subjects of Great Britain and the citizens of the United States."

By the definitive treaty of peace between Spain and Great Britain, concluded the 3d of September, 1783, the latter ceded to Spain "East Florida, as also West Florida;" but the river Mississippi, as you observe, is not even mentioned in the treaty. What is the just inference from this circumstance, the United States need not decide. Doubtless Great Britain conceived it important to hold a right to the navigation of it, and all parties, at that time, certainly supposed that parts of her territories joined its eastern side, and probably no one can now say they do not. But however this silence with regard to the navigation of the Mississippi, in the treaty between Spain and Great Britain, may be construed; whether the latter by not *reserving*, is to be considered as *relinquishing her right to it;* or by not *expressly relinquishing*, is to be understood *to retain it;* it is proper to consider the nature and effect of the stipulations on this subject, *between her and the United States.*

When peace was made between the two Powers in 1783, both were entitled to the free navigation of the Mississippi; and both desiring to preserve this right, they mutually stipulated for its continuance: but neither is pledged to maintain it for the other; though each is bound not to interrupt the other in the exercise of that right. The treaty of London, concluded on the 19th of November, 1794, contains, as to this point, no *new grant*, on either side; but their respective rights are *recognized;* it being declared, in the third article, that "the river Mississippi shall, *according to the treaty of peace*, be entirely open to both parties." Had this declaration been wholly admitted, the right of Great Britain to the navigation of the Mississippi would have been neither increased nor diminished. But because the fourth article of the *subsequent* treaty with Spain excited some apprehensions in Great Britain, that it might countenance an attempt to exclude her from the navigation of the Mississippi, the explanatory article which you mentioned was formed, declaring, that no stipulations in any treaty subsequently concluded by either party, can be understood to derogate from the rights of free intercourse and commerce secured by the said third article to the subjects of His Britannic Majesty, and to the citizens of the United States. The fourth article of our treaty with Spain received its peculiar form, with the design that it might not derogate from the prior stipulations of the United States with Great Britain. And this, as I shall presently show you, was perfectly understood by the Government of Spain. And let me assure you, that the Federal Government no more seeks the excuse, than it merits the imputation, "that England, by her treaty with America, had *surprised* its good faith."

In discussing their respective projects of a treaty, it appears that the Prince of Peace, on the part of Spain, proposed that Mr. Pinckney, on the part of the United States, should enter into a stipulation which would have gone to the exclusion of Great Britain from the navigation of the Mississippi. To this project Mr. Pinckney returned the following answer:

Extract from the "Notes on the project of a Convention proposed by His Excellency the Prince of Peace, September 25, 1795."

The words "alone" and "exclusively" should be omitted; for Spain could scarcely confide in the good faith of the United States, or in the convention which she is about to conclude with them, if they agreed to an article which would be an infraction of a treaty previously concluded: for by the treaty of peace between the United States and Great Britain, concluded in 1783, it is stipulated that the navigation of the river Mississippi shall continue free to the subjects of Great Britain and to the citizens of the United States."

Here, sir, you see that the Federal Government, far from "giving His Catholic Majesty (as you suggest) reason to believe that they had annulled, as illegal, the claim which they had made with England, as to this point, in the eighth article of the treaty of 1783," expressly declared that the attempt would be a violation of the good faith of the United States pledged to Great Britain in that treaty.

To get rid of the embarrassment, the particular form of expression which we find in the fourth article of the treaty with Spain was adopted. You will observe, sir, that this, like every other treaty, contains, generally, the *joint stipulations* of the contracting parties. Such is the stipulation of the United States and Spain in the beginning of the fourth article: "It is likewise agreed that the western boundary of the United States which separates them from the Spanish colony of Louisiana, is in the middle of the channel or bed of the river Mississippi, from the northern boundary of the said States to the completion of the thirty-first degree of latitude north of the equator." Then follows the clause respecting the navigation of the Mississippi. "And *His Catholic Majesty* has likewise agreed that the navigation of the said river, in its whole breadth, from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other Powers by special convention." Here Spain is the *sole party* to the *excluding cause.* And the twenty-first article of the treaty presents a similar instance of a *joint* and *separate* stipulation. The two contracting parties *jointly* agree on the mode of adjusting the claims of American citizens for the losses they had sustained from the capture of their vessels by the subjects of Spain: and then "*His Catholic Majesty* undertakes to cause the same to be paid." Now it might with as much propriety be affirmed that the *United States* are by this clause bound to contribute (and equally with His Catholic Majesty) to those payments, as be inferred from the declaration of His Catholic Majesty *singly*, in the fourth article, relative to the exclusive navigation of the Mississippi, that the United States have thereby engaged to exclude from it the subjects of Great Britain.

The simple fact is, that the United States were contending with Spain for the free navigation of the Mississippi *for themselves;* and by this clause in the fourth article of the treaty their claim was admitted. Any declaration of His Catholic Majesty *alone*, to exclude other nations, was to them quite immaterial.

Thus, sir, I have answered to all your complaints, and, I hope, satisfactorily. The United States, equally with His Catholic Majesty, are desirous of preserving the best harmony between the two countries; and the American Government will always be disposed to adopt any proper measures for that end.

I have the honor to be, &c.

TIMOTHY PICKERING.

The Chevalier de Yrujo, *Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty to the U. S. of America.*

No. 6.

Copy of a letter from General Pinckney to the Secretary of State, dated

Paris, *February* 1, 1797.

Dear Sir:

The day after I had enclosed my last of the 24th ultimo, (No. 5) intelligence was received that Bonaparte had obtained a most brilliant victory in Italy; that he had made twenty-three thousand Austrian prisoners; killed and wounded six thousand, and had taken sixty pieces of cannon, and twenty-four standards; and the day after the arrival of this news, the following letter was written to me by Mr. De la Croix:

FOREIGN AFFAIRS.

LIBERTY. EQUALITY.

The Minister of Foreign Affairs to Mr. Pinckney, Anglo-American.

PARIS, *the 6th Pluviose, 6th year of the French republic, one and indivisible.*

The Executive Directory has charged me to make known to you, that not having obtained special permission to reside at Paris, you are amenable to the law which obliges foreigners to quit the territory of the republic. I had the honor of informing you near two months ago, by the principal Secretary of my department, of the intentions of the Government in this respect; I cannot dispense with notifying you of them to-day.

Receive, sir, &c.

CH. DE LA CROIX.

To which I returned the following answer:

To the Minister of Exterior Relations.

PARIS, *7th Pluviose*, 1797.

CITIZEN MINISTER:

I did not receive until three o'clock to-day, your note in date of the 6th instant, informing me that the Directory had charged you to acquaint me, that not having obtained particular permission to reside at Paris, I was subject to the law which obliged strangers to quit the territory of the republic. I intimated to you some time since, by the Secretary-General of your department, and by Major Rutledge, my Secretary, that I deemed a notification of this sort, in writing, from you, necessary previous to my departure. Having now received it, I shall without delay prepare to go, and, in the meanwhile, will be obliged to you for the necessary passports for myself and family, with our baggage, to quit the republic in my way to Holland.

Accept citizen minister, &c.

CHARLES C. PINCKNEY.

I should have made some observation on being termed Anglo-American, but, on inquiry, I found it was customary to call all my countrymen so, to distinguish us from the inhabitants of St. Domingo, and the other French West India Islands. I have received my passports, and shall, in two days, set out for Amsterdam. I know not what has occasioned this determination of the Directory, after having permitted me to remain here so long a time, from their refusal to acknowledge me. You will judge whether the answer of the Senate and the House of Representatives to the President's speech, and the late successes in Italy, have not concurred to occasion it. Mr. De la Croix assured Major Rutledge, that he acted by the express orders of the Directory in this particular, and not from himself.

Your letter of the 26th of November, with the duplicate of your letter of the same month, (the original of which has not reached me) I recived the 29th ultimo, and am happy to find that Mr. Adet's disorganizing manœuvres have been treated by my countrymen in the manner they deserved, and that his attempts to divide has tended to unite them. I most ardently wish that we would banish all party distinctions and foreign influence; and think and act only as Americans—for all parties in this country unite in thinking that we ought to act as if we were altogether their dependents, and indebted to them solely, and not to our own exertions for our liberty and independence. Hence, our treaty with Great Britain is here generally execrated, and our having any kind of commercial connexion with that country, even if the treaty had not been made, would, I believe, have been disliked. They wish to destroy the trade of Great Britain, and they look upon us as one of her best customers; and, to obtain their object, they care not what we suffer. I shall write to you again as soon as I arrive at Amsterdam. Please to direct to me, under cover, to our bankers there, and be assured I am, &c.

CHARLES C. PINCKNEY.

Col. PICKERING, *Secretary of the United States.*

5th CONGRESS.] No. 122. [1st SESSION.

TRIPOLI.

COMMUNICATED TO THE SENATE, MAY 26, 1797.

UNITED STATES, *May* 26, 1797.

Gentlemen of the Senate:

I lay before you, for your consideration and advice, a treaty of perpetual peace and friendship between the United States of America and the Bey and subjects of Tripoli, of Barbary, concluded, at Tripoli, on the 4th day of November, 1796.

JOHN ADAMS.

Treaty of peace and friendship between the United States of America and the Bey and Subjects of Tripoli, of Barbary.

ARTICLE 1. There is a firm and perpetual peace and friendship between the United States of America and the Bey and subjects of Tripoli, of Barbary, made by the free consent of both parties, and guarantied by the most potent Dey and Regency of Algiers.

ART. 2. If any goods belonging to any nation, with which either of the parties is at war, shall be loaded on board of vessels belonging to the other party, they shall pass free, and no attempt shall be made to take or detain them.

ART. 3. If any citizens, subjects, or effects, belonging to either party, shall be found on board a prize vessel, taken from an enemy by the other party, such citizens or subjects shall be set at liberty, and the effects restored to the owners.

ART. 4. Proper passports are to be given to all vessels of both parties, by which they are to be known. And considering the distance between the two countries, eighteen months, from the date of this treaty, shall be allowed for procuring such passports. During this interval the other papers, belonging to such vessels, shall be sufficient for their protection.

ART. 5. A citizen or subject of either party having bought a prize vessel, condemned by the other party, or by any other nation, the certificates of condemnation and bill of sale shall be a sufficient passport for such vessel for one year; this being a reasonable time for her to procure a proper passport.

ART. 6. Vessels of either party, putting into the ports of the other, and having need of provisions or other supplies, they shall be furnished at the market price. And if any such vessel shall so put in, from a disaster at sea, and have occasion to repair, she shall be at liberty to land and re-embark her cargo without paying any duties. But in no case shall she be compelled to land her cargo.

ART. 7. Should a vessel of either party be cast on the shore of the other, all proper assistance shall be given to her and her people; no pillage shall be allowed; the property shall remain at the disposition of the owners; and the crew protected and succored till they can be sent to their country.

ART. 8. If a vessel of either party should be attacked by an enemy, within gun-shot of the forts of the other, she shall be defended as much as possible. If she be in port she shall not be seized on, or attacked, when it is in the power of the other party to protect her. And when she proceeds to sea, no enemy shall be allowed to pursue her from the same port, within twenty-four hours after her departure.

ART. 9. The commerce between the United States and Tripoli; the protection to be given to merchants, masters of vessels, and seamen; the reciprocal right of establishing consuls in each country; and the privileges, immunities, and jurisdictions, to be enjoyed by such consuls, are declared to be on the same footing with those of the most favored nationsre spectively.

ART. 10. The money and presents demanded by the Bey of Tripoli, as a full and satisfactory consideration on his part, and on the part of his subjects, for this treaty of perpetual peace and friendship, are acknowledged to have been received by him previous to his signing the same, according to a receipt which is hereto annexed, except such part as is promised, on the part of the United States, to be delivered and paid by them on the arrival of their consul in Tripoli; of which part a note is likewise hereto annexed. And no pretence of any periodical tribute of further payments is ever to be made by either party.

ART. 11. As the Government of the United States of America is not, in any sense, founded on the Christian religion; as it has in itself no character of enmity against the laws, religion, or tranquillity, of Mussulmen; and, as the said States never entered into any war, or act of hostility againtst any Mahometan nation, it is declared by the parties, that no pretext, arrising from religious opinions, shall ever produce an interruption of the harmony existing between the two countries.

ART. 12. In case of any dispute, arising from a violation of any of the articles of this treaty, no appeal shall be made to arms; nor shall war be declared on any pretext whatever. But if the consul, residing at the place where the dispute shall happen, shall not be able to settle the same, an amicable reference shall be made to the mutual friend of the parties, the Dey of Algiers; the parties hereby engaging to abide by his decision. And he, by virtue of his signature to this treaty, engages for himself and successors to declare the justice of the case, according to the true interpretation of the treaty, and to use all the means in his power to enforce the observance of the same.

Signed and sealed at Tripoli, of Barbary, the 3d day of Junad, in the year of the Hegira 1211—corresponding with the 4th day of November, 1796, by

JUSSOF BASHAW MAHOMET, *Bey.*
MAMET, *Treasurer.*
AMET, *Minister of Marine.*
SOLIMAN KAYA.
GALEL, *General of the Troops.*
MAHOMET, *Commander of the City.*
AMET, *Chamberlain.*
ALLY, *Chief of the Divan.*
MAMET, *Secretary.*

Signed and sealed at Algiers, the 4th day of Argill, 1211—corresponding with the 3d day of January, 1797, by

HASSAN BASHAW, *Dey,*

And by the agent Plenipotentiary of the United States of America,

JOEL BARLOW.

5th CONGRESS.] **No. 123.** [1st SESSION.

FRANCE.

COMMUNICATED TO THE SENATE, MAY 31, 1797.

UNITED STATES, *May* 31, 1797.

Gentlemen of the Senate:

I nominate General Charles Cotesworth Pinckney, of South Carolina, Francis Dana, Chief Justice of the State of Massachusetts, and General John Marshall, of Virginia, to be jointly and severally envoys extraordinary and ministers plenipotentiary to the French republic.

After a mature deliberation on the critical situation of our relations with France, which have long engaged my most serious attention, I have determined on these nominations of persons to negotiate with the French republic, to dissipate umbrages, to remove prejudices, to rectify errors, and adjust all differences, by a treaty between the two Powers.

It is, in the present critical and singular circumstances, of great importance to engage the confidence of the great portions of the Union in the characters employed, and the measures which may be adopted. I have, therefore, thought it expedient to nominate persons of talents and integrity, long known and intrusted in the three great divisions of the Union, and, at the same time, to provide against the cases of death, absence, indisposition, or other impediment, to invest any one or more of them with full powers.

JOHN ADAMS.

5th CONGRESS.] No. 124. [1st SESSION.

SPAIN.

COMMUNICATED TO CONGRESS, JUNE 13, 1797.

UNITED STATES, *June* 12, 1797.

Gentlemen of the Senate and House of Representatives:

I have received information from the commissioner appointed on the part of the United States, pursuant to the third article of our treaty with Spain, that the running and marking of the boundary line between the colonies of East and West Florida, and the territory of the United States, have been delayed by the officers of His Catholic Majesty; and that they have declared their intention to maintain his jurisdiction, and to suspend the withdrawing of his troops from the military posts they occupy within the territory of the United States, until the two Governments shall, by negotiation, have settled the meaning of the second article respecting the withdrawing of the troops, garrisons or settlements, of either party in the territory of the other; that is, whether, when the Spanish garrisons withdraw, they are to leave the works standing, or to demolish them; and until, by an additional article to the treaty, the real property of the inhabitants shall be secured; and, likewise, until the Spanish officers are sure the Indians will be pacific. The two first questions, if to be determined by negotiation, might be made subjects of discussion for years, and as no limitation of time can be prescribed to the other, a certainty, in the opinion of the Spanish officers, that the Indians will be pacific, it will be impossible to suffer it to remain an obstacle to the fulfilment of the treaty on the part of Spain.

To remove the first difficulty, I have determined to leave it to the discretion of the officers of His Catholic Majesty, when they withdraw his troops from the forts within the territory of the United States, either to leave the works standing or to demolish them; and to remove the second, I shall cause an assurance to be published, and to be particularly communicated to the minister of His Catholic Majesty, and to the Governor of Louisiana, that the settlers or occupants of the lands in question, shall not be disturbed in their possessions by the troops of the United States, but, on the contrary, that they shall be protected in all their lawful claims; and, to prevent or remove every doubt on this point, it merits the consideration of Congress whether it will not be expedient immediately to pass a law, giving positive assurances to those inhabitants who, by fair and regular grants, or by occupancy, have obtained legal titles or equitable claims to lands in that country, prior to the final ratification of the treaty between the United States and Spain, on the 25th of April, 1796.

This country is rendered peculiarly valuable by its inhabitants, who are represented to amount to nearly four thousand, generally well affected and much attached to the United States, and zealous for the establishment of a Government under their authority.

I therefore recommend to your consideration the expediency of erecting a Government in the district of the Natchez, similar to that established for the territory northwest of the river Ohio, but with certain modifications, relative to titles or claims of land, whether of individuals or companies, or to claims of jurisdiction of any individual State.

JOHN ADAMS.

Report of the Secretary of State to the President of the United States, of the proceedings of Andrew Ellicott, Esq. Commissioner for running the boundary line between the United States and East and West Florida.

DEPARTMENT OF STATE, *June* 10, 1797.

The Secretary of State respectfully reports to the President of the United States the substance of the information received the 8th instant, from Andrew Ellicott, Esq. the commissioner of the United States appointed to run the boundary line between their territory and His Catholic Majesty's colonies of East and West Florida.

Although Mr. Ellicott left Philadelphia in September, 1796, to proceed, by the Ohio and Mississippi rivers, to the Natchez, the place appointed by the treaty with Spain, at which the commissioners of the two Governments were to meet, yet, owing to the lowness of the waters of the Ohio, he did not reach its mouth until the 19th of December; two days after which, both the Ohio and Mississippi were almost frozen over. On the 21st of January the ice began to give way, and their store boat arriving on the 28th, they proceeded on the 31st for the Natchez. On the 21st of February, Mr. Ellicott received a letter (No. 1) from His Catholic Majesty's Governor, Gayoso de Lemos, dated at the Natchez, the 17th of February, mentioning the information he had received of his approaching arrival, attended by a military guard and some woodsmen, and desiring that the troops might be left about the mouth of Bayou Pierre, assigning for his reason that, thereby, every unforeseen misunderstanding between the troops of the two Powers would be prevented. With this request, from views of accommodation, Mr. Ellicott complied. Bayou Pierre is about sixty miles above the Natchez.

On the 24th of February, Mr. Ellicott reached the Natchez, and immediately by a letter acquainted Governor Gayoso of his arrival. The Governor, on the same day, returned an answer, No. 2. The day following they had an interview, and fixed on the 19th of March to proceed down the river to Clarkesville, near which place it was supposed the line would commence. The Monday following, February 27th, Mr. Ellicott wrote a letter, No. 3, to the Baron de Carondelet, His Catholic Majesty's Governor General of Louisiana, and the commissioner named by the court of Spain, for ascertaining the boundary line, to inform him of his arrival at the Natchez, as the commissioner of the United States. The baron's answer, No. 4, dated March 1st, was received the 9th, and on the same day Governor Gayoso waited on Mr. Ellicott, and informed him that the baron, in consequence of interesting concerns below, had declined to attend, and that the whole business had devolved on him. Mr. Ellicott expressed his satisfaction, because he expected that he, Governor Gayoso, would immediately be ready to proceed. The Governor answered, "No time shall be lost; but I fear I shall not be ready by the 19th; and, although the baron declines acting, on account of the business which demands his constant attention at Orleans, he is, nevertheless, desirous of having an interview with you; and, for that purpose, has ordered a galley to be fitted up for your use and accommodation to New Orleans." Mr. Ellicott considered that the third article of the treaty with Spain required the commissioners for running the boundary line to meet at the Natchez; and that being then at his post, it was his duty to remain there until the Spanish commissioner should be ready to proceed with him to the place where the line should commence; and, therefore, he declined the baron's invitation.

On the 27th of February, Mr. Ellicott encamped at the upper end of the town of Natchez, about a quarter of a mile from the fort occupied by the Spanish troops; and, two days after, hoisted the flag of the United States. Upon this he received a verbal message from Governor Gayoso, by his aid, Major Minor, desiring the flag might be taken down, which Mr. Ellicott declined doing. The request was not repeated. Here Mr. Ellicott began his astronomical observations, and found the hill on which he was encamped to be in latitude 31 degrees 33 minutes 46 seconds, or about 39 miles north of the south boundary of the United States.

In this situation Mr. Ellicott was told alarming stories about the unfavorable disposition of the Indians, under an idea that the United States were meditating their destruction. The whole settlement was for some days swarming with them, and they frequently went about his camp with drawn knives. For his own safety he frequently issued provisions to them. Thus critically circumstanced, he, on the 11th of March, wrote to Governor Gayoso the letter, No. 5, to which he received the answer, No. 6. But, in the mean time, Mr. Ellicott had sent an express to the commanding officer of his escort (consisting of only twenty-five men) which, in compliance with the Governor's first

request, he had left sixty miles up the river, to come down directly to the Natchez; and being determined not to countermand this order, he, on the 13th, wrote to Governor Gayoso the letter, No. 7, proposing Bacon's landing, about a mile below his camp, for the station of his escort; but before this letter was sent, he had an interview with the Governor, who undertook to prove the propriety and necessity of the whole party from the United States going down the river to Clarke's place, and closed his reasoning, by observing that, if the escort did land at the Natchez, he should consider it as an insult offered to the King, his master. Mr. Ellicott then telling the Governor that he should send him immediately an answer, in writing, observed, that the desire which was constantly manifested to draw him from that place (the Natchez) appeared very singular, as it was designated in the late treaty between His Catholic Majesty and the United States, as the place of meeting for the commissioners; and, therefore, that he should reject every proposition that was intended to draw him from his present situation, until the commissioner and surveyor on behalf of the crown of Spain were ready to proceed to business. To which the Governor replied, "Sir, you either mistake my meaning, or I have expressed myself very badly. I do not want you to leave this place; but, on the contrary, I am desirous for you to take up your residence in my house; you will live there much more comfortably than in a tent." Mr. Ellicott said that his tent was much more agreeable than a palace: for, in his camp he enjoyed an independence characteristic of the nation he had the honor to represent. The next morning Mr. Ellicott sent his letter, No. 7, and the same day received the Governor's answer, No. 8, expressing his entire satisfaction with Mr. Ellicott's sentiments, as uniformly agreeing with his own, in every thing which could combine the mutual interests of the two nations.

The evening following, (March 15th) Mr. Ellicott's escort arrived at the landing, and the next day went down to the place he had proposed for their station.

The officer of the escort having found in the settlement a number of deserters from the American army, took them up. This occasioned some verbal communications between Governor Gayoso and Mr. Ellicott, the former desiring the deserters might be dismissed. Mr. Ellicott thereupon proposed this arrangement: That such deserters from the army of the United States as came into that country and took the protection of the Spanish Government, prior to the time fixed by the treaty for the evacuation of the posts, should, for the present, remain unmolested; but that such as had come to that country since that time, should be liable to be taken and detained.

About the time Mr. Ellicott's escort arrived, the principal part of the artillery was taken out of the fort and carried to the landing, and every appearance made of a speedy evacuation; but on the 22d of March, great industry was used in carrying cannon back to the fort, which were immediately remounted. This gave great alarm to the inhabitants of the district, who generally manifested a desire of being declared subjects of the United States, and at once to renounce the Spanish jurisdiction. In order to quiet the minds of the inhabitants, and to be able to give them some reasons for the Governor's conduct, which now began to be considered as hostile to the United States, Mr. Ellicott, on the 23d of March, wrote the letter, No. 9, which was followed by a note, No. 10, to which he received the Governor's answer, No. 11. This answer, containing information that the important business of running the boundary line should soon be commenced, and an assurance that nothing could prevent the religious compliance with the treaty, Mr. Ellicott expressed his satisfaction in his letter to the Governor, No. 12.

It being now reported that the American troops would be down in a few days, the Governor sent, by his aid, to Mr. Ellicott, an open letter from the Governor, directed to Captain Pope, who, it was said, commanded those troops, informing him that, for sundry reasons, it would be proper, and conducive to the harmony of the two nations, for himself and the detachment under his command, to remain at or near the place where the letter should meet him, until the posts should be evacuated; and as every preparation was making for that purpose, the delay would be but of a few days, when he would be happy to see him at the Natchez. This proposal to Captain Pope, the Governor, in his letter, No. 13, desired Mr. Ellicott to second. Upon reading the letter, Mr. Ellicott observed to Major Minor, that it was impossible for him to join in the Governor's request to Captain Pope, as it was well known to him (Mr. Ellicott) that, instead of evacuating the posts, they were making them more defensible. However, Mr. Ellicott said he would write a letter to the officer commanding the detachment, and requested Major Minor, (as he was to be the bearer of the Governor's letter to the Walnut hills) to take charge of it; to which he had no objection. This letter is No. 14.

On the 28th of March, the Governor issued the proclamation No. 15, bearing the date of March 29th, and another, No. 16, bearing the same date, with the avowed object of quieting the minds of the inhabitants; but they produced a contrary effect. As soon as the Governor discovered this, he requested two gentlemen of the settlement to inform Mr. Ellicott that he, the Governor had received directions from the General-in-chief, the Baron de Carondelet, to have the artillery and military stores expeditiously removed from the forts, which were immediately to be given up to the troops of the United States, upon their arrival. Great pains were taken to inculcate this report, but it did not remove suspicions. In order, therefore, to obtain a direct explanation, Mr. Ellicott, on the 31st of March, wrote to the Governor the letter No. 17, enclosing two paragraphs, No. 18, of an address he had received from a number of respectable inhabitants of the district. The Governor's answer, No. 19, of the same date, confirmed every suspicion, as it contained an explicit declaration that his General had given him positive orders to suspend the evacuations of the posts until the two Governments should determine whether the works were to be left standing, or to be demolished, and until, by an additional article to the treaty, the real property of the inhabitants should be secured; agreeably to his proclamations, in which the Governor thought proper to tell the inhabitants that negotiations were on foot between His Catholic Majesty and the United States, for the adjustment of that and other matters. It may not be improper to remark, that no such negotiation has existed, and that this is the first time that these objections to the evacuation of the posts have been heard of. This peremptory declaration of Governor Gayoso, requires no comment.

Mr. Ellicott says, that with the exception of about eight persons, including some officers, all the inhabitants of the Natchez district, (within the limits of the United States) are desirous of coming under their jurisdiction, and to have a Government established there, similar to that northwest of the river Ohio. My inquiries enable me to add, that the population amounts to near four thousand souls.

Mr. Ellicott further informs, that he has not only reason to believe, but is certain that many grants for lands in that district have been given out by the officers of the Government of Louisiana, since the ratification of the late treaty, and that their surveyors are now executing the surveys.

On the 14th of April, when Mr. Ellicott was folding up his despatches, he received, from Governor Gayoso, the letter No. 20, of that date, complaining of the enlistment of persons in that district, as an infringement of the rights of His Catholic Majesty, and requesting that the persons enlisted might be discharged. To which Mr. Ellicott immediately returned the answer No. 21, observing that the matter required investigation, but assuring Governor Gayoso that he would be careful neither to infringe the rights of the subjects of His Catholic Majesty, nor willingly suffer those of the citizens of the United States to be infringed.

The bearer of Mr. Ellicott's despatches informs me, that, before he left the Natchez, they had heard that two gunboats were preparing at New Orleans to bring up reinforcements; and, since his arrival I have received information which, connected with this detail of facts, is entitled to belief, that, about the 10th of May, three large boats, full of troops, besides a party by land, set off from New Orleans for the Natchez. It was added, for the purpose of driving off the continental troops that had taken possession, agreeably to the late treaty.

TIMOTHY PICKERING.

JUNE 12, 1797.

I have just received from the Secretary of War, two letters, (which I have numbered 22 and 23) dated the 18th of December, 1796, from the officer of His Catholic Majesty commanding the post at New Madrid, one addressed to the late General Wayne, and the other to Lieutenant Taylor, whom the general sent thither with letters to obtain information relative to the delivery of the post occupied by His Catholic Majesty's troops within the territory of the

United States; by which it appears that the evacuation of those posts was at that time proposed to be deferred, merely because the water of the Mississippi was so low as to render the transport of artillery, &c. very difficult, and the navigation dangerous.

TIMOTHY PICKERING.

No. 1.

Manuel Gayoso de Lemos to the Honorable A. Ellicott.

NATCHEZ, *February* 17, 1797.

SIR:

Some gentlemen that left you at the mouth of the Ohio have informed me of your approaching arrival here, and that, to attend you on your commission, you bring a military guard, and some woodsmen. It is with pleasure that I propose myself the satisfaction of seeing you here, and to make your acquaintance. Though I do not conceive that the least difficulty will arise respecting the execution of the part of the treaty in which you are an acting person; yet, as we are not prepared to evacuate the posts immediately, for want of the vessels that I expect will arrive soon, I find it indispensable to request you to leave the troops about the mouth of Bayou Pierre, where they may be provided with all their necessaries, which you can regulate on your arrival here. By this means, every unforeseen misunderstanding will be prevented between His Majesty's troops and those of the United States; besides, it is necessary to make some arrangements previous to the arrival of the troops, on which subject I shall have the honor of entertaining you when we meet.

I embrace this opportunity to assure you of the satisfaction I feel in being appointed to act in concert with you, though your first interview is to be with the general in chief of this province.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

The Hon. A. ELLICOTT.

No. 2.

Baron de Carondelet to the Honorable A. Ellicott.

NATCHEZ, *February* 24, 1797.

SIR:

By your favor of this day, delivered to me by Mr. Nolan, I learn, with pleasure, your arrival at this post, in the character of commissioner in behalf of the United States, to ascertain the boundaries between the territories of His Most Catholic Majesty and the said United States.

I have the honor to be, &c.

BARON DE CARONDELET.

True Copy, MANUEL GAYOSO DE LEMOS.

No. 3.

Hon. Andrew Ellicott to the Baron de Carondelet.

NATCHEZ, *February* 27, 1797.

SIR:

It is with pleasure I embrace this opportunity of informing you of my safe arrival at this place, as commissioner in behalf of the United States, for ascertaining the boundaries between the territories of His Most Catholic Majesty and those of the United States.

The polite manner in which I have been received at the posts on the Mississippi, now in possession of His Most Catholic Majesty, demands my thanks and gratitude, and am in hopes that a similar conduct will be observed on our part.

I have the honor to be, &c.

ANDREW ELLICOTT.

The Baron De CARONDELET.

No. 4.

Baron de Carondelet to the Hon. A. Ellicott.

NEW ORLEANS, *March* 1, 1797.

DEAR SIR:

I have received, with great satisfaction, your friendly letter of the 27th of February last; in consequence of which, I congratulate you on your arrival in this country in the character of commissioner on the part of the United States, to run the dividing line between the territories of His Most Catholic Majesty and the United States. You likewise did me the favor to mention with what kindness and attention you were received at the different posts, as well as by the whole Government under my direction; and from the general principles of your nation, I have no doubt but the same conduct will be observed on the part of the United States. God guard you, most excellent sir.

BARON DE CARONDELET.

ANDREW ELLICOTT, Esq.

No. 5.

Hon. A. Ellicott to Manuel Gayoso de Lemos.

NATCHEZ, *March* 11, 1797.

MY DEAR SIR:

The conduct of the Indians yesterday and last night, owing principally to their constant state of intoxication, renders it absolutely necessary, in my opinion, to have recourse to my military escort for protection. The discipline of our army is such, that you may rest assured, none of the inconveniences mentioned in your first communication to me are to be apprehended from the escort's being stationed at this place on our part. And as the attendance of the guard forms a part of the treaty now carrying into effect between His Most Catholic Majesty and the United States, which I am authorized to declare will be observed by the nation I have the honor to represent with good faith and punctuality, I must request the favor of you to withdraw your objections against my escort's joining me at this place as soon as possible. I am, &c.

ANDREW ELLICOTT.

His Excellency MANUEL GAYOSO DE LEMOS.

No. 6.

Manuel Gayoso de Lemos to the Hon. A. Ellicott.

NATCHEZ, *March* 12, 1797.

MY DEAR SIR:

This morning I had the pleasure to receive your amicable communication, dated yesterday. I give you my sincere thanks for having established this form of intercourse, as it will make our business more easy, and, indeed, it is more conformable to the sincere friendship we have contracted.

In answer to your said letter, I will remark, that such conduct of the Indians is not customary here; I foresaw that it would happen, from the moment you showed a desire of having your colors flying, before all the transactions were terminated; knowing the Indians as well as I do, this was the reason of the objections I offered the moment I saw it hoisted, for otherwise I know it very well, that it is frequently used by the representatives of any nation in a foreign country; it is even done in Spain by foreign consuls. I am sorry you should have experienced any inconvenience from this particular circumstance, and that urged by such effects to wish to have by you your escort. I have not the least objection that it should be called from its actual station; but as it is my duty, and that I am answerable for the tranquillity of the country that is intrusted to my charge, I must propose to you a method that will answer every good and satisfactory purpose. Had not you been unluckily stopped on your voyage to this country, you would have had immediately the General of the province here, to begin the operation of demarking the divisory line between the territories of His Catholic Majesty and those of the United States of America. He had every necessary preparation to attend to the business; but since the time he had a right to expect the commissioners of the United States, the war with England has taken place, and his cares thereby increased, yet he expected to have had it in his power to come to meet you at Daniel Clarke's, esquire, which place is near the point of the 31 degrees; but he has found it impossible, as it would oblige him to make too long an absence from New Orleans; therefore it is myself that will have the honor to accompany you on that important commission, on behalf of His Catholic Majesty. This is the moment when I am in want of every individual thing, both for my person and for the attendants of the commission, though the Geometer, and other officers that are to be employed, are already on their way from New Orleans, and will stop at Clarksville, where I shall go myself as soon as my equipage arrives from the capital; but this will inevitably take some time, therefore the plan that I wish to arrange with you, will be to make Loftus's Cliffs our point of re-union. This place is a short distance from Clarksville, and it is a very healthy situation; there I will send every thing concerning the Spanish commission; and that will be the most convenient place to establish, for a while, your head quarters, under your military escort. By adopting this measure, you will have your people together, and the most distant disagreeable occurrence avoided, as I am positively confident that some would happen by the conjunction here, as you propose. It is true, that by the treaty an escort is supposed, and even recommended to each commission, but it is to be on the line, and not at a distance from it, where it would interfere with other business; therefore, I feel sensibly hurt that it is out of my power to consent to the landing of the troops in this place, though I have not the least objection on their going directly to Loftus's Cliffs.

I have given the most positive orders to prevent the Indians getting liquor; and to their interpreter I have given the strictest charge to be always in sight, and to-morrow I expect that they will remove to some distance from hence.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

A true copy, D. GILLESPIE, *Secretary*.

The Hon. ANDREW ELLICOTT.

No. 7.

Hon. A. Ellicott to Manuel Gayoso de Lemos.

NATCHEZ, *March* 13, 1797.

MY DEAR SIR:

Your favor of yesterday was handed to me in due time, which would have been answered sooner, had not the storm last night prevented me from writing in my tent. Your letter, as well as many circumstances which have come to my knowledge, contain fresh proofs of your desire to promote good order and harmony in this part of the country. But, sir, I cannot suppose that any inconvenience could possibly arise, or the peace of this settlement be disturbed, by the arrival and landing of the escort which I left at Bayou Pierre: if I did suppose the contrary, I trust that I should be one of the last persons to propose the measure. In my opinion, the escort which accompanied me is as much bound to observe good order in this country as the troops of His Catholic Majesty. This is not an opinion of the day; it has uniformly been mine ever since I left the seat of our Government: in consequence of which, immediately upon entering the Mississippi, I issued a standing order that, when any of our party, the military included, should be at any place where the jurisdiction was exercised by His Catholic Majesty, the laws and usages of that Government should be observed and submitted to in the most pointed manner. The escorts, by the spirit of the treaty, are intended for our mutual protection against straggling hostile Indians, and the preservation of our stores. This appears to be their whole business.

As I hope that mere punctilios may never interrupt our friendship, and the conduct of the Indians having become more peaceable since the night before last, I am less anxious for the escort's being stationed at my present encampment: I would, therefore, to prevent any disturbance or misunderstanding, propose that the officer who commands the escort which accompanied me to Bayou Pierre, be directed to proceed down the river to Bacon Landing, from whence he may come to this place and procure such necessaries as he may be in want of for the ensuing season.

As this is the place designated by the treaty for our meeting, and making our arrangements for carrying on the business, I conceive there would be an impropriety in my leaving it till your excellency is ready to join me in fixing the first point of latitude.

I am, &c.

ANDREW ELLICOTT.

Copy: D. GILLESPIE, *Secretary*.

Note.—The last two paragraphs were added after having had a private conversation with the Governor.

No. 8.

Manuel Gayoso de Lemos to the Hon. A. Ellicott.

NATCHEZ, *March* 14, 1797.

MY DEAR SIR:

I do myself the pleasure to acknowledge the reception of your favor, dated of yesterday, and am very happy to find that our sentiments uniformly agree in every thing that can combine the mutual interests of our nations; and I pledge you my honor and friendship, that every step of my conduct shall be guided by this principle, impressed in me by my duty, and by the very particular attachment I have for you.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

Copy: D. GILLESPIE, *Secretary*.

The Hon. ANDREW ELLICOTT.

No. 9.

Hon. A. Ellicott to Manuel Gayoso de Lemos.

NATCHEZ, *March* 24, 1797.

MY DEAR SIR:

The remounting of the cannon at this place at the very time when our troops are daily expected down to take possession of it, the insolent treatment which the citizens of the United States have received at the Walnut Hills,

and the delay in the business upon which I came, concur in giving me reasons to suppose, that the treaty will not be observed with the same good faith and punctuality by the subjects of His Catholic Majesty as it will by the citizens of the United States. I hope your excellency will give such an explanation of the above, as to remove my doubts and apprehensions, which I am afraid have been too justly excited.

I am, &c.

ANDREW ELLICOTT.

His Excellency MANUEL GAYOSO DE LEMOS.

No. 10.

MARCH 23, 1797.

Mr. Ellicott's compliments to his friend Governor Gayoso, and wishes to be informed, whether the following information which he received this day, "that all the works at the Chickasaw Bluffs have been either demolished or carried to the opposite side of the river, and that every exertion is making at the Walnut Hills to put that post in a state of defence," be correct.

No. 11.

His Excellency Manuel Gayoso de Lemos to Andrew Ellicott, Esquire.

NATCHEZ, *March* 23, 1797.

MY DEAR SIR:

I have just now received your communication of this day, by which I am sorry to find the construction you put on the storing of the ammunitions that came from the Walnut Hills in this fort. I have no other place to put them in, for it would be imprudent to leave them exposed in an insecure place at a time when the Indians might take advantage of us, if they found that in the present circumstances we acted without the necessary precautions; at the time you see me conducting ammunitions to the fort, you will likewise see as many go out of it for the Arkansas, to reinforce that post, which will now be exposed to the incursions of the Osage Indians, who in the last season pillaged the white hunters of that country.

I am entirely unacquainted with any ill treatment that the citizens of the United States should have received at the Walnut Hills: if you mean the execution of the orders of the General-in-chief of this province, to demolish that post, it was in consequence of our treaty with the Indians, that they might have no just reason to complain of our conduct: but, since I have been informed of their unsettled disposition, I have sent counter orders to suspend every thing that might injure the actual estate of those fortifications; and, in such circumstances, shall not move any thing else until the arrival of the American troops, that are daily expected.

The unavoidable detention that has been experienced in beginning the line, you know the reasons; but they shall soon be removed, as Lieutenant Colonel Guillemard is far on his way up, and, at his arrival, this important business shall be begun.

I do assure you that there is nothing that can prevent the religious compliance of the treaty, though I might observe that the conduct of some persons that seem to affect an immediate interest with the United States is such, as to occupy my attention. I request that you will be so kind as to take such measures as to suppress untimely expressions, that can only tend to disturb the tranquillity of the public, of which I am solely answerable for the present.

As I was finishing this, Mr. Gillespie brought to me your note, inquiring if the works at the Bluffs had been destroyed or removed to the other side of the river.

What I have already said concerning our treaty with the Indians, I suppose has guided the General of this province to take that step. I really do not know whether they are destroyed, or not. I give you my word that I did not know what was to be done there; and it is only by Baron Bastrop that I learn that that post would soon be evacuated: but as this is a thing that only regards the General of the province, I cannot account for it, nor can I say more on the subject, as all the orders proceed from him—that post being entirely out of my jurisdiction.

My dear sir, &c.

MANUEL GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 12.

Andrew Ellicott, Esq. to his Excellency Manuel Gayoso de Lemos.

NATCHEZ, *March* 24, 1797.

MY DEAR SIR:

It is with pleasure I acknowledge the receipt of your excellency's very satisfactory letter of yesterday. You may rest assured that I have, and shall continue to discountenance every measure, and the propagation of any opinion, which may have a tendency to disturb the good order and harmony of this settlement. I shall close this, with requesting that the commandant at the Walnut Hills be directed to treat the citizens of the United States with politeness when they stop at that post, as a contrary conduct may be attended with disagreeable consequences on a river which both nations have an equal right to navigate.

I am, &c.

ANDREW ELLICOTT.

His Excellency MANUEL GAYOSO DE LEMOS.

No. 13.

His Excellency Manuel Gayoso de Lemos to Andrew Ellicott, Esq.

NATCHEZ, *March* 25, 1797.

MY DEAR SIR:

By every report you are acquainted with the confirmation of every thing I have told you concerning our business. You know that Lieutenant Colonel Guillemard will be here very soon, and that immediately we shall proceed to the running of the line. But as nothing but friendly arrangements are to guide our conduct, it is necessary to avoid every shadow of compulsion. By the contents of my letter to Captain Pope, you will see my reasons; therefore, I request that you will join a couple of lines, to avoid any more writing.

I am surrounded by many people who have business, this being court day, though I have tried to disembarrass myself, but cannot wait upon you.

I am, &c.

MANUEL GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 14.

Andrew Ellicott, Esq. to Lieutenant Pope.

NATCHEZ, *March* 25, 1797.

DEAR SIR:

This will be handed you by Major Minor, a friend of mine, an officer in the service of His Catholic Majesty; your polite attention to him will be considered as a particular favor conferred upon me. By order of Governor

Gayoso, his letter to you of this day has been shown to me; his request for you and the troops under your command to remain for an indefinite time above this place, appears to me a very extraordinary one; sufficient time has already been given by the United States for the evacuation of all the posts on the east side of the Mississippi, above the 31st degree of north latitude; and from the troops of His Catholic Majesty carrying up and remounting the cannon at this place, I cannot pretend to say that an evacuation is really intended in any reasonable time. From this circumstance, I should conclude that the sooner you are here the better. However, as I have no control over the destination of the troops of the United States, except my own escort, I shall take it for granted that your instructions are sufficiently pointed to direct your conduct. Please to accept of my sincere wishes for the safe and speedy arrival of yourself and troops at this place; and am, &c.

ANDREW ELLICOTT.

Lieutenant POPE.

No. 15.

Don Manuel Gayoso de Lemos, Brigadier in the royal armies, Governor Military and Civil of Natchez and its Dependencies, &c. &c. &c.

Whereas the political situation of this country offers a large field to busy and malignant minds to disturb the tranquillity of its inhabitants, it is therefore my duty, and the continuation of that vigilance which I have constantly exerted, not only to promote the happiness of every individual of this Government, but likewise to support their interest, and secure their tranquillity, that I step forth to warn the public against being led by their innocent credulity against any measure that may be productive of ill consequences, and frustrate all the advantages they have a right to expect: and by the present I assure to them, if they continue as they have always done, with strict attachment to the welfare of His Catholic Majesty's Government, from which will depend the following favorable events, viz. His Majesty has offered to support the rights of the inhabitants to the real property; and until that is ascertained, I am bound to keep possession of this country, as likewise until we are sure the Indians will be pacific.

Contrary to the general expectation, the same indulgence that until now protected the inhabitants in distress will be continued during His Majesty's sovereignty in this country; and this being the season in which the planters are employed in preparing for an ensuing crop, none shall be disturbed from that important object on account of their depending debts. The misconstruction of what is the enjoyment of the liberty of conscience is hereby positively explained to be, that no individual of this Government shall be molested on account of religious principles, and that they shall not be hindered in their private meetings; but no other public worship will be allowed but that generally established in all His Majesty's dominions, which is the Catholic religion.

These important objects, that until now have not been published, though resolved, I acquaint the public with, apprehensive of the dangerous insinuations of several persons that have made it their business to dazzle the public with false notions, to serve their own purpose, in the speculation of lands that are lawfully held by all the inhabitants of this Government: therefore, I firmly rely that no person will deviate from the principles of adhesion to our Government, until the negotiations that are now on foot between His Majesty and the United States of America are concluded, and thereby the real property of the inhabitants secured.

Given under my hand and the seal of my arms, and countersigned by the secrerary of this Government, by H. M. at the Government House, Natchez.

MANUEL GAYOSO DE LEMOS.
JH. VIDAL.

MARCH 29, 1797.

No. 16.

Whereas the alarming circumstances that prevailed for a while in this Government obliged me to circulate proclamations, wherein I warned the people of their immediate danger. Now, that these troubles have subsided, I cannot but publish my approbation, and applaud that upright sense of duty that the inhabitants have shown to the laws of our gracious sovereign, by seconding his representative, the right they have so justly acquired of being considered the most loyal subjects of His Majesty. In my last publication I mentioned that, until the real property should be secured to the inhabitants, this country should be considered in the same situation as before, as likewise while the pacific disposition of the Indians was not ascertained. I find it my duty to explain that a negotiation is now carrying on to secure the right of the said real property. As that right cannot be secured but by an additional article to the late treaty, and until that article is officially communicated to me, I am bound to keep possession of the country, and continue to its inhabitants the same indulgence and the same anxious protection as until now. The negotiations with the Indians will produce the same effects, as it is impossible for His Majesty to leave unprotected so many of his faithful subjects, and expose other settlements to the revengeful disposition of discontented Indians. These important objects are of the greatest moment to every person in this Government; their interest and allegiance to His Majesty binds them to keep steady in their principles of loyalty, until, by the definitive arrangements of both nations, a change takes place. Being informed that some persons are apprehensive that violent measures will be taken against those that seemed pleased with the prospects of becoming citizens of the United States, I declare that such a notion is unfounded, as likewise the suspicion that individuals would be prevented from moving to any part they please, either within His Majesty's dominions or elsewhere, as it is notorious that no such obstacle was ever offered to any body, it being contrary to one of the greatest prerogatives that are enjoyed by His Majesty's subjects.

DON MANUEL GAYOSO DE LEMOS.

MARCH 29, 1797.

No. 17.

Andrew Ellicott, Esq. to his Excellency Manuel Gayoso de Lemos.

NATCHEZ, *March* 31, 1797.

MY DEAR SIR:

I was last evening addressed by a number of respectable inhabitants of the district of Natchez. They are very much alarmed for their situation, in consequence of having expressed their pleasure, since my arrival at this place, in speedily becoming citizens of the United States. Your proclamation of the 28th instant, they conceived, renders that event doubtful. They have, therefore, from considerations of personal safety, and to avoid the insults which many of them have experienced from one or more officers of a small grade in this district, called upon me to use my influence with your excellency to grant them, and all others who incline to leave this country, the privilege of disposing of their properties, and passports to enable them to reach the frontiers of such States as they may be inclined to remove to. I have now stated the substance of their application, and assure your excellency, from the respectability of the applicants, it is a subject in which I feel myself interested, and to which I request your excellency's attention.

Ever since I arrived in this district, I have uniformly recommended to the inhabitants a quiet submission to the Government now in force, at the same time they have been in the most explicit manner assured that the period would not be far distant when the jurisdiction of the United States would be extended to them. But they are not satisfied; they have their suspicions; and it is your excellency alone that can quiet them. Let the cannon and military stores be again taken out of the fort; withdraw your objections to the arrival of the American troops; and their apprehensions will subside. I do not pretend to say that their apprehensions are well founded; it is possible

they are not; but your objection to my escort's being stationed with me; your hauling back and remounting the cannon at this place; your despatching Major Minor to delay the arrival of the troops of the United States at this post, added to your excellency's proclamation, however well meant, have had a contrary effect by increasing their fears.

I have enclosed two paragraphs of the address which was handed to me last evening. I am, &c.

ANDREW ELLICOTT.

His Excellency MANUEL DE GAYOSO.

No. 18.

Many whose ideas of allegiance had been preponderant from the treaty until the time of your arrival at this place, thought themselves at full liberty to announce their sentiments in any way that might not affect the operations of peace and good order in society. But the result is a melancholy contrast to the construction. Some have been already torn away from the bosom of agricultural life, and conveyed to prison with every indignant epithet that malevolence could invent. Scouts are crossing the country in various directions, breathing threats of vengeance against those who had unguardedly thrown aside the mask of duplicity; and a number are waiting with solicitude the moment of their fate.

There are many in this country to whose exertions America is much indebted for her political existence. We call upon you in the name of such; we call upon you in the name of every friend to that emblem of peace and science which has been recently displayed to us; to stand forth with a confidence suitable to the dignity of your commission, and demand of the Governor passports, with leave for all such as would dispose of their property, and avail themselves of a change of situation by withdrawing to the United States.

No. 19.

His Excellency Manuel Gayoso de Lemos to Andrew Ellicott, Esq.

NATCHEZ, *March* 31, 1797.

MY DEAR SIR:

I have just now received your favor of this day, in which you informed of the application of several respectable inhabitants of this Government to you, requesting your interposition to facilitate to them a privilege that they never ceased enjoying, and in which consists the greatest liberty of a Spaniard. There is not one single instance in our Government of having made opposition to a person's selling his property, and leaving the country, whenever they called for a passport; and, as our system is not altered, I shall not refuse the same privilege to any person that may apply for it.

I am sorry to find that those persons who have addressed you have imposed upon your credulity and goodness, in making use of remonstrances proper to make sensation on the feelings of a good citizen of the United States; but there is not a word of truth in what they have advanced. I have not taken notice of the satisfaction that some persons have expressed on the prospect of becoming citizens of the United States, nor has any body been apprehended for it, nor have I issued any order for such a purpose, but against Mr. Green, Senior, who had made his escape, conscious of the criminality of his conduct, which is notorious; and, indeed, in all the extent of this Government, there is but one single individual confined, and that is for a criminal proceeding. There is not a single patrol out in search of any one; nor, just at this moment, do I find occasion for it; but if I should, I would employ every means in my power to suppress disorder, and to keep the peace of the country, as I have always done.

I doubt not of the assurances you please to give me of the good advice you have uniformly given to the people, it being conformable to the character of a gentleman, whose object is another than that of interfering in the matters of Government.

My proclamation I found absolutely necessary to calm the minds of the people, stating to them the true situation of the political arrangements between His Majesty and the United States, which does not dissolve the treaty, but requires an essential explanation, not only with regard to the points alluded to in my proclamation, but likewise, as I am authorized to declare to you, that the General of this province finds himself under the necessity to consult His Majesty concerning the manner in which the posts are to be evacuated; as it appears by General Wayne's communication to him, that he expects that the posts will be delivered with the buildings standing as they are; and, by the treaty, we conceive that the posts are to be demolished before we leave them; and as such interpretation of the true meaning of the treaty, either one way or the other, [it] might produce unnecessary ministerial contests, my General has given me positive orders to suspend the evacuations of the posts until the matter shall be amicably settled between the two courts. In the mean while, if the troops of the United States that are daily expected, arrive, they shall be received at Nogales in the most friendly and hospitable manner, as is due to a nation with whom we are at perfect peace, and with whom we wish to keep the most perfect harmony.

I flatter myself you will do me the justice to acknowledge the propriety of my conduct in obeying the superior order of my General, who is actuated by the principles of the strictest honor in supporting the interest of His Majesty intrusted to him.

The uniform good harmony that we have reciprocally promised to each other will subsist; and it will not be only our duty, but our glory, to banish every shadow of misunderstanding which is wrongfully interpreted by the public, without any more foundation than assisted those that tried to persuade you of wrongs that they never suffered.

I am, &c.

MANUEL GAYOSO DE LEMOS.

Hon. ANDREW ELLICOTT.

No. 20.

His Excellency Manuel Gayoso de Lemos to Andrew Ellicott, Esq.

NATCHEZ, *April* 14, 1797.

MY DEAR SIR:

I am informed that the officer commanding your escort has enlisted several persons resident of this Government, which, being against the laws of nations, I cannot pass unnoticed, it being an infringement on the sovereignty of the King, my master, and a disregard of the authority residing in me.

I cannot persuade myself that it was done intentionally, nor thinking that it could give the most remote offence; but, as the matter is of a most delicate nature, I request you to give the necessary orders that the men so enlisted may be discharged, and delivered to Major Minor, whom I commission for this purpose.

The object of the escort not being to raise men in this country, while under His Catholic Majesty's dominion, I request of you likewise to give the most precise and positive orders to the officers of the troops, or to whom it may appertain, to discontinue such proceedings, or any thing that may injure the immunity of the King's dominions, or his royal rights.

The most perfect harmony and friendship subsisting between His Catholic Majesty and the United States of America, the same being recommended in the most particular manner to the individuals of both nations, it would be unaccountable if we, that have had the honor to be distinguished by our appointments, did not promote this friendly reciprocity, which not only consists in a hospitable and polite intercourse, but guarding and keeping to one another the prerogatives and privileges that are due.

Enclosed I have the honor of transmitting to you a list of the men that to my knowledge have been recruited, or suffered to be recruited, in this Government, by the officer commanding your escort.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

No. 21.

Andrew Ellicott, Esq. to his excellency Manuel Gayoso de Lemos.

NATCHEZ, *April* 14, 1797.

DEAR SIR:

Your excellency's favor of this date was handed to me by Major Minor; but the request it contains is of so general and important a nature, and affecting so deeply the privileges of the citizens of the United States, that I must take a short time to investigate its ultimate tendency, as a part, if not all, of the persons named in your excellency's list cannot, by any construction of the late treaty, or the laws of nations, be considered as the subjects of His Catholic Majesty. You may rest assured that, having in view the sacred and honorable principles which are the basis of that Government I have the honor to serve, and by which treaties are considered the most sacred of all obligations, I will be careful, neither to infringe the rights of the subjects of His Catholic Majesty, nor willingly suffer infringement of those of the citizens of the United States. I am, &c.

ANDREW ELLICOTT.

His Excellency MANUEL GAYOSO DE LEMOS.

No. 22.

Lieutenant Colonel Charles de Hault de Lassus to Major General Anthony Wayne.

NEW MADRID, (*on the Mississippi*) *December* 18, 1796.

SIR:

Lieutenant Taylor has delivered to me your excellency's letter, dated Detroit, October 19th, 1796, and, according to your intention, I have acquainted him with the orders I have received from the Governor General of this province, respecting the treaty of friendship, navigation, and limits, between the United States of America and the King my master. I here enclose a copy of my letter to him, wherein I hope you will find sufficient and satisfactory information. As Lieutenant Taylor has, according to his instructions, determined to return from here without going any further down, I am about sending immediately an express to New Orleans, with your excellency's letter to the Governor General of Louisiana; I will think myself happy if I have succeeded in complying with your intentions.

I have the honor to be, &c.

CHARLES DE HAULT DE LASSUS,
Lieut. Col. in His Catholic Majesty's service, and commander of the Post of New Madrid.

Major General ANTHONY WAYNE,
Commanding the army of the United States of America.

No. 23.

Lieutenant Colonel Charles de Hault de Lassus to Lieutenant Taylor.

NEW MADRID, (*on the Mississippi*) *December* 18, 1796.

SIR:

According to his excellency, Major General Wayne's desire, I have the honor to inform you of my having received, from the Governor General of this province, information respecting the ratification of the treaty of friendship, navigation, and limits, between the King my master and the United States of America. You have seen, in his letter which I have read to you, that I have orders not to prevent, in the least, the going down the Mississippi of the commissioners appointed on the part of the United States to fix the limits, and of the troops that were to accompany them; but, that in the mean time he orders me to tell them, that the evacuation of the posts cannot take place until the time of high waters. I will beg leave to observe to you, that although this is the affirmative answer that General Wayne speaks of, yet, as he says that the troops who are to take possession of the posts are now waiting at Fort Massac, their coming down the river immediately, that is, before the high waters, would be somewhat sooner than the Governor General of this province seems to expect, and somewhat contrary to Major General Wayne's own intentions, since he tells the Baron de Carondelet, in his letter, to appoint the most convenient time for the evacuation of the posts. I hope you will be so good as to make that observation to such officers as are in possession of General Wayne's orders respecting the taking possession of the posts, and, at the same time, to make them sensible of the conveniency it will be, to both the Americans and the Spaniards, to wait for a more proper season for the transport of artillery, baggage, provisions, &c. which could not be moved, at this present time, without much trouble and risk, on account of the river being so remarkably low as to render its navigation very dangerous.

I have the honor to be, &c.

CHARLES DE HAULT DE LASSUS,
Lieut. Col. in His Catholic Majesty's service, and commander of the Post of New Madrid.

To Lieutenant TAYLOR.

5th CONGRESS.] No. 125. [1st SESSION.

SPAIN, GREAT BRITAIN, AND FRANCE.

COMMUNICATED JUNE 22, 1797.

UNITED STATES, *June* 22, 1797.

Gentlemen of the House of Representatives:

Immediately after I had received your resolution of the 10th of June, requesting a report respecting the depredations committed on the commerce of the United States, since the 1st of October, 1796, specifying the name of the vessel taken, where bound to or from, species of lading, the value (when it can be ascertained) of the vessel and cargo taken, and by what Power captured, particularizing those which have been actually condemned, together with the proper documents to ascertain the same, I directed a collection to be made of all such information as should be found in the possession of the Government. In consequence of which, the Secretary of State has made the report and the collection of documents which accompany this message, and are now laid before the House of Representatives, in compliance with their desire.

JOHN ADAMS.

DEPARTMENT OF STATE, *June* 21, 1797.

SIR:

I have the honor to lay before you a report respecting the depredations committed on the commerce of the United States since the 1st of October, 1796, as far conformable to the resolve of the House of Representatives of the 10th instant as the materials in my possession would admit. The number of captures will give a tolerably correct idea of the extent of our losses, and the documents will show the nature of the depredations, and the causes or pretences for which they have been committed.

I am, with the greatest respect, &c.

TIMOTHY PICKERING, *Secretary of State.*

The PRESIDENT *of the United States.*

Report of the Secretary of State respecting the depredations committed on the commerce of the United States, since the 1st of October, 1796.

American vessels have been captured since the 1st of October, 1796, by the armed vessels of Spain, Great Britain, and France. Of captures by Spanish cruizers, one was of the polacre Independence, Captain Robertson, laden wholly on account of the United States, with stores for Algiers, in pursuance of the treaty with that regency. She was taken on the 16th of February last, at the entrance of the straits of Gibraltar, and carried into Cadiz. The polacre's papers were perfectly clear; among others, she had a special passport under the hand of the President of the United States, and the great seal thereof, declaring the vessel to be the property of two citizens of the United States, (whose names were inserted in the passport) and that the cargo was wholly the property of the United States, and destined for Algiers. She had, also, the passport of the Dey. The general of the marine had cleared the polacre and cargo; but the owners of the privateer appealed to the tribunal at Madrid, and on the 31st of March, there had been no decision known at Cadiz.

There have, probably, been a number of captures by Spanish cruisers, although not particularly specified; the consul of the United States in one of the ports of Spain having informed that, almost daily, American vessels were taken and brought in by French and Spanish privateers.

Captures and losses by British cruisers, the Secretary presumes, have not been numerous: for the citizens of the United States having, these three years past, been accustomed to look up to the Government for aid in prosecuting their claims, it is not to be doubted that, generally, these cases have been reported to the Department of State. An abstract of such as have been communicated is annexed.

In order to present a clearer view of French depredations, it will be necessary to notice the rules which she has prescribed to her cruisers and tribunals.

As applicable to captures made since last October, the decree of the Executive Directory of the 2d of July, 1796, merits the first attention. It announces that the conduct of France towards neutrals will be regulated by the manner in which they should suffer the English to treat them. At Malaga and Cadiz, the French consuls have interpreted this decree to authorize the capture and condemnation of American vessels for the single circumstance of their being destined to a British port. But its fullest effect has been produced in the West Indies, whose seas swarm with privateers and gun boats, which have been called forth by the latitude allowed to their depredations by the indefinite terms of that decree, and the explanatory orders of the agents of the Directory at Guadaloupe and St. Domingo. Two of these decrees have been already communicated to Congress,* and it may be only requisite here to refer to them.

At Guadaloupe an order was issued by Victor Hugues and Lebas, dated the 1st of February last, (13th Nivose, 5th year) authorizing the capture and condemnation of all neutral vessels bound to certain enumerated ports, which, it is pretended in the decree, were delivered up to the English, and are occupied and defended by emigrants; and, also, of such vessels as should be cleared out generally for the West Indies. This decree refers to and enforces a decree of the 24th of December, 1796, (4th Nivose last) issued in conformity with the decree of the Executive Directory of the 2d July, 1796, so far as it is not departed from by that decree of the 27th of February last. The decree of the 24th December has not been received at the Department of State; but is supposed to direct the confiscation of the cargoes of neutral vessels, bound to or from British ports, occupied by them before the present war. For it appears that, whilst they have confiscated both vessel and cargo in cases which fall within the scope of the decree of the 1st of February, they have spared the vessel, and confiscated only the cargo, where she had been bound to or from such acknowledged British port.

The agents of the Directory at Cape François, by their decree of the 27th November last, direct the capture and bringing into port of *American* vessels bound to or from British ports, there to remain until it should be further ordered. This further order was afterwards issued, as will appear by the copy of the condemnation of the ship Pattern, of New York; by which it will be seen that, like the consuls at Malaga and Cadiz, they interpret the decree of the Executive Directory of the 2d of July last, as authorizing the condemnation of American vessels merely because bound to or from a British port.

To the foregoing succeeded the decree of the Executive Directory of the 2d March last, which has been communicated to Congress during the present session. That copy of the decree was taken from a newspaper, and is now found to be imperfect. A translation from the decree, as officially published by the Directory, is annexed to this report. Although we do not yet know what is its operation, yet it cannot fail to produce very great vexation and loss to the American commerce; the documents it requires to prevent confiscations not having been before declared

* In the report of the Secretary of State, dated the 27th of February, 1797.

indispensable, or demanded, and no time being allowed for the vessels of the United States to provide themselves therewith.

Besides these several decrees, and others which, being more limited, the former have superseded, the old marine ordinances of France have been revived, and enforced with severity, both in Europe and the West Indies. The want of, or informality in, a bill of lading; the want of a certified list of the passengers and crew; the supercargo being by birth a foreigner, although a naturalized citizen of the United States; the destruction of a paper of any kind soever; and the want of a sea-letter, have been deemed sufficient to warrant a condemnation of American property, although the proofs of the property were indubitable.

The West Indies, as before remarked, have exhibited the most lamentable scenes of depredation. Indeed, the conduct of the public agents and of the commissioned cruisers there has surpassed all former examples. The American vessels have not only been captured under the decrees before mentioned, but when brought to trial in the French tribunals, the vessels and cargoes have been condemned, without admitting the owners, or their agents, to make any defence.

This seems to be done systematically, and for the obvious purpose of insuring condemnations. By this monstrous abuse in judicial proceedings, frauds, and falsehoods, as well as flimsy and shameless pretexts, pass unexamined and uncontradicted, and are made the foundation of sentences of condemnation.

The persons also of our citizens have been beaten, insulted, and cruelly imprisoned; and, in the forms used towards prisoners of war, they have been exchanged with the British for Frenchmen. American property going to, or coming from, neutral or even French ports, has been seized; it has even been forcibly taken when *in their own ports*, without any pretence, or no other than that they wanted it. At the same time, their cruisers are guilty of wanton and barbarous excesses, by detaining, plundering, firing at, burning, and distressing, American vessels.

Official papers to prove the very numerous depredations on our commerce, and the atrocities and abuses attending the capture and condemnation of our vessels and cargoes, by French cruisers and tribunals, not having been publicly called for, few have been received. Of former claims for injuries committed since the beginning of 1793, and of which a report was made to the House of Representatives on the 27th of February last, a very small proportion had been satisfied; and for a considerable time no payments had been obtained. Under this distant and discouraging prospect of obtaining compensation, the citizens, suffering by more recent French depredations, have generally omitted to present accounts of their losses; and they have, in many cases, had no opportunity of getting the evidence of the condemnations, which are attainable before the tribunals of other nations; the mock trials, as before observed, being very often carried on, and sentences of condemnation pronounced in the absence of the American owner, master, or supercargo.

Such documents as the Department of State is possessed of concerning these depredations are annexed; and to them is added a concise abstract of the cases. These support the principal facts above stated, and show the nature of French depredations. To supply, in some measure, the want of official papers, an examination has been made of two newspapers published in Philadelphia, the Gazette of the United States, and the Philadelphia Gazette, from the 1st of July, 1796, to the present time. Between the 1st of July, and the 1st of October, few captures were made, the decree of the Directory, of July the 2d, not being in general operation until October. This examination was chiefly made prior to the call of the House of Representatives for a report on this subject, with a view to ascertain the number of French captures, and the circumstances attending them; and the result of the whole is annexed. It is regretted that the time did not permit a re-examination of those papers, to ascertain likewise the captures made by the British cruisers. The editors of those two gazettes agree in saying that no great attention was paid to the subject for the purpose of inserting accounts of all the captures which were published in the various other newspapers; yet the number collected exceeds three hundred, of which but few escape condemnation. The evidence arising from the multiplied and concurrent publications of these facts in the newspapers, some of them certified by the American masters of the captured vessels, cannot fail of producing a conviction of the reality of the evils represented.

There have been frequent accounts of attempts to effect condemnations by bribing the officers and seamen of our vessels to swear falsely; but it was reserved to these times, when offered bribes were refused and threats despised, to endeavor to accomplish the object by TORTURE. This was inflicted by a French privateer. The evidence of the fact appears in the protest of Captain William Martin, master of the ship Cincinnatus, of Baltimore, in which he is supported by the testimony of his mate and one of his seamen. A copy of the protest is annexed, together with an extract of a letter from Mr. King, minister of the United States in London, who examined Captain Martin's thumbs, and says the marks of the torturing screws will go with him to his grave. All which is respectfully submitted.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *June* 21, 1797.

No. 1.

Abstract of two cases of capture made by British cruisers, of vessels belonging to citizens of the United States, since 1st October, 1796, and wherein documents have been received at the Department of State; also a copy of a memorandum, filed by Samuel Smith, Esquire, relating to captures made by the British, of vessels in the property of which he was concerned.

NOTE. No documents accompany the two cases of capture above mentioned, they having been sent to London in order that compensation might be obtained for the damage suffered.

The schooner St. Patrick, Robert Gardner, master, belonging to Thomas Stagg, Junior, Thomas Snell, and Joseph Foulke, all native citizens of the United States, the two former residing at New York, and the latter at Curacoa, as agent of the partnership of which he was a member.

31st July, 1796, she sailed from New York, bound to Curacoa, then a colony of the States of Holland, being allies of Great Britain, with a cargo of provisions and dry goods, the property of the said owners of the vessel.

18th of August she arrived at the place of her destination, and delivered her cargo to the said Foulke, who shipped on board her, in return, a cargo of hides and goat skins, besides five thousand dollars in cash, the property of the said owners of the vessel.

About the 1st September following, she sailed for New York.

About the 15th of the same month, she was captured by His Britannic Majesty's ship of war Topaze, Captain Church, in company with the Thisbe, Capt. Oaks, and the Thetis, Captain Cochran, and was by them sent for Bermuda, where she arrived on the 22d.

Proceedings were duly commenced against her in the court of vice admiralty; and on the 4th November the judge thereof decreed that the vessel and cargo should be restored; certified probable cause for the capture, and ordered the claimant to pay the taxed costs of the court. The captors appealed, and the master appealed for costs and damages.

The schooner Lively, John Clarke, master, belonging to John Gardner, junior, of the city of Philadelphia.

She was captured and carried into Martinico, where the cargo, (except ten casks of nails which were condemned as contraband) as well as the vessel, was acquitted by the court of vice-admiralty, on the 27th of February.

List of captured vessels belonging to the Messrs. Smiths, &c. of Baltimore, deposited in the office of the Department of State, by General Smith, June 17, 1797.

The ship James, John Smith, master, laden by Samuel and John Smith, and S. Smith and Buchanan, with a cargo of flour, 2,260 barrels, which cost thirty thousand two hundred and fifty dollars, sailed from Baltimore the

1st December last; was captured by two French frigates and sent into Guadaloupe; the supercargo was imprisoned for several days, but afterwards released and permission given to sell his cargo, which, thus sold, produced only 23,576 dollars.

On learning the ship James was captured, we immediately despatched our schooner William, Francis Smithwich, master, (then laden and about to sail for Jacmel, with a cargo which cost four thousand dollars) for Guadaloupe, with such letters to the supercargo as we supposed would be useful. The William was captured off Guadaloupe by the British, and sent into Martinique; after a short detention she was released, but immediately after leaving Martinique, lost both masts in a squall, was then obliged to put into St. Croix to refit, and from thence having learned that the James was released, proceeded to Cape François, where she disposed of her outward cargo, and took an order on Jacmel for a load of coffee which she received, and on her voyage home was taken by the Hind British sloop of war, and sent into Jeremie, about the 13th of May; from Jeremie she was sent to Port-au-Prince for trial, where she was waiting the arrival of the judge at our last accounts, dated 18th May. The captain writes that he had on board 100,000 lbs. coffee, the value of which is about 22,000 dollars.

The brig Gratitude, James Clifton, master, laden at New York, by Mr. Archibald Gracie, on account, and by order of Samuel and John Smith, John Hollins, and S. Smith and Buchanan, sailed from thence about the 1st March last, with a cargo of beef and pork, which cost nine thousand nine hundred and thirty-eight dollars thirty-six cents, bound to Cape François. Off Fort Dauphin was boarded by the Ceres, British frigate, and sent under convoy to the Mole, where permission being refused for her to proceed elsewhere, the supercargo was compelled to sell the cargo at public sale, where it produced only six thousand four hundred and fifty-one, leaving a loss of three thousand four hundred and twelve dollars, and sixty-four cents.

The brig Abeona, Isaac Isaacs, master, laden by Samuel and John Smith, John Hollins, and S. Smith and Buchanan, with a cargo of sundries, bound to Cape François, was boarded by the British frigate Ceres, Captain Newman, and by her sent to the Mole, where, as in the case of the Gratitude, her cargo was sold at public vendue, except such part as was said to be inadmissible at an English port, and these were ordered to be taken back to America. The sales at vendue amounted to seven thousand nine hundred and forty-seven dollars, twenty-five cents, the candles and soap not permitted to be landed, cost eight hundred and fifty dollars; the cost of the cargo, when it left Baltimore, was thirteen thousand three hundred and twenty-eight dollars. The Abeona, returning from the Mole to Baltimore, was captured by a French privateer, and sent into Jean Rabel; Captain Isaacs went to the Cape and got her released; but before he could return to Jean Rabel, his brig had been cut out by the British, and sent to the Mole. Captain Isaacs went on to the Mole to claim his vessel: the soap and candles, before declared inadmissible, were taken out at the Mole, and the brig sent down to Jamaica for trial. Captain Isaacs rose upon the prize master, and arrived yesterday with the brig.

The cargo cost, from hence,	$13,328 00
The sales at vendue,	7,947 25
Loss,	$5,380 75

The brig Fell's Point, Captain Creighton, sailed from Baltimore in March, with a cargo of flour, &c. the property of Samuel and John Smith, John Hollins, and S. Smith and Buchanan, bound to Cape François, was boarded by the British, sent to the Mole, where her cargo would not sell; it was put into store, and the brig has returned with produce, for a small advance made by the house with whom the business was left. This cargo cost sixteen thousand five hundred and thirty-six dollars, twenty-nine cents.

The brig Fanny, Captain Richard Fisher, laden with flour, on account of Samuel and John Smith, John Hollins, and S. Smith and Buchannan, sailed from Baltimore for Cape François, in March; was boarded by the British, and sent to the Mole; from the Mole, as his cargo would not sell at any price, Captain Fisher obtained permission to proceed to Jeremie, where, he writes, his cargo was equally unsaleable. This cargo cost nine thousand six hundred dollars.

The schooner Sally, laden with coffee, on account of John Hollins, and S. Smith and Buchanan, sailed from Petit Guave, about the 15th May, bound to Baltimore; was captured by the British, and sent into Jeremie; from Jeremie she was ordered to Port-au-Prince, where, at the last accounts, she was waiting the arrival of the judge. The exact value of this cargo is not known—it is estimated at twenty-two thousand dollars.

The ship Sidney, Captain James Parker, laden at Surinam, with coffee, sugar and cotton, on the account of Samuel and John Smith, and S. Smith and Buchanan, on her passage to Baltimore was captured about the 12th April past, and sent into St. Kitts, by the Portland, of Antigua, a British privateer. The only letter received from Captain Parker, is dated 15th April; he had only just reached St. Kitts, and did not know what would be her fate. Of this cargo no duplicate invoice has been received; its probable value is about one hundred thousand dollars.

No. 2.

Decree of the Executive Directory.

12th Ventose, (*March* 2, 1797) *5th year.*

The Executive Directory having considered the law of the 9th of March, 1793, which, stating that the flags of neutral Powers not being respected by the enemies of the French republic, and all the rights of nations being violated to its prejudice, the French people can therefore no longer fulfil, towards those Powers in general, the wish which they have so often manifested, and which they will constantly form for the full and entire freedom of commerce and navigation, among other regulations, ordains:

1. That French ships of war and privateers may stop and bring into the ports of the republic neutral ships which shall be found laden in whole or in part, with merchandise belonging to enemies.

2. That merchandise belonging to the enemies shall be declared good prize, and be confiscated to the benefit of the captors.

3. That, in all cases, the neutral ships shall be released as soon as the unlading of the merchandise seized shall be effected; that the freight of it shall be paid at the rate which shall have been stipulated by the freighters, and that a just indemnity shall be granted in proportion to the time of their detention, by the tribunals whose duty it is to take cognizance of the validity of prizes.

4. That these tribunals shall be obliged, moreover, three days after their decision, to furnish a copy of the inventory of the merchandise to the Minister of Marine, and another copy to the Minister of Foreign Affairs.

5. That the present law, applicable to all prizes which have been made since the declaration of war, shall cease to have effect as soon as the enemy Powers shall have declared free and not seizable, though destined for the ports of the republic, merchandises laden on board of neutral ships, which shall belong to the Government or citizens of France.

Having likewise considered the law of the 27th of July, 1793, which, confirming that of the 9th May preceding, before repealed, ordains that it shall have its full and entire execution, and that, consequently, all other regulations to the contrary are, and remain, abrogated; which abrogation evidently comprehends the law of the first of the same month, by which the vessels of the United States of America had been excepted from the law of the 9th of May, conformably to the fifteenth article of the treaty of the 6th of February, 1778.

Having also considered the 7th article of the law of the 13th Nivose, 3d year, (3d or 4th of January, 1795) which enjoins on all the agents of the republic, on all commanders of the armed force, and on all officers, civil and military, to cause to be respected and observed, in all their acts, the treaties which unite France to the neutral Powers of the old continent, and to the United States of America; and adds, that no infringement shall be made of those treaties, and that all regulations which are contrary thereto, are annulled.

Considering that this last law does not derogate from that of May 9th, 1793, except in favor of those neutral Powers whose treaties, now subsisting with the French republic, are contrary to its regulations; that it is conse-

quently of importance, for the information as well of commanders of the armed force of the republic, and of vessels commissioned by it, as of the tribunals appointed to decide on the validity of prizes, to take measures for preventing them from supposing either that treaties exist, which never have taken place, or from considering, as in force, treaties concluded for a determinate time, which has expired; or that they ought to execute according to the letter, treaties, which have been modified since their conclusion; that to this last class particularly belongs the treaty of amity and commerce concluded on the 6th of February, 1778, between France and the United States of America; that, in fact, by the second article of this treaty, France and the United States engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party; and that it is added by the same article, that this other party shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional; that thus the regulations stipulated in favor of England by the treaty of amity, commerce, and navigation, concluded at London the 19th of November, 1794, between that Power and the United States of America, are deemed to have been stipulated in favor of the French republic itself, and, consequently, modify in those points, which are contrary thereto, the treaty concluded on the 6th of February, 1778; that, agreeably to these regulations, the French Government declared, by its decrees of the 14th and 28th of Messidor, 4th year, (2d and 16th of July, 1796) as it is again obliged to do at this time, that it will use the just measures of reciprocity, which it had a right to exercise in this respect, in every thing which is connected with the circumstances of the war, as well as with the political, commercial, and maritime interests of the French republic; that, consequently, it is necessary to ascertain, by reconciling the treaties of the 6th of February, 1778, and of the 19th of November, 1794, whatever is doubtful, concerning the cases in which this right of reciprocity may be exercised.

Considering that there have arisen, very recently, concerning the manner of proving the property of vessels and merchandise pretended to belong to neutrals, doubts and contests which would never have taken place if the ancient regulations relative to this matter had been better known; that it is consequently of importance to bring again into view these regulations, and cause to be executed the 5th article of the law of the 14th of February, 1793, which shall be continued in force.

After having heard the ministers of Justice, of the Marine, and of the Colonies, decree as follows:

Article I. The commissioners of the Executive Directory near the civil tribunals of the departments shall take care, that, in the contests about the validity of maritime captures, no judgment shall be given which is founded on the 7th article of the law of the 13th of Nivose, 3d year (3d or 4th of January, 1795) without the minister of Justice having been previously consulted, conformably to the third article of the law of the 8th of Floreal, 4th year (27th of April, 1796) relative to the treaties, by virtue of which, neutrals might claim an exemption by means of the first of these laws, from the execution of that of 9th of May, 1793.

Art. II. The minister of Justice shall consequently examine, whether the treaties appealed to are yet in force, or whether they have been modified since their conclusion: he shall, for this purpose, be furnished by the Minister of External Relations, with all the documents which he shall have need of, and shall make a report thereof to the Executive Directory, as is prescribed by the law of the 8th of Floreal, 4th year.

Art. III. The Executive Directory reminds all French citizens, that the treaty made on the 6th of February, 1778, between France and the United States of America, has, according to the terms of the second article, been modified of full right, by that which was made at London on the 19th of November, 1794, between the United States of America and England; consequently,

1. According to the 17th article of the treaty of London, of the 19th of November, 1794, transcribed here below, (*a*) all merchandise of the enemy, or merchandise not sufficiently proved to be neutral, laden under the American flag, shall be confiscated; but the vessel on board of which it shall be found shall be released and restored to the owner. It is enjoined on the commissaries of the Executive Directory, to accelerate, by all the means in their power, the decision of contests which shall arise, either on the validity of the prize cargo, or on the freights and demurrage.

2. According to the 18th article of the treaty of London, of the 19th November, 1794, transcribed here below, (*b*) to the articles declared *contraband* by the 24th article of the treaty of the 6th of February, 1778, are added the following articles:

Timber for ship building, pitch, tar, and rosins, copper in sheets, sails, hemp, and cordage, and every thing which serves directly or indirectly for the armament and equipment of vessels, unwrought iron and fir planks excepted. These several articles shall be confiscated whenever they shall be destined, or attempted to be carried to the enemy.

3. According to the 21st article of the treaty of London, of the 19th of November, 1794, transcribed here below (*c*) every individual known to be an American, who shall hold a commission given by the enemies of France, as well as every seaman of that nation making a part of the crew of enemy ships, shall, by that act alone, be declared a pirate, and be treated as such, without being allowed in any case to allege that he was forced to it by violence, menaces, or otherwise.

4. Conformably to the law of the 14th of February, 1793, the regulations of the 21st October, 1744, and of the 26th July, 1778, concerning the manner of proving the property of neutral ships and merchandise, shall be executed according to their form and tenor.

Every American ship shall, therefore, be a good prize, which shall not have on board a list of the crew in proper form; such as is prescribed by the model annexed to the treaty of the 6th of February, 1778, the observance of which is required by the 25th and 27th articles of the same treaty.

5. It is enjoined on the commissaries of the Executive Directory to call down the rigor of the tribunals on the fraudulent manœuvres of every ship owner calling himself a neutral, whether an American, or of any other nation, on board of whose ship there shall be found, as has been many times practised in the present war, either blank sea-papers, although signed and sealed, or blank papers in the form of letters, containing the signatures of individuals, or double passports, or sea-letters which indicate different destinations of the vessel, or double invoices, bills of lading, or sea-papers of what kind soever, which assigns to the whole or part of the same merchandise different owners, or different destinations.

6. By means of the regulations of the present decree, that of the 9th of Frimaire last, (29th of November, 1796) concerning freights and demurrage, is repealed so far as relates to demurrage only.

7. The present decree shall be inserted in the journal of the laws.

The ministers of the Marine and of the Colonies, of Justice, and of Foreign Relations, are charged with the execution of it, in their respective departments.

REWBELL, *President.*
LAGARDE, *Secretary General.*

(*a*) Art. 17. "It is agreed, that in all cases where vessels shall be captured or detained on just suspicion of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port, and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder, without any impediment. And it is agreed that all proper measures shall be taken to prevent delay, in deciding the cases of ships or cargoes so brought in for adjudication; and in the payment or recovery of any indemnification, adjudged or agreed to be paid to the masters or owners of such ships."

(*b*) Art. 18. "In order to regulate what is in future to be esteemed contraband of war, it is agreed, that, under the said denomination shall be comprised all arms, &c. as also timber for ship building, tar, or rosin,* copper in sheets, sails, hemp, and cordage, and generally whatever may serve directly† to the equipment of vessels, unwrought iron and fir planks only excepted; and all the above articles are hereby declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy."

* The decree of the Directory says "pitch, tar, and rosins." [Brais, goudron, et résines.]
† The decree says, "directly *or indirectly.*"

(c) ART. 21. "It is likewise agreed, that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act, from any foreign prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in their military service, any of the subjects or citizens of the other party, and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties respectively shall accept any foreign commission or letters of marque, for arming any vessel to act as a privateer against the other party, and be taken by the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen, having such commission* or letter of marque, as a pirate."

MALAGA, *3d Frimaire, 5th year of the French republic, one and indivisible.*

Permit me, Mr. consul, to reply in the French language; it will cause less delay, and the sense will be more precise.

The French republic does and will know how to cause neutrality to be respected by its ships of war, and by her privateers, upon every point in which the neutral Powers cause the same to be respected by the English. The Rover and the Nancy are detained not under frivolous pretexts, but because, according to the ordinances which serve as a rule to the French privateers, they have, more or less, come within the confiscating clause, especially the Rover. You are not ignorant that *French* merchants have an indirect interest in these vessels; therefore, I cannot be deceived in my opinion by my attachment to my fellow-citizens, since in this circumstance they are Frenchmen opposed to Frenchmen.

You ask me what papers an American commercial vessel should have on board to avoid running the same risk. I conceive that every merchant should, in this respect, consult the ordinances of the Powers at war, relative to privateers, &c. Doubtless you will perceive that I can but imperfectly extract in a letter the ordinances of France on this subject; that it would be unfair to exact from me a task more complete than the means which I point out.

I shall only observe, because the observation in my opinion has escaped many of the merchants of this place, that the vessel should have a signed bill of lading of the whole cargo, containing her destination and names of the owners; and that in case transfers† and changes in the cargo are to take place, which require *unsigned* bills of lading, to be signed only when the cargo shall be in a definitive state, these unsigned bills of lading are insufficient, and there should be others signed, containing the cargo, such as it is, before their arrival at the place of transfer; without which, the cargo would be liable to be detained and confiscated, should it not be otherwise pointed out, as well as the destination, &c. in some bill, manifest, or charter party, in proper form, and signed, *and on board of the vessel.* I shall add, that there should not be on board either captain, officer, supercargo, or agent, of an enemy's country; that they should not tear nor suppress any paper; that the vessel should be furnished with a passport, or paper proving the property of the vessel, &c.; that upwards of two-thirds of the crew should belong to the neutral country; that she ought to have proofs of the neutrality of the vessel and cargo; in a word, that in the present circumstance, she should not come from, nor even be destined to an enemy's port; the latter case exposing her likewise to confiscation, according to the proceedings of the English marine, &c. &c.

I repeat that this short enumeration is necessarily very incomplete; that it is given only from the respect I have for you, and that it will be proper to recur to the ordinances, regulations, decrees, and arrêts of the French Government. They are so interesting to maritime commerce, that they should be familiar to all those who follow it. I pray you, sir, to be persuaded of my attachment.

CHAMPRE.

To the CONSUL *of the United States of America.*

No. 3.

Copies of Documents, remaining in the Department of State, relative to American vessels captured or condemned by the French, since 1st October, 1796.

BRIG DESPATCH, (LUNT.)

The declaration and representation of Martin Parry, William Ham, and Thomas Lunt, all of Portsmouth, in the State of New Hampshire, merchants and citizens of the United States of America, owners of the brig Despatch and cargo, captured by a French private ship or vessel of war, carried into Port-au-Paix, and condemned by the commission at Cape François, is as follows: All the said persons solemnly aver and declare, that the said brig sailed from Portsmouth aforesaid, on the 14th day of August, 1796, bound to the West Indies. That, at that time, and until and at her capture and condemnation as aforesaid, they were truly and exclusively the owners of said brig and cargo, saving only the small adventures belonging to the seamen on board. That when said brig sailed as aforesaid, the master, the said Thomas Lunt, was furnished with and possessed of a register, sea-letter, and all other papers, required by law to evidence that the property was bona fide and wholly American. And the said master, Thomas Lunt, declares, that he arrived in the said brig at Cape Nicholas Mole, on or about the 5th day of September, in the year aforesaid. That he disposed of his deck load of lumber there, and proceeded directly to Port-au-Prince, and there finished the sale of his cargo for cash, and purchased a load of molasses at L'Archaye and Bouccassin Plantations, consisting of 144 hogsheads, and several tierces and barrels, the whole, at the lowest estimation, containing 16,500 gallons. That he sailed from Port-au-Prince for home; that is, the said Portsmouth, on or about the 29th day of October, in the year aforesaid. And after beating in the Bite of Leogane for sixteen days against northerly winds and a strong current, he put into Cape Nicholas Mole, and there filled up their water, having three casks empty, and sailed from thence about the 17th day of November. That on the 18th day of the same, they were captured by the French privateer Adelaide, John Thetard, master, who seized every scrip of paper they could find. And no papers were concealed or destroyed. The captors then carried the said brig into Port-au-Paix, and from thence the papers were all ordered to Cape François, accompanied by the master, mate, and people's declarations before the justices at Port-au-Paix. The master proceeded immediately to the Cape, where he got information of the day when the trial was to come on of said brig and cargo. He endeavored to gain admittance with an attorney, but was refused, being told that the place was sacred, and no person admitted there. That, on the 27th day of December now last past, he was informed by the Secretary, that his vessel and cargo were condemned, but could not obtain a copy of the sentence or decree until the 7th day of January. That he made application for his own private papers and accounts, but was denied even a sight of them. That in the copy of the decree, or sentence, mention is made of sixteen hogsheads of molasses as belonging to a Mr. Forbes, a British subject; but this representation is wholly erroneous, and destitute of foundation or evidence. There was no molasses or other property on board belonging directly or indirectly, to any person or persons but the aforesaid owners, excepting the small adventures of the people belonging to the said brig. The said master had with him papers relating to his then last voyage, which were seized by the captors, with the rest. Among these there was indeed a bill of sixteen hogsheads of molasses; but it was molasses purchased by the said Forbes, for the said master, on the said former voyage, and had no connexion with the cargo on board. The bill was made out by the planter to Mr. Forbes, and he charged the molasses in his account

* The decree of the Directory declares, that, not only those Americans who take commissions of the enemies of France, but all American seamen making part of the crew of their enemies' vessels, shall be treated as pirates, even though compelled by force to serve in such ships.

† Transbord.

current with the said master, and gave him the said bill, to show the quantity, and it was with the same account current when he was taken. He also declares that the date of said bill is erroneously mentioned in said decree, as the same molasses was purchased and received of said Forbes in April, 1796. And he conceives he could have clearly evinced all this, had he obtained opportunity to be heard, to the entire satisfaction of the commissioners, the judges.

And these declarants further and unitedly say, that, by the capture and condemnation aforesaid, they have suffered the loss of $14,454 dollars, at a low estimation, exclusive of Captain Lunt's expenses and loss of time.

MARTIN PARRY,
WILLIAM HAM,
THOMAS LUNT.

PORTSMOUTH, *March* 10, 1797.

UNITED STATES OF AMERICA, *State of New Hampshire.*

Be it known that, on this 10th day of March, in the year 1797, at Portsmouth, in said State, before me, Daniel Humphreys, Esq. notary public, in and for the same State, by letters patent duly commissioned and sworn, personally came and appeared, Martin Parry, William Ham, and Thomas Lunt, all of the same Portsmouth, merchants, and citizens of the said States, persons to me well known, and worthy of good credit, and subscribed the foregoing declaration in my presence, and being by me duly and severally sworn, on their oath did depose to be true, the things and matters by them therein jointly and respectively set forth and declared, in such manner as the said declaration purports to be the affirmation of each of the deponents.

In testimony whereof, I have hereunto set my hand and seal of office, the day and year last before written.

DANIEL HUMPHREYS, *Notary Public.*

LIBERTY. EQUALITY.

IN THE NAME OF THE FRENCH REPUBLIC.

Extract from the registers of the deliberations of the Commission, sent by the French Government to the Windward Islands.

CAPE, *7th Nivose,*
5th year of the French republic, one and indivisible.

Having examined the minutes of the proceedings on the arrest of the brig Despatch, of Portsmouth, Captain Thomas Lunt, by the privateer Adelaide, commanded by John Thetard, from which it appears that the said brig was taken on the 27th Brumaire last, bound from Port-au-Prince and the Mole, and on her return to Portsmouth.

The declaration of Peter L'Aborde, master of the said prize, before the justice of the peace of Port de Paix, on the 28th of last Frimaire, relative to the said capture, and his being carried into the road of Port de Paix.

Also, a declaration of Peter L'Aborde, and John Dallon, port warden at Port de Paix, relative to the change of anchorage of the said brig, by her captain, Lunt, on the refusal of the latter to return to his former anchoring ground, the said declaration containing a protest of the said Peter L'Aborde, as prize master of the said brig, against whatever might result from the refusal of the said Lunt. Having examined the minutes of the inventory of the papers, on board of the said brig, by the said justice of peace, and seen the minutes of the proceedings in fixing the seals on board of the said brig by the said justice of peace, and the inventory of the vessel, as also the minutes noticing the said seals on board of the said brig, and the appointment of a person to guard them; in which minutes, the said Captain Thomas Lunt being asked if he had not, in his possession, or on board his vessel, any papers, letters, or journals, relative to his voyage, as well as the cargo with which he is laden, delivered to the justice of peace sundry papers, letters, or journals, of which he made a small packet, sealed with the seal of the said captain, and by him *paraphee,** observing that the paper, serving as a cover to them, was found by citizen Canelle, under the hat of the mate of the brig. The interrogatories answered by three of the crew of the said brig before the said justice of peace.

Having seen a stitched book containing translations, into the French language, of the papers of the said brig, written or printed in English, and of which the following are a part:

1st. An acquittance from the custom house at Port-au-Prince, on the discharge of Thomas Lunt, captain of the brig Despatch, dated 27th October, 1796.

2d. An acquittance from the custom house of St. Nicholas Mole on the discharge of Thomas Lunt, captain of the brig Despatch, dated 27th October, 1796.

A number of invoices, written in the French language, of sugar and syrups, sold by sundry persons to Thomas Lunt, and of the growth of the plantations of L'Archaye and Bouccassin.

In a word, having seen the French invoice of 16 hogsheads of molasses, sold to Mr. Forbes, and delivered to Captain Lunt, amounting to 4,457 livres, 14 sous. The said invoice being dated at Bouccassin, 28th October, 1796, and signed by Dabadeillesse.

Considering that the minutes of the capture of said brig, of the interrogatories of the crew, the acquittances of the custom houses of Port-au-Prince and the Mole, the dates of the invoices; that, in fact, there is scarcely one of these papers which is not, in itself, a proof that the brig Despatch sailed from ports of the colony in the power of the enemy.

Considering that the sixteen hogsheads of molasses, designated in the invoice above mentioned, signed by Dabadeillesse, belonging to Forbes, a known Englishman, from Jamaica, of a commercial house at Port-au-Prince. The commission has decreed, and hereby does decree, that the said brig Despatch and her cargo are good prize, and shall be sold to the profit of the captors. That, therefore, all persons having charge of the said brig and cargo shall be held to deliver the same to the said captors. The present decree shall be notified to Captain Lunt by Captain Thetard, and, for the complete execution of the present decree, the captor shall make provision with the proper persons.

Signed on the Register of the Proceedings.

SANTHONAX, *President,*
RAIMORD,
LEBLANC. } *Commissioners.*
PASCAL, *General Secretary.*

True copy. The Secretary General of the commission,

PASCAL.

BRIG RESOLUTION.

Edward and Samuel Cutts to Timothy Pickering, Secretary of State.

PORTSMOUTH, *April* 3, 1797.

SIR:

We conceive it necessary to lay before our Government the state of the loss of our brig Resolution and cargo. She sailed from the port of Demarara, bound to this port about the 20th of last August, and on the 29th of the same

* Marked with a knot or flourish.

month was captured by a French privateer and carried into Porto Rico. After having been detained three months, the cargo was condemned without trial, upon the frivolous pretence of their not finding such papers as they thought sufficient to prove the property American; and of her being from a port in possession of the British, notwithstanding the said vessel had every paper lawful and customary respecting herself and cargo, proving both to be bona fide American property, which papers were taken possession of by the captors, immediately upon possessing themselves of the vessel, and were never afterwards recoverable by the captain, except the register of his vessel. His vessel was likewise restored to him, but as they had stripped him of his last shilling, even to his clothes, and imposed upon him heavy charges, he was under the necessity of disposing of her for the trifling sum of three hundred and twenty-five dollars, to defray his expenses.

The protest, condemnation, and other papers can be forwarded as occasion may require. A statement of our loss is in the account enclosed and we trust that restitution will be procured for us, for so flagrant a violation of our property.

We are, with all due respect, &c.

SAMUEL CUTTS.
EDWARD CUTTS.

Statement of the loss of the brig Resolution and cargo, viz:

Value of said brig when she sailed from this port, - - - - -	$4,000
Value of the cargo had it arrived safe in port, - - - - - -	8,500
Dollars, -	12,500

SCHOONER DELIGHT, (HATCH.)

COMMONWEALTH OF MASSACHUSETTS.—*Hancock ss.*

Be it remembered, that, on the tenth day of May, Anno Domini 1797, came before me the subscriber, notary public of the commonwealth of Massachusetts, for the county of Hancock, residing at Castine, late Penobscot, in said county, Mark Hatch, jun. master of the schooner Delight of Penobscot, and John Hatch, mate of the said schooner, and made the following protest, viz: That, on the 19th day of November last, he sailed from the island of Barbadoes, and, on the 15th of December following, in latitude 37. 30. longitude 64. 30. split our jib. On December 18th, lying to in a gale of wind at northwest, split out the whole of the mainsail, above the balance reef, then put to scudding under bare poles; on the 20th of December, being in a gale of wind at northwest, a sea struck us down on our beam ends, and shifted the ballast and cargo, and did much damage to the vessel, then put a scudding. On the 21st December, shipped a sea over the stern carried away the binnacle and compasses. On the 30th, lying to under a balance reef main sail, split it all to pieces, then bore away for the West Indies, being in distress and out of water. On February 17th, sailed again from Barbadoes, having repaired the vessel; on the 20th of February, at two o'clock, P. M. was chased by a French privateer, which came up with us at 4 o'clock; the captain of the privateer ordered me to hoist out my boat and go on board with my papers, which I did; he sent the boat back with a prize master and four hands, and brought two of my crew on board the privateer, and ordered the vessel for Porto Rico. The captain of the privateer kept the register, the sea-letter, and my protest, and sent only the clearance and some letters in my schooner; I saw the captain lock the papers up in his chest; I was on board the privateer three weeks, during which time several articles of clothing, my trunk, and spy glass, were taken from me; I was carried, in the privateer, to St. John's, in Porto Rico; my schooner was carried into the same place, but the prize master went down to St. Domingo, and got her condemned there before the privateer arrived. The reason given for her condemnation is, that there was no register nor sea-letter, and both these papers the captain had in his chest on board the privateer. My mate went to Porto Rico, in my schooner, and requested of the prize master to let him go down to St. Domingo to attend the trial; he was encouraged that he should go, but was afterwards refused. After the vessel was condemned, I and my crew were put on shore, without any money or provisions, and must have perished, had we not taken shelter on board American vessels in the island.

MARK HATCH, Jr.
JOHN HATCH.

Wherefore, the said deponents, and I the said notary, do hereby most solemnly protest against Louis Giradeau, officer of the French privateer the Vengeance, for seizing, by force of arms, the said Mark, his vessel, papers, and cargo. And also all others concerned in aiding and assisting in the seizure and detention of the said Mark, his vessel, papers, and cargo aforesaid, and against all the damages, losses, costs, and expenses already suffered by means thereof. In testimony whereof, the said deponents have hereunto set their hands, and in faith and testimony whereof I have hereunto set my hand and affixed my notarial seal at Castine aforesaid, the day and year first above written.

THOMAS PHILLIPS, *Notary Public.*

Value of property taken by the French privateer called the Vengeance, condemned at St. Domingo, to wit:

Schooner Delight, burden one hundred and eight tons, two years old, two suits of sails, one new, -	$4,500
Her cargo, consisting of thirteen puncheons of rum, nine hogsheads of sugar, one hogshead molasses, cost in Barbadoes, - - - - - - - - - - -	2,500
Expense of master, mate, and crew in returning home, - - - - - -	200
	$7,200

Errors excepted, MARK HATCH.

CASTINE, *May* 13, 1791.

LIBERTY. EQUALITY.

FRENCH REPUBLIC.

Extract from the registry of the Secretary of the Provisional tribunal of Prizes established in St. Domingo.

13th VENTOSE, *5th year.*

CONDEMNATION OF SCHOONER DELIGHT.

We, Francis Pons, judge of the tribunal provisional of prizes established at St. Domingo.

Upon examination of the petition presented to us, by citizen Louis Giradeau, officer of the French privateer the Vengeance, in the name of the captain and crew of said privateer, praying that the said schooner taken under American colors, named the Delight, by the said privateer, and carried into Porto Rico, may be declared good prize. Having seen the clearance of the said schooner, dated 17th November, 1796. Having seen the other papers of the said schooner which the said citizen Louis Giradeau has exhibited to us, consisting of some letters, accounts, &c. among which we have not found either a sea-letter, nor certificate of registry of said vessel, nor the proof that she belonged to a citizen of the United States. Having observed also, that those papers are the only ones which, by the 25th article of the treaty of friendship and commerce between France and the United States, dated the 6th February, 1778, determines what vessels and cargoes are American property. And what defect on the contrary shows

that they are English property covered by American colors. Having seen the resolutions of the commissary of the executive power of our tribunal, and maturely considered the same, do condemn and declare good prize, the said schooner Delight, with her cargo, the whole to be confiscated and sold to the advantage of the captors, by them to be disposed of according to the terms of their charter party, reserving the rights of the tribunal and of the invalids of the republic.

Signed at the registry, PONS, *Judge.*
DESPUJEAUX, *Secretary.*

Examined, DESPUJEAUX, *Secretary.*

St. DOMINGO, 13*th Ventose*, 5*th year*, &c.

The provisionary agent of the French republic in the Spanish part of St. Domingo, certifies to all whom it may concern, that citizen Despujeaux, who has signed the above instrument is secretary to the provisional tribunal of prizes established in this city, and that faith ought to be given to his signature as well in court as without.

ROUME, *L'Agent provisoire.*
LOUGY, *Secretary of the agency.*

17*th* GERMINAL, 5*th year*, 1797.

I certify this copy to be conformable to the original, having read and examined the same at Porto Rico.

PONS, *Agent Maritime et Consul.*

ROSSEL, *Chancr. per interim.*

SCHOONER TWO FRIENDS, (VAN RENSELAER.)

LIBERTY. EQUALITY. FRATERNITY.

IN THE NAME OF THE PEOPLE OF FRANCE.

In the 5th year of the French republic, one and indivisible, the 28th Ventose, in the morning.

Before the undersigned public notaries, appeared the citizen W. Van Renselaer, captain of the schooner Two Friends of New York, assisted by citizen Adrian O'Quin, interpreter of foreign languages in this town, who has deposited with Gaernier, one of the undersigned notaries, a declaration under private signature by him this day executed and attested by three men belonging to his crew; which paper he has requested the said Gaernier to enter formally on his minutes, that he might deliver a copy of it to whoever might require the same, which has been delivered to the said appearer, after having been certified to be true, and signed and marked in presence of the undersigned notaries.

Done, and passed at Jacmel, in the study, the day, month, and year above mentioned; and after having been read, the said appearer signed the same with the interpreter, and us the said notaries. Signed, W. Van Renselaer, O'Quin, Vallenet, notary, and Gaernier, notary.

The following is the declaration alluded to: I the undersigned W. Van Renselaer, captain of the schooner Two Friends of New York, belonging to Mr. Thomas White, make the present declaration, and protest before the notaries at Jacmel. That I cleared out, at the custom house at Wilmington, on the 13th of February, 1796, for Martinique, put to sea on the 15th, and on the 18th, sent back my pilot, the wind being at south-west, and blowing a fresh breeze with a high sea, which continued until the 22d. After this time, and until I reached the latitude of 26 degrees north, longitude 58, nothing happened to us until I was taken, which was on the 6th of March. At six o'clock in the morning I perceived three sail, one of three masts, a brig and a schooner at a distance from us: the wind at the south, at 10 o'clock the schooner gave us chase, after 12 o'clock came up with us. This was a French privateer called the *Voltigeur*, Captain Loumbard. She had been out from Curaçoa twenty-six days upon a cruise; she brought us to, sent her boat aboard, took possession of my vessel and crew, sending me, in the first instance, on board the privateer, and, during my absence, took from my chest all my papers and a great proportion of my effects. They likewise pillaged the chest of Joseph Crouder, my mate, of the greatest part of his effects, as well as those of the crew. They took the journal, and sent the mate with two seamen on board the privateer, leaving three of my crew on board the schooner; they sent a prize master with six seamen to take her to Curaçoa. Myself, mate, and two sailors being still on board the privateer, on the 8th of March at break of day a sail was descried, they gave her chase, and at eight o'clock they overtook her. This was an American vessel, called the Industry of Charleston, Captain Joseph Lovel, bound to Jacmel; the captain had the goodness to receive us from on board the privateer, in which we suffered greatly, and we arrived yesterday about noon in the port of Jacmel, where I this day make the present declaration to serve in case of need. At Jacmel, this 28th Ventose, (18 March, 1797, O. S.) 5th year of the French republic, one and indivisible, signed on the minutes, W. Van Renselaer.

We, the undersigned, Joseph Crouder, mate of the schooner Two Friends, and Stephen Hyter, and Spencer Morison, seamen, on board the said schooner Two Friends, of New York, Captain W. Van Renselaer—certify and attest that the above declaration of Captain W. Van Renselaer is exact, and agreeable to the truth; at Jacmel, the said day, month, and year, above mentioned. Signed on the minutes, Joseph Crouder, Stephen Hyter, and Spencer Morison.

I certify the above to be a true copy, signed and marked by desire, of the report deposited by the undersigned notaries, this day 28th Ventose, fifth year of the French republic, one and indivisible.

W. VAN RENSELAER,
O'QUIN,
VALLENET, *Notary.*
GAERNIER, *Notary.*

Collated.
GAERNIER.

We, the captain and major part of the officers and crew of the French privateer *Voltigeur*, Captain Loumbard, certify that about noon on the 16th Ventose, we visited the American schooner Two Friends, Captain William Van Renselaer, bound from Wilmington to Martinique, and that having found on board of him a quantity of tar, pitch, and turpentine, we conceived ourselves authorized to arrest him according to the existing laws of the French republic. In faith whereof we have delivered him these presents to serve him in case of need, and have sent his vessel for Guadaloupe. On board the privateer at sea, the 17th Ventose, 5th year of the French republic, one and indivisible.

PHILIP LOMBAR,
LAUMONE,
LOUIS BREURE.

STATE OF NEW YORK, *ss.*

John W. Leonard, master of the schooner Blazing Star, of New York, maketh oath that, on or about the 20th day of April last, this deponent was at Curaçoa, and present at a public auction, when the schooner Two Friends of

New York, was sold to a Captain Hathaway for the sum of seven hundred and fifty pieces of eight, to the best of this deponent's recollection; and that this deponent doth believe it was a real sale, as he saw said Hathaway afterwards in possession of said vessel and fitting her for sea.

JOHN W. LEONARD.

Sworn the 15th day of May, A. D. 1797, before me,
[L. S.] JOHN KEESE, *Notary Public, &c.*

SCHOONER ZILPHA, (BRIARD.)

By this public instrument of protest, be it known unto all whom it may concern, that on the day of the date hereof, before me, Christopher Ellery, Esq. legally elected and engaged public notary, residing in Newport, in the State of Rhode Island, in the United States of America, cometh Samuel Briard, late master of the schooner Zilpha, of Portsmouth, owned by John Wardrobe and the said Samuel Briard, both citizens of the United States, and on his oath solemnly administered by me the said notary, deposeth and declareth that, he sailed in and with said schooner from Portsmouth aforesaid, which is in the State of New Hampshire, in said United States, on the 30th day of November last, bound to the island of Tobago, the said schooner being laden with beef, oil, fish, lumber, and other things, and properly fitted for the voyage, and arrived there on the 31st day of December following, that there having sold said cargo, and received in return for the same, and for a part of the cargo left there on credit in August last by John Flagg, then master of said schooner, forty-two puncheons of rum, one tierce and one barrel of sugar, on account of said Wardrobe and Briard; and also two puncheons of rum on account of said Flagg; and likewise two puncheons of rum belonging to the mate of the said schooner; he left the island on the 20th day of February last, bound to said Portsmouth, and proceeded on his proper course for the Mona passage to the leeward of the island of Porto Rico, until the 24th day of said February, when having said passage clearly in sight, he was intercepted, forcibly seized, and detained by a privateer schooner, mounting six carriage guns, belonging to citizens of the French republic, named the Hirondale, and commanded by Michael Seber, who, immediately on coming up, ordered the course of the schooner Zilpha to be altered, and that she should steer with him close in with the land, sending his boat on board the Zilpha and directing the captain to come on board his privateer with all his papers, and two of his men, and putting on board the Zilpha a prize master and boat's crew, and conducting her after the privateer, with the said master and two men in the Hirondale all night, till the next morning, when both vessels came to anchor in a bay on the southwest part of the island of Porto Rico, called Cabo Raxo, (or Cape Raxa) and when said schooner was forthwith stripped of all her sails and rigging, provisions and other things; that the following day the schooner was moored by the captors close in with the shore, and the said master and crew of the Zilpha obliged to quit her, by order of the said commander of the said privateer, he having previously taken possession of said Zilpha's logbook, register, and every other paper concerning or appertaining to her whole voyage, which papers, &c. the said Captain Seber declared would be sent to St. Domingo, in the island of Hispaniola, but at what time did not say: though at this time there was not even the most distant appearance of any opportunity to go down to St. Domingo; that the said master and crew of the said Zilpha having nothing to subsist on, for their maintenance, were obliged to go on board the brig Resolution, then lying in said Cabo Raxo, which brig had before been taken by a French privateer, since sold and commanded by Captain Samuel Bowdish, of and bound to New London, and was the only refuge for them; that the aforementioned privateer sailed on the 27th of said February, leaving said master no other satisfaction than a certificate signed by said captain, stating that he had taken said Zilpha, and declaring also that he was governed by orders from the French Government in France, that all the armed vessels of France had received similar orders to those by which he acted, and which authorized them to capture all American vessels going to, or coming from, English ports in the West Indies; that said brig Resolution left Cabo Raxo on the 1st day of March instant, on board of which vessel said Briard and the people of his vessel came passengers, together with four other American captains, that had been captured by the French privateers; that at the port of Cabo Raxo, there was no officer acting as notary public; and that he has not since his capture aforesaid, found it possible to enter his protest before this day, being the day after the arrival of said brig in Newport aforesaid; and that his mate and people are prevented joining him in this protest, by reason of their having gone on board a vessel bound to Newbury, nearer to their homes than the port to which said brig Resolution was bound.

SAMUEL BRIARD.

Wherefore I the said notary, at the request of the said master, who has hereunto set his hand, the day of the date hereof, in testimony thereof have protested, and do hereby solemnly protest against the capture of the aforesaid schooner Zilpha, in manner as declared by said master, as the sole cause of the loss of said schooner and her cargo, and of all further loss, detriment, and damage, already suffered or to be sustained in said schooner and her lading thereby, whether the same be borne by the owners, shippers, insurers, or any others concerned in said schooner and lading.

Thus done and protested, this 20th day of March, in the year one thousand seven hundred and ninety-seven, under my hand and notarial seal.

[L. S.] CHRISTOPHER ELLERY, *Public Notary.*

We the subscribers do hereby certify, that on the 25th day of February, in the year 1797, being then in the island of Porto Rico, in a bay on the southwest part of said island, called Cabo Raxo (or Cape Raxa,) a privateer belonging to citizens of the French Republic, named the Hirondale, commanded by a captain Michael Seber, came into said port, and brought in with him the schooner Zilpha, Samuel Briard, master, of Portsmouth, New Hampshire, having forcibly taken said schooner as a prize on the 24th instant, bound to Portsmouth, then on her way through the Mona passage from the island of Tobago; and that after anchoring the Zilpha, the crew of the privateer, by order of their commander, proceeded to strip and dismantle her of her sails, rigging, &c. And at the same time, the captain informed the said Briard, that he must immediately quit his vessel with his crew, which he was obliged to do in great haste in our presence, having no other alternative, his logbook and papers of every description having been previously taken from him, and no place where he could stay on board, or on shore, to be of any further service to his late vessel, having nothing for himself and crew to subsist on, the brig Resolution being the only refuge presenting to them: the said Captain Seber, with much reluctance, gave them permission to take with them two barrels of beef, and three of bread for seven people, refusing any more; the privateer went again to sea on the 27th instant in the morning, leaving said Briard no further satisfaction than a certificate that said Seber had captured the Zilpha; that the register, log-book, and all the papers, would be sent to the island of Hispaniola (to St. Domingo) for trial, and that he should continue to capture all American vessels he should meet, that were either going to, or returning from, an English port, it being the orders so to proceed, to all the armed ships and vessels of that republic, from the French government in France, and those orders and proceedings were to continue until further directions from them.

PORTO RICO, BAY OF CABO RAXO, *this 28th day of February, in the year* 1797.

SAMUEL M. BOWDISH, late master of the schooner Schetucket, taken by the schooner L'Espiegle, Captain Debon.
SAMUEL MOORE, late master of the brig Resolution, taken by schooner Paspartante.
GEORGE SYDLEMAN, late master of the brig Union, left at Demarara, now a passenger on board sloop Crisis, Captain Cook of Norwich, taken by the privateer Cockle, and carried into Punch, south side of Porto Rico.
JOHN GRANT, late master of the sloop George, of Kennebunk, taken by the schooner Hirondale.

UNITED STATES OF AMERICA, *State of New Hampshire.*

I Daniel Humphreys, Esq. notary public, by lawful authority duly commissioned, constituted, admitted, and sworn, and duly exercising said office, in and for the State of New Hampshire, dwelling in Portsmouth within the same. Do certify to all persons to whom these presents may come, or whom they may concern, that the foregoing writing on the other side, is a true copy of an original certificate, appearing to be signed by several American masters of vessels at Cabo Raxo, Porto Rico, whose names are subscribed thereto. I having compared the foregoing copy with said original, do find it exactly conformable thereto: And I further certify, that on this 30th day of March, 1797, before me personally came Captain Samuel Briard, therein named, and Captain Samuel Moore, late master of the brig Resolution, and being both by me duly and severally sworn, on their oaths did depose that they saw the said original certificate signed by each of the said captains, by each one in his own proper hand writing, and that it is the very certificate they freely gave the said Briard. And the said Moore further deposes, that he with the others signed the same, and that the matters and things therein set forth are just and true.

SAMUEL BRIARD,
SAMUEL MOORE.

In testimony whereof, said deponents have above set their names, and I have hereunto subscribed my name, and affixed my seal of office in said Portsmouth the day and year aforesaid.

[L. S.] DANIEL HUMPHREYS, *Not. Pub.*

Statement of the loss sustained by the capture of the schooner Zilpha, Samuel Briard master, owned by John Wardrobe and Samuel Briard, merchants and citizens of the United States of America, and of said schooner's cargo, owned by the same persons, which schooner and cargo were captured by the French privateer named the Hirondale, on the 24th February, 1797, and carried into the island of Porto Rico, to an out bay on the south side of said island, there dismantled, forcibly detained as prize, papers taken away, &c. according to a certified copy of a protest accompanying this statement, viz:

The schooner Zilpha, ninety-five tons, two years old, valued at			$3,500 00
Schooner Zilpha's cargo, consisting of forty-two puncheons rum, containing 4,902 gallons, at one dollar fifty cents per gallon,	7,353 00		
Deduct impost on the above,	1,372 56		
		5,980 44	
One tierce sugar, wt. 566 lbs. net, at fifteen dollars per cwt.	76 00		
Impost,	8 49		
		67 51	
One barrel ditto 215 ditto at fifteen ditto,	28 75		
Impost,	3 22		
		25 53	
Six barrels beef, at twelve dollars,			72 00
One ditto flour at sixteen do.			16 00
Four barrels bread			30 00
Cabin and other small stores,			50 00
Also two puncheons of rum owned by Captain John Flagg of this town, containing 219 gals. at one dollar fifty cents, deduct impost	61 32		267 18
Two ditto owned by Elihu D. Lauphar mate of the Zilpha, containing 246 gals. at one dollar fifty cents, deduct impost	68 88		300 12
			$10,308 78

We the undersigned of Portsmouth, in the State of New Hampshire, merchants and citizens of the United States of America, do hereby certify and declare that, in our opinion and judgment, the schooner Zilpha and her cargo, late belonging to the aforesaid John Wardrobe and Samuel Briard, citizens of the United States, and said to be captured on the high seas by the French privateer named the Hirondale, and forcibly detained as above, were at the time of the capture, and when the said vessel might otherwise have arrived here, worth the full sums annexed to the above valuation.

JAMES SHEAFE,
NATHANIEL A. HAVEN.

PORTSMOUTH, *March* 28, 1797.

UNITED STATES OF AMERICA, *State of New Hampshire.*

Be it known to all persons to whom these presents shall come, or whom they concern, that at Portsmouth in said State of New Hampshire, on this 30th day of March, in the year 1797, before me Daniel Humphreys, Esq. notary public, in and for the same State, by lawful authority duly commissioned, admitted, and sworn, personally came James Sheafe, Esq. and Mr. Nathaniel A. Haven, of said Portsmouth, citizens and respectable merchants of the said States, and, in my presence, subscribed the foregoing certificate on the other side, and being by me severally sworn according to law, on their solemn oaths, did declare and depose, that in forming and making the foregoing estimate (on the other side) of the value of the schooner Zilpha and her cargo, they had acted impartially and according to their best judgment.

In testimony whereof, I have subscribed my name, and affixed my seal of office to these presents, in said Portsmouth, the day and year above written.

[L. S.] DANIEL HUMPHREYS, *Not. Pub.*

Statement of loss brought forward, schooner, cargo, &c. as estimated before,	$10,308 78
Provisions and stores for passage home,	20 00
Expenses at Newport Rhode Island for a protest, four dollars, boarding four dollars,	8 00
Expenses by land home to Portsmouth,	16 00
Captain Briard's time lost, from 24th February, the time of capture, until 26th March, 1797,	32 00
Protest certified, copied, &c. Portsmouth,	6 00
	$10,390 78

SAMUEL BRIARD.

PORTSMOUTH, *March* 31, 1797.

STATE OF NEW HAMPSHIRE:

Then Captain Samuel Briard personally appearing made solemn oath, that the above is a just account of charges, and his loss of time incurred by capture of the schooner Zilpha.

Before me,

DANIEL HUMPHREYS, *Notary Public.*

SHIP SUCCESS, (GORTON.)

By this public instrument of protest, be it made known and manifest, that on this day the 27th of January, in the year one thousand seven hundred and ninety-seven, before me Clement Biddle, notary public for the commonwealth of Pennsylvania, duly commissioned and qualified, dwelling in the city of Philadelphia, personally came Daniel S. Gorton, late commander of the ship Success of Philadelphia, of the burthen of about one hundred and fifty-eight tons, and being duly sworn according to law, on his solemn oath, deposes and says, that the said ship being under his command and loaded at Plantain Garden, River Bay, in the island of Jamaica, with a cargo of sugar, coffee, and seven casks of rum, the two latter his own adventure, he set sail from said port, on the 14th day of August last, bound for this port of Philadelphia; and on the 20th day of said month, steering their direct course for this port, as near as they could make the same, they were boarded and taken possession of by a French Republican privateer, called the Faguse, of Gonaives in Hispaniola, commanded by Antoine Martin, and owned by one Molino, a man of color, who took his said ship and cargo into the port of Cumberland harbor, called by the Spanish Guantanamo, in the island of Cuba, and thence to the port of St. Jago in said island; that he entered a protest at said port of St. Jago on the 1st of September, but being by an interpreter, and not able to obtain a full explanation, he now extends and adds thereto, that having arrived with said ship at St. Jago the 1st of September, soon after the privateer's crew began to plunder, and shortly after forcibly unloaded the whole of the cargo in two vessels, a brig and sloop, which they sent from St. Jago about the 1st of October, as the prize master of his ship informed him, to go to Gonaives or Cape François, in order to have the said goods condemned, that he presented memorials to the Spanish Government at St. Jago, praying that they would not suffer his cargo to be taken out or sent away without his ship, or that his case might be heard by the Spanish courts and justice be done to him as an American, sailing in an American vessel and under an American flag, to which the Governor replied, that he could not refuse the said privateer to take the cargo away, but would not suffer them to land it; that he remained with the ship in charge of the said privateer's crew, till about the last of October, when the prizemaster informed him that the cargo had been condemned at Gonaives by order of the French commissary at the Cape, and that his ship was acquitted, but they gave him no copy of condemnation, or other papers, but that he might take his ship and go where he pleased; and then the privateer's crew left his ship, and he again took charge of her; they also gave him two hundred dollars in cash, but plundered his ship of her spare and light sails, and many materials and stores. That this deponent determined to go to the Cape François to seek redress, and put Captain William M'Cucheon, of this port, who had been captured and brought into St. Jago, in charge of his said ship Success, and despatched her from thence on the 10th day of November last, for Philadelphia, since which he has heard nothing of said ship, except a rumor that she was at Cape Nicola Mole. That he remained at St. Jago seeking a passage for the Cape, but finding none, and being short of money, and in a bad state of health, and a rumor of a war suspending his supplies of money, he left St. Jago the 15th of November, and arrived here the 20th instant, and found his said ship Success had not arrived, and now desires to protest, requiring an act of me the said notary, to avail him when and where it may be needful and necessary.

Signed in Register.

DANIEL S. GORTON.

Whereupon I the said notary, at the request aforesaid, have protested, and by these presents do solemnly protest against the said French Republican privateer Faguse, her owners, commander, officers and crew, for the capture of said ship Success and cargo, that all losses, costs, charges, damages, breaches of charter party, and bills of loading, may be submitted unto, suffered and borne by those to whom it may belong.

Thus done and protested.

[L. S.] Quod manu ac Sigillo Notarialis attestor.

CLEMENT BIDDLE, *Notary Public.*

[Triplicate.]

Account of damage or loss sustained by John Barclay and James Barclay, of Philadelphia, by the captnre of the ship Success, Captain Daniel S. Gorton, by the French Republican privateer Faguse, Captain Anthony Martin, on her voyage from Jamaica to Philadelphia, for the loss of the cargo and detention of the ship.

To amount of sales of fifty hogsheads and twenty-eight tierces sugar, which would have actually netted this sum, - - - - - - - - - - - - - -	£4,578 1 1
To demurrage from 20th August to 10th November, 1796, is eighty-two days, at £9 per day, - -	738 0 0
To this sum taken up at St. Jago to pay Government fees, one hundred and twenty-one dollars, -	45 7 6
	£5,361 8 7
Supra Cr.	
By this sum received of the Captain of the privateer who captured ship Success, two hundred dollars,	75 0 0
Balance, - - - - - -	£5,286 8 7

SHIP COMMERCE, (HAM.)

By this public instrument of protest, be it made known and manifest, that on this day. the 1st day of January, in the year 1797, before me Jacob Mayer, consul of the United States at the city of Cape François, personally came and appeared Andrew Frothingham, jun. owner and passenger on board the ship Commerce, of Newburyport, in the State of Massachusetts, Tobias Ham, master, and William Wetson, mate of the said ship, and being duly sworn according to law, declared and swore for truth, that they sailed from Norfolk, in the United States, on the 3d day of December last, bound for Jamaica, with a cargo of lumber, &c.; that on the 25th day of the same month, being about eighteen leagues from Turks Island, they fell in with a French privateer called the Trompeuse, commanded by La Barriere, who fired a gun, when they instantly hove to, and the aforesaid privateer came close under their stern, hailed them in English from whence they came and where they were bound; that the aforesaid Tobias Ham answered them twice, very distinctly, that he was from Norfolk, in the United States, and that he was bound for the island of Jamaica; whereupon, the aforesaid privateer, not being the length of the ship from them, immediately fired a broadside and a considerable quantity of small arms on board the said ship Commerce, which raked her fore and aft, crying out at the same time, that if the aforesaid Tobias Ham, would not strike, that he the said commander of the privateer aforesaid, would sink him. That the said Tobias Ham then repeated that the said ship Commerce was an American ship, and owned by a citizen of the United States; that he the commander of the privateer aforesaid, had wounded four of his men, and had almost made a wreck of his ship: whereupon a boat from the said privateer, came on board the said ship Commerce, with an officer and six men, ordering the aforesaid Tobias Ham, on board the said privateer with his papers, and soon after the said boat returned and carried the wounded men on board the privateer, when the boat again returned, leaving the said Tobias Ham and these deponents that night on board the said privateer; that they lay to until the next morning, and on the day following, being the 26th day, the commander told these deponents that the said ship Commerce was his prize, and that he would send her to the Cape, and ordered an officer of the said privateer to take from on board the said ship Commerce such articles as he thought proper; that the said ship was accordingly plundered of all the stores, cordage, and almost every appurtenance belonging to her, save the long boat and yawl; that the persons wounded, as before mentioned, were, Andrew Frothingham, jun. one of these deponents, in his thigh with a six pound ball, Shubal Baxter, seaman, in his leg with a ball, and Joseph Whitfield, seaman, in his forehead with a splinter of wood; that they, moreover, found in the said ship Commerce's deck two six pound balls, and near forty musket balls, and fifteen grape shot in one hole in their

mizen mast; that the said ship was materially injured in her masts, rigging, and sails, and her stern almost tore to pieces; and, finally, they these deponents, together with three seamen belonging to the said ship Commerce, remained on board the said privateer five days, when she fell in with Captain Stotsbury, of Philadelphia, bound to the Gonaives, from St. Thomas's, whom the commander of the said privateer forced to take on board these deponents, together with three seamen aforesaid, and part of the crews of five American vessels, which had been captured some time before by the said privateer, with orders to the said Captain Stotsbury to land them at this port, where they accordingly arrived on the 31st day following, and now desire a protest, requiring an act of me the said Jacob Mayer, to avail them when and where it may be needful and necessary.

ANDREW FROTHINGHAM, Jun.
WILLIAM WETSON.

Whereupon I, the said Jacob Mayer, at the request aforesaid, have protested, and by these presents do protest, against the said captain, and for the damages thereby occasioned to the said ship Commerce and cargo, that all losses, costs, charges, and damages, suffered, or to be suffered, or sustained thereby, may be submitted unto, suffered, and borne, by those of right it shall or may belong.

This done and protested at Cape François, aforesaid, in testimony whereof, I have hereunto set my hand and affixed my seal, this first day of January, one thousand seven hundred and ninety-seven, the day and year first above written.

[L. S.] JACOB MAYER.

The above is a copy of a protest made by Andrew Frothingham and Wetson, in the Cape, St. Domingo.

SILAS TALBOT.

SHIP NANCY, (DILL.)

BALTIMORE COUNTY.

Came before me, the subscriber, one of the Justices of the Peace for said county, William Fearson, mariner, who made oath, on the Holy Evangelists of Almighty God, that, on the 25th of March last, he was taken (in the ship Nancy, Captain Dill, bound from Savannah to Cape Nichola Mole) by a French privateer, off the mouth of Port de Paix. The captain and part of the crew were detained on board the privateer; this deponent, with the mate, who was sick, and the remainder of the crew, were stripped of their clothes, even the shirt from his back, and drove below, beating him with a cutlass, using at the same time the most opprobrious and insulting language. We were closely confined, with an allowance of bread and water, and taken by the aforesaid privateer into Jean Rabel, where the ship with her cargo was condemned, and this deponent stripped of his property, to the amount of four hundred dollars, and left destitute of every thing to obtain the common necessaries of life; and, but for the generous assistance of Captain Little, an American, he would have been imprisoned; likewise, by the same captain's assistance, he was enabled to reach this place.

May 13, 1797. Sworn to before

J. SMITH.

BRIG ALMY, (CUTTER.)

JAMAICA, *ss.*

Mitchell Cutter, Master of the brigantine Almy, of New York, being duly sworn upon the Holy Evangelists of Almighty God, maketh oath and sayeth, that he sailed from Montego Bay, in the Island of Jamaica aforesaid, on the 8th day of October instant bound for New York, aforesaid, laden with a cargo of rum, coffee, and pimento, the said brigantine being tight, staunch, and every way properly equipped and manned for her said voyage. That nothing material occurred until the 12th following; being then off the northeast end of the said island, was brought to and captured by two French republican privateer schooners, who fired thirty shots at the said brigantine, although she was, and had been, some time previous, lying to for them. That they ordered the said brigantine's boat to come along side of them; which was accordingly done, when they detained the mate and two seamen, with the ship's register, and sent a prize master and three seamen on board of the said brigantine, until the 13th instant, when she was recaptured by His Britannic Majesty's ship Jamaica, —— Brooking, Esq. commander, and carried into the port of Kingston, in the said island, where she arrived on the 18th instant.

MITCHELL CUTTER.

Sworn, at Kingston aforesaid, this 20th day of October, 1796, before me,

J. WELSH.

BRIG LADY WALTERDORF, (GUTTERSON.)

CITY OF PHILADELPHIA, *ss.*

John Gutterson, of Philadelphia, late master of the brig Lady Walterdorf, being duly sworn, deposes and says, that he sailed in the said brigantine from Demarara, bound to Philadelphia, on the first day of March last, with a cargo consisting of sugar, rum, coffee, cotton, and vinegar, belonging to Robert M'Kean, of Philadelphia, which cargo was purchased by Mr. George M'Guffin, the supercargo, as the returns for the outward bound cargo. That the said brigantine was the property of Mr. Joseph Syms, of Philadelphia. That, on the 5th of the same March, he was captured, in the said brigantine, ten leagues to the northwest of Martinique, by the French privateer Poline, Captain Amuline, belonging to Basseterre, Gaudaloupe; that the crew of the said privateer took from on board the said brigantine this deponent and all his crew, excepting his mate and a seaman, and carried her to Bassetere, where he, this deponent, arrived on the 19th of the same month, in the said privateer. That, on his arrival, he found the vessel and cargo, which had been previously brought in, had been condemned, and the greater part of the cargo unloaded and sold; that this deponent understood that the cause of the condemnation was because he was coming from Demarara, a port which formerly belonged to the Dutch, and which was then in the possession of the British; that, in truth, the brigantine on her outward bound voyage was destined for Surinam, but, being ten or fifteen leagues to the eastward of Surinam, she was stopped by the British sloop of war Favorite, which forbade her entering, and endorsed her papers; that, on this account, he put into Demarara, as the nearest port. That, on the day of her condemnation, the mate and seaman, who had been left on board the brigantine, were put into prison, and, on the arrival of the privateer, the rest of the crew (except this deponent) were also put in prison. That this deponent, on his arrival at Basseterre, was turned on shore, without money or friends, and was left in a destitute situation for eight days, when he was fortunate enough to meet a gentleman from St. Croix, who advanced him money for his necessity, on the credit of his owner. That all the deponent's property on board the brigantine was taken from him, except some of his clothes. That, when an American vessel is brought into Gaudaloupe, the crew is detained on board of her or of the privateer until the sentence takes place, which, if it be for condemnation, has the effect of causing the crew to be removed to a gaol, where they are detained as prisoners of war, on an allowance of half a pound of bread and two ounces of fish per day; that it is not permitted for any one to visit them in their confinement, which is, in all respects, more severe and cruel than that to which British prisoners are subjected, many of whom are permitted to walk about the streets, and all of whom generally have their private property restored to them. That several Americans were sent to Martinique, to be exchanged for Frenchmen, whilst this deponent was at Gaudaloupe, and that some had been returned as Americans, for whom the British would make no exchange; that among the latter there were three little boys, the older of whom was about fourteen years of age; that, when this deponent

arrived at Basseterre, he found there an American built vessel, called the Hannah, of New York, which, from her build, he has no doubt was intended for a privateer; she was pierced for fourteen or sixteen guns. That this deponent was acquainted at Basseterre with one Captain Robert Stanton, who has a wife and family at New York, and who told deponent that he had carried the said schooner Hannah out from New York; that deponent was told, by one Branham, (who, as well as this deponent, boarded in the same house with the said Stanton) that Stanton had told him the Hannah belonged to the house of Ingraham, in New York, who had put her in the charge of Stanton to carry her to Gaudaloupe, and there make the best of her. That, some days after, deponent arrived at Gaudaloupe; said Stanton sold the Hannah for a privateer to one Williams, (who told deponent he was an American, and had sailed out of the port of Philadelphia) for seven hundred half joes; that, on the 2d of April, when deponent left Gaudaloupe, Williams had the privateer nearly fitted for sea, and was to sail in her, in a day or two, as commander. That said Williams, together with another American of the same name, is owner of another privateer, which the one last named commands. That deponent thinks the privateer Hannah must have arrived at Gaudaloupe about the latter end of February, or beginning of March.

JOHN GUTTERSON.

Sworn, the 2d day of May, 1797, before me,

HILARY BAKER, *Mayor.*

BRIG ELIZA, (FRANCIS.)

UNITED STATES OF AMERICA, *State of New York, ss.*

By this public instrument of protest be it made known, and manifested unto all persons to whom these presents shall come, or may, in any wise, concern, that before me, John Keese, notary public for the State of New York, by letters patent under the great seal of the said State, duly commissioned, personally appeared Daniel Francis, master of the brigantine Eliza, of New York, who being by me duly sworn according to law, deposed, that he sailed in the said brigantine, on the 25th day of December last, from New London, bound for the windward West India islands; that, in the prosecution of the said passage, on the 16th day of January last, in latitude fifteen degrees fifteen minutes, and longitude, by account, fifty-nine degrees, the said brigantine was captured by two French frigates belonging to the French republic, one of them called the La Pancy, commanded by Vatto, the other called the Thetis, commanded by Bardwin, who took from the said brig Eliza, William Berry, the mate, and David Squire, Hugh Fitzgerald, Henry Doughty, Toby Rowin, and John Forceman, mariners of said brigantine, and put a prize master and five men on board, and ordered them to take the said brigantine Eliza into Guadaloupe; that, on the 20th day of said month of January, the said brigantine was anchored in Bay Mabean, in the island of Guadaloupe, and on the 25th day of said month her cargo was sequestered; that, on the 14th day of February, the whole of said brigantine's outward cargo, aforesaid, having been got on shore by the French, the deponent was permitted to take charge of her again. On the 15th day of February he went to Basseterre, and got the register, sea-letter, &c. of the said brig from the tribunal, and also got back the mate and all the mariners aforesaid, except Henry Doughty, who had been sent to Martinico and exchanged as an English prisoner.

And the said deponent further deposed, that he doth fully believe the said Henry Doughty was born at Boston, in the State of Massachusetts, and is a citizen of the United States of America; that the said William Berry is a native of the State of Pennsylvania, and also the said Fitzgerald; that the said David Squire is a native of the State of Connecticut, known to this deponent from his youth, they being townsmen; that he believes said Toby Rowin is a native of Portugal, and said John Forceman of Sweden. And the said Daniel Francis being desirous to give every satisfaction in his power to the persons interested in the said brig and cargo in the voyage aforesaid, and also to comply with the act of the Congress of the United States of America respecting the impressment and detention of American seamen, hath, on the foregoing premises, before me, in due form protested, and by these presents doth protest, against the commanders and crews of the said French frigates, and all others whom it doth or may concern, for the seizure and detention of the said brig and her cargo, as aforesaid, and for the detention of the said Henry Doughty, and sending him to Martinico as an English prisoner of war; and for all loss, cost, damages, and injury that hath happened and accrued, or that may happen and accrue, by reason and means aforesaid.

Thus done and protested at New York, aforesaid. In faith and testimony whereof the said Daniel Francis hath hereunto subscribed his name, and I have hereunto set my hand, and affixed my seal of office, at New York, the third day of April, A. D. 1797.

DANIEL FRANCIS.
JOHN KEESE, *Notary Public, &c.*

SHIP ELIZA, (BURTON.)

Extract from the registers of the Secretary of the municipality of Basseterre, Guadaloupe.

This day, the 6th of Ventose, 5th republican year, in the morning, at the municipal office of Basseterre, Guadaloupe, in which assisted the citizens Patriat, mayor, Négré, national agent, Bazin, municipal officer in service, together with the secretary, appeared Mr. Peter Burton, captain of the American ship Eliza, anchored in this road, and ready to sail for the place of her destination: who, assisted by the interpreter of the English language, and under the faith of an oath then administered, declared, that he sailed from Barbadoes, on the 6th of February, 1797, (old style) bound for Norfolk, in Virginia, with a cargo of twenty-five casks of raw sugar, and twenty-four hogsheads of rum, belonging to John Proudfoot, merchant at that place, and a citizen of the United States; that, on the 14th of the said month, he was met by the privateer Flying Fish, Captain John Johnston, arrived at Basseterre, who took on board a part of his crew, and sent in their stead a prize captain and crew, with orders to take possession of the vessel and to proceed to Basseterre, where he arrived a few days after; that he, the appearer, and part of his crew, were interrogated by the municipality of the said town, and afterwards a judgment of the commercial tribunal was interposed, declaring the cargo of the said vessel to be good prize, and liberating the vessel, with permission to pursue her destination.

Wherefore, as well for himself, as in the name of his owners, and others interested in the ship Eliza and her cargo, he demands an act of reservation and protest, which he executes, as well on account of his arrest and being brought into this road, as on account of the confiscation of his cargo, and, generally, for all wrongs, damages, detention, expenses, costs, and losses, which he suffers by the said arrest and confiscation; as also for whatever may happen to him until he shall have arrived at his destination, reserving to himself to make use of the said reservation and protest, against whom, before whom, and wherever it shall be requisite; which has been given him by the municipal office, and which the appearer has signed, with the interpreter, the members of the office, and the secretary: thus signed on the registers, Peter Burton, Bernier, interpreter, Patriat, maire, Négré, national agent, Bazin, municipal officer, ———, secretary—an erased word void.

Collated. DESCHAMPS, *R. Secretary.*

I, Canut Robinson, municipal officer of the commune of Basseterre, Guadaloupe, performing in this quarter the functions of mayor, in the absence of the mayor, certify and attest to whom it may concern, that the signature to these presents is that of citizen Deschamps, recording secretary of the municipality of Basseterre; that, to it faith is, and should be, given, as well as to every thing which he signs in the said quality, as well in as out of judgment.

In testimony whereof I have signed these presents, which shall be countersigned by the said recording secretary, and sealed with the seal of the tribunal.

I further certify, that the comptrolled and stamped paper are not used in this island.

Given in the Commons House of Basseterre, Guadaloupe, the 7th of Ventose, 5th republican year.

DESCHAMPS, *R. S.*
ROBINSON, *Mayor in this quarter.*

Received fifty-four livres for copy.

SHIP ELIZA, (BURTON.)

Extract from the Registers of the Tribunal of Commerce, established in the Island of Guadaloupe, sitting at the town of Basseterre, in said Island.

We, the judges of the commercial tribunal, having seen the papers which have been laid before it, concerning the prize made by the privateer Flying Fish, Captain John Dubain, of the ship Eliza, Captain Peter Burton, having also seen the declarations and interrogatories answered at the municipality of this town, and after having heard upon the subject of the citizen commissioner of the Executive Directory near the said tribunal, and his conclusions, as also the report, and considered the whole, the tribunal declares to be good prize to the profit of the captors, the cargo of the ship Eliza, consisting of sugar and rum, of the produce and manufacture of Barbadoes; and that, conformably to the arrêt of the agents of the Executive Directory of the 4th Nivose last, they therefore order that the said cargo be delivered to whoever has a right to the same, to be disposed of as belonging to him, an inventory thereof being previously made.

They order that the said ship Eliza be delivered up as property of American citizens, and therefore give up the same, together with her tackle and apparel, to the said Captain Peter Burton, ordering all persons who may have custody of the same, to deliver her, and the papers concerning the property and navigation of the said vessel, to the said captain, under pain of punishment—

Order, &c.

Done and judged by us, Victor Croizier, president; Domingue Romain, Guillaume Corlet, judges; and Gaetan Bazin, surrogate judge of the said tribunal, the 2d of Ventose, in the morning, 5th year of the French republic, one and indivisible, signed on the register Croizier, president. D. Romain. Corlet and Bazin.

Collated. L'ATRIERE.

[Copy for captain of the vessel delivered up.]

I, Victor Croizier, president of the commercial tribunal, established in the Island of Guadaloupe, sitting at the town of Basseterre, in said island, certify and attest to all whom it may concern, that Latriere, who has signed the copy of judgment, hereto annexed, is secretary of the said tribunal, that faith should be given to his signature as well in as out of judgment; I also certify that the stamped paper is not used in the colony.

In testimony whereof, I have signed these presents with the said secretary, and have affixed hereunto the ordinary seal of the said tribunal.

[L. S.] Done at Basseterre, the 3d of Ventose, in the 5th year of the French republic, one and indivisible.

CROIZIER, *President.*

Sealed at the said town of Basseterre, the said day and year.

L'ATRIERE.

Received sixty-six livres for writings concerning the business.

L'ATRIERE.

SHIP PATTERN, (BOAL.)

This day, the 24th Nivose, 5th year of the French republic, one and indivisible, appeared before the notary public of the town and dependencies of Fort Liberty, in the island and coast of St. Domingo, and northern part, there dwelling, the undersigned, and in presence of the witnesses, hereafter named and also undersigned, Henry William Boal, captain of the American ship Pattern, anchored in this road, where she was brought by citizen Fagoude, prize master, and making part of the crew of the French privateer Trompeuse, who captured her at four leagues to the northward of Square Handkerchief, on her way to Jamaica, assisted by John Stuart, his interpreter: the said Henry William Boal presented himself to us, the undersigned notary, the day after his arrival in this port, in order to make the present declaration through us, which we could not receive for the want of an interpreter, the sworn interpreter of the port being absent, who said that on the 9th current, or 28th of December, (O. S.) at noon, he was met, at four leagues to the northward of Square Handkerchief, by the French privateer la Trompeuse, Captain Antoine Barriere, bound for Jamaica; which privateer, being within hailing, asked whence they came, to which they replied from New York; Where were they bound? to Jamaica; that then the privateer put out her boat with five men and an officer; and that, on coming aboard, the officer asked for their clearances and invoices, which were immediately produced; that he then sent all his papers on board the privateer by the appearer's mate; that, after having examined his papers, the privateer sent on board six French seamen and a prize master to conduct the vessel, and detained on board his mate and five of his men, and left only the appearer, his brother, two boys, and a cook, on board his vessel; that the privateer chased him under English colors, which he kept flying until he was alongside, which is contrary to the laws of war: for no armed vessel has a right of visiting another at sea, especially when she is under a neutral flag, without bearing the flag of her nation; and that he even confirmed the English flag under the firing of a gun; that the next day he was carried into Mont Christy, where he was detained nine days; and that on the tenth he was conducted into this port; that on the seventh day after his arrival at Mont Christy, the Frenchmen, who were on board of his vessel, broke open the main hatchway whilst he was on shore; that he is ignorant of what they have taken, but that it appears that there were missing four hogsheads of codfish, one hogshead of rice, two barrels of flour, and nearly all his provisions, as well as nine or ten barrels of salted meat, forming a part thereof; that they have likewise taken a new studding sail, a coil of cordage, two pairs of studding sail gears; but that, further, he does not know, but one may be convinced when the cargo is discharged, on comparing the articles on board with the invoices of the lading, wherefore he makes the present declaration as well for his use to be produced and avail where it ought, and reserving to his owners their recourse against the owners and captain of the said privateer, for the depredations committed on board of him by the said crew; as for the detention and extraordinary expenses he has been obliged to submit to. That the appearer, on seeing the provisions taken from on board, asked the prize master to give him a sufficient quantity for his voyage from Mont Christy to the continent, upon which he gave him six barrels of biscuit and three barrels of salted beef for himself and crew.

Done and passed at Fort Liberty, in our chambers, the said day and year above mentioned, in the forenoon, in presence of the citizens Jean Casaux and Alexander Beochard, merchants in this town, witnesses, expressly requested and called upon, who, after reading, signed the same with the appearer, John Stuart, interpreter, and as notary, thus signed on the minutes of these presents, Henry William Boal, John Stuart, J. Casaux, Brochare, and Derieux, notary. Collated.

DERIEUX, *Notary.*

LIBERTY. EQUALITY.

IN THE NAME OF THE FRENCH REPUBLIC.

Extract from the Register of the Deliberations of the Commissioners delegated by the French Government to the Windward Islands, at the Cape, the 15th Pluviose, 5th year of the French republic, one and indivisible.

Having seen the minutes of the proceedings on the capture of the ship Pattern, of New York, Captain Henry William Boal, taken on the 8th of Nivose last, by the privateer Trompeuse, Captain Barriere. The proceedings on the said prize by the justice of peace at the Cape.

Having seen the register of the said vessel delivered at New York on the 22d of November, 1796, under the command of Henry William Boal. The sea-letter in three languages, French, English, and Dutch, delivered at New York on the 6th of December, 1796, for the said vessel, under the command of the said Henry W. Boal, and containing her destination as for Jamaica. The clearance of the said vessel, dated New York, the 6th of December, 1796, delivered to Captain Henry William Boal, and indicating her destination for Jamaica.

Having seen a number of bills of lading of sundry shippers on board of the said vessel, of merchandises destined for Jamaica.

Considering that it results as well from the interrogatories submitted to in the said proceedings by the captain and others of the crew of the said ship Pattern, as from certain papers above related, and is evidently proved, that the said vessel was expedited for Jamaica.

Considering that the resolution of the Executive Directory of the 14th Messidor last, prescribed to all captains of vessels of the republic, and those of individuals armed as privateers, to treat neutral vessels in the same manner they should permit themselves to be treated by the English.

Considering that it is notorious that the agents of the British Government in the West Indies respect no neutrals; that this notoriety is confirmed by a number of declarations or proofs deposited with the secretary general of the commissions.

Considering that it was not until after the official notification of the said resolution of the Executive Directory, and after the notoriety of the conduct of the British agents in the West Indies towards neutral vessels, that the commission, according to its decree of the 18th Nivose last, declared good prize all neutral vessels going to, or coming from, English ports.

The commission has decreed, and does decree, that the said ship Pattern, of New York, Captain Henry Wm. Boal, captured on the 8th of Nivose last, by the privateer Trompeuse, Captain Barriere, and brought into the road of the Cape, is good prize, together with her cargo and every thing belonging thereto; and that the whole shall be sold for the benefit of the captors and interested in the fitting out of the said privateer; that in consequence, all persons having custody of the said vessel and her cargo, are held to deliver up the same to the captor, captain, or his representative.

The present decree shall be notified to the captain of the said ship Pattern, by the captain of the said privateer or his representative.

And for the complete execution of the present decree, the captor, captain, or his representative, shall make proper provision.

Signed on the register of the proceedings,

SANTHONAX & RAIMOND, *Commissioners.*
PASCAL, *Secretary General.*

True copy. The Secretary General of the commission,

PASCAL.

BRIG AMERICAN, (TOWN.)

By this public instrument of protest, be it made known and manifest that, on this twenty-ninth day of May, in the year one thousand seven hundred and ninety-seven, before me, Clement Biddle, notary public for the Commonwealth of Pennsylvania, duly commissioned and qualified, dwelling in the city of Philadelphia, personally appeared Thomas Town, junior, commander of the brig American, of Philadelphia, and declared and averred for truth, that the said brig being loaded with a cargo consisting of dry goods, glass, and earthenware, twine, cheese, fifty casks of wine, seven hundred and ten barrels of flour, and shaken casks for coffee and molasses, amounting to eight thousand five hundred and forty-seven pounds four shillings and ten pence half-penny, Pennsylvania currency, the property of Norris and Hall, of said city, merchants, and citizens of the United States of America, and consigned to this appearer; that he set sail with said vessel under his command, and with said cargo on board, from this port of Philadelphia, on or about the 30th of October last, cleared for the island of St. Bartholomew's, but bound for Marigalante, and having touched at Marigalante, and been refused liberty to trade, he proceeded to Point Liberté, formerly Point Petre, in Guadaloupe, where he arrived the 20th day of November, and made sales of his cargo here, loaden and received on board in returns for the same, a cargo of coffee, cotton, and sugar, with which he proceeded for the island of St. Thomas, and arrived there on the fifth day of January last, and having there made sale of his said coffee, cotton, and sugar, he converted the same into dry goods to the value of six hundred and fifteen dollars and a half, ninety-eight barrels of flour, purchased from the cargo of the brig Nancy and Jane, of Baltimore, and sixteen thousand dollars (a few dollars more or less) in Spanish silver dollars, all which he loaded on board at St. Thomas's, arising from the said cargo loaden at Guadaloupe, which arose from the said cargo so loaden as aforesaid at this city of Philadelphia, and was the sole property of the said Norris and Hall; and that he set sail in said brig with the same dry goods, flour, and dollars on board from St. Thomas, on the 22d day of January last, bound for Cape François, and that having arrived off Monto Christo, he was chased by a British man of war, brig, and cutter, which forced him to pass the Cape and run for Port de Paix, where he arrived on the 26th day of January last, and on the 27th of the same month the officers of the said Port seized his papers and sent them to the commissary at the Cape, on which this appearer went to the Cape, where he arrived on the 31st of January, and his papers were returned and declared by the commissary Santhonax *to be in good order*, on which he returned to Port de Paix, and on his arrival there found a guard of soldiers on board his vessel, and was informed that his money should be taken from him and deposited in the public treasury; but that he should be paid for the same in coffee; and this appearer thereupon, in presence of Andrew Donaldson, his mate, Benjamin Howard, his steward, and Captain Thomas Cunningham, of Baltimore, then on board his vessel, shut up the door of his cabin in which the said money was under his bed, and placed four seals on the lock of the door; that on Sunday morning, the fourth day of February, certain officers of the administration of Port de Paix came on board his said vessel, and demanded his said money, which this appearer refused to deliver, declaring it was the property of his owners; but the said officers forced the door of his cabin, and forcibly took the said money, amount fifteen thousand four hundred and forty-nine dollars, therefrom, and which they carried to the shore in presence of the said Captain Cunningham, first promising to deliver him coffee in return for the same; and in a few days after they forcibly took from him the said ninety-eight barrels of flour, promising to pay for them also in coffee; and that this appearer went to Cape François, and presented a memorial to Santhonax, the civil commissioner for the republic, on the 13th day of said month of February, to which he gave for answer by a letter to the chief of administration at Port de Paix, and ordered him to pay the appearer in coffee at twenty-three sols per pound; on which this appearer returned to Port de Paix, presented the letter from Santhonax to said chief of the administration, and continued to solicit the restoration of his money, or payment in coffee, but without success; and finding no prospect of obtaining redress, and being in want of provisions, on the 10th of March he went with his vessel from Port de Paix to Cape François, and arrived there on the 13th or 14th, and presented a memorial to Santhonax on the 19th of March, stating his case, and demanding a supply of provisions and money to pay his seamen and expenses; and that he might have payment of his demands out of the cargo of the brig Thetis, taken into Cuba and there condemned; to which the said Santhonax ordered him back to Port de Paix, with recom-

mendations in his favor to the ordonnateur, on which this appearer returned with his vessel to Port de Paix, in hopes of obtaining a cargo of coffee, and arrived there, and continued to solicit for the same, but without effect; but had received small supplies of provisions for his crew from the administration; that on his return he found no prospect of relief, and, on the 27th of March, he again went by land to Cape François, and on the 30th presented another memorial to Santhonax, praying his definite orders; to which he sent back the petition, with orders to the ordonnateur "*to make payment in fifteen days at latest, in the whole sum, in colonial produce;*" on which this appearer again returned to Port de Paix, and continued to solicit payment from the administration there, and obtained about thirty-five thousand livres in coffee and duties, and provisions for his vessel. He then found no prospect of further relief, and being nearly out of provisions, having refused to sign the verbal process which the officers of administration offered him; and having made a protest there, but not fully, as he only could do it through the medium of a French interpreter who understood but little English, and despairing of any success in obtaining payment by further delay, he set sail from Port de Paix on the 13th inst. and arrived here with his said brig American at this port on the twenty-seventh instant, and now desires to protest, requiring an act of me, the said notary, to avail him when and where needful and necessary; and on the fifth of June, in said year, appeared Andrew Donaldson, mate, who, as well as said captain, being duly sworn on their oaths respectively, depose and say, that the facts herein set forth are just and true, the said mate to what passed on board said vessel only.

Signed in notarial register,

THOMAS TOWN, Jun.
ANDREW DONALDSON.

Whereupon, I, the said notary, at the request aforesaid, have protested, and by these presents do solemnly protest, as well against the administration at Port-de-Paix as against the commissary of the French republic and their officers at Cape François, for the unjustly and forcibly seizing and taking away the said money and flour from said brig American, and unjust detention of the said brig under promises of payment for the same, that all losses, damages, costs, charges, breaches of charter party, and bill of loading, suffered or to be suffered or sustained thereby, may be submitted unto, suffered and borne by those to whom of right it may belong.

Quod Attestor,

CLEMENT BIDDLE, *Not. Pub.*

SHIP KITTY, (M'PHERSON.)

On this twelfth day of June, in the year of our Lord one thousand seven hundred and ninety-seven, before me, Clement Biddle, Esquire, notary public for the commonwealth of Pennsylvania, duly commissioned and authorized by law to administer oaths and affirmations, dwelling in the city of Philadelphia, personally came Thomas Crawford, Isaac Williams, James Watson, Mathias Christian Brek, late seamen of the ship Kitty, of Philadelphia, Hugh M'Pherson, master, who being duly sworn according to law, on their solemn oath depose and say, that the facts set forth in the annexed deposition or declaration, by them subscribed, in two pages, are just and true.

In testimony whereof I have hereunto set my hand and affixed my notarial seal, at Philadelphia, the day of
[L. S.] the year above written.

CLEMENT BIDDLE, *Not. Pub.*

Five seamen belonging to the ship Kitty, of Philadelphia, Captain Hugh M'Pherson, who declare the following to be the truth, and nothing but the truth:

The ship left the Isle of France on or about the 9th of November, 1796, and nothing material happened, but meeting with heavy gales of wind, until we were met with, near Cape Lagullus, by His Britannic Majesty's ships Jupiter and Sceptre, commanded by Commodore Losack and Captain Alexander, who put two lieutenants on board said ship and eight British mariners; and took possession of the said ship Kitty; and brought her under convoy forcibly into the Cape of Good Hope, where they arrived on or about the first of January, 1797; where we understood, from the captain, officers, and supercargo, the ship underwent an examination, and was acquitted. The English pressed three men, which were replaced accidentally by three Dutch mariners. The heavy and boisterous weather we experienced caused the vessel to leak, in her upper works, and it was therefore found absolutely necessary to have her calked, and purchase some sails; they were also in want of some provisions, which they bought at the Cape—beef, bread, and fresh provisions; and being short of water, we were there supplied. After supplying ourselves with what was requisite for the continuation of our voyage to Philadelphia, we proceeded on or about 3d February, and nothing material happened until on or about the 30th of March, when we were boarded and taken by the French privateer L'Espiegle, Captain Ant. Daubon, although the captain of the Kitty hailed, to the privateer, that he was from the Isle of France and an American vessel, having the colors of the United States hoisted at the mizzen peak. Captain Daubon ordered Captain M'Pherson to hoist out his boat and come on board of him, using, at the same time, blasphemous language, of damn your eyes, hoist your boat out; and while the undersigned, and the rest of the crew, were busily employed in doing so, the privateer manned his own boat with seven men and a prize-master, who immediately took possession of the vessel by their turning away the man from the helm, and placing one of their own in his room. The prize-master demanded the papers belonging to the ship, afterwards, which were delivered to him, and were sent on board the privateer, together with Captain M'Pherson, in her boat, to undergo an examination as they said. After detaining the captain on board some hours, he and Captain Daubon, with Captain Daubon's lieutenant, and some more people, returned on board, and demanded of Captain M'Pherson, Mr. Charles D. Cox, supercargo, and every other person on board, their papers, which was complied with, we believe, and soon after the captain of the privateer getting on board, we observed him and his officers throw overboard a number of papers, which we saw afterwards floating on the water.

The second day after the Kitty was taken, the captain of the privateer with his men made a general search throughout the vessel; the crew's bedding and chests not being exempt from their scrutiny; they altered the course of the ship, immediately on taking possession of her, for the West Indies, in one of the islands of which, Porto-Rico, we arrived on or about the 3d of April, 1797, the privateer L'Espiegle still continuing in company with us.

On the privateer's people attempting to hoist an English East India Company's flag on board the Kitty, when in sight of the harbor of Porto-Rico, we, as well as the whole crew, came aft on the quarter deck and protested against such colors being hoisted on board our ship, as we disavowed them, not acknowledging any but those of the United States, of which we were citizens, but to no effect, as the prize-master and French mariners persisted in their intention of hoisting them reversed. On our arrival at Porto-Rico, and for nearly twelve days after, we were not permitted to go on shore, nor the supercargo, or have any intercourse whatsoever with the shore. A few days after the town was besieged by the British, when we, the captain, supercargo, and the rest of the crew, were taken from on board the Kitty, guarded by a number of Spanish troops, who took us into three different prisons, in the island of St. John's, where we, the subscribers, remained for thirty-five days in one of them, when we were sent on board, under a guard of a file of Spanish troops, the Spanish frigate named Juno, then lying in the harbor of Porto-Rico, and bound to Havanna, but, by the interference and remonstrance, as we understand, of some American captains and other citizens, to the Governor, Don Castro, we were put on board the guard boat, and transported to the American ship Mount Vernon, then just weighing anchor, and bound to the port of Philadelphia, where we arrived on the land of freedom, thanks to kind Providence, not being suffered to take even our clothes from on board the ship Kitty, and are now destitute of both them and money. We could each, and every one of us, have received a very handsome reward from the captain of the privateer, had we been base enough to have declared a falsehood that they

urged and solicited some of the crew to do, namely: that of declaring that some of the cargo was shipped at the Cape of Good Hope. On our departure we understood, and believe it as truth, that Captain M'Pherson, Mr. Cox, and the rest of the crew, were then in prison.

THOMAS CRAWFORD,
ISAAC WILLIAMS,
JAMES WATSON, × his mark.
MATHIAS CHRISTIAN BREK.

Sworn, C. BIDDLE, *Not. Pub.*

BRIG VALERIA, (STOVER.)

COMMONWEALTH OF MASSACHUSETTS, *Port of Newburyport.*

By this public instrument of protest, be it made known, and made manifest, that, on the 22d day of March, in the year of our Lord one thousand seven hundred and ninety-seven, and in the twenty-first year of the sovereignty and independence of the United States of America, personally came and appeared before me, Michael Hodge, a public notary, within and for the county of Essex, in the commonwealth aforesaid, duly admitted and sworn, residing in Newburyport, in the same county, Henry Stover, late master of the brig Valeria, of Newburyport, owned and belonging to captain John Wells, of said town of Newburyport, merchant, and citizen, who being duly sworn according to law, on his solemn oath, doth depose, testify, and declare, that he sailed from the port of Aux Cayes, upon the south side of Hispaniola, on the 9th day of January last past, in the said brigantine Valeria, bound for Newburyport, laden with one hundred and twenty-one casks of molasses, containing fourteen thousand five hundred gallons, eight hogsheads of brown sugar, eight thousand one hundred pounds, French weight; thirty-five hundred and nineteen pounds of cotton; and fourteen hundred pounds of coffee, all French weight; and which is true, according to the best of his knowledge, recollection, and belief; that on the 15th of the same month of January, being then off Cape Maize, about four or five leagues distance, he was brought to and boarded by a French privateer, called the Souveraine, commanded by one Lawrence Simont, belonging to Cape François, who, after taking possession of the said brig, ordered the deponent on board of the privateer, and carried him into the port of St. Jago, in the island of Cuba, and kept him on board the said privateer a close prisoner, until he, the said Simont, had obtained a permission from the Spanish Government to discharge the said brig Valeria, which was effected in the space of about four days after the arrival of the said brig; that part of cargo of the aforementioned brig was sold and delivered from alongside, that no examination of the deponent was had by any authority whatever, nor could he learn, nor does he believe there was any trial or condemnation of either vessel or cargo; but that he was robbed of all his property without the least pretence or color of law; that as soon as he could procure a friend there to assist him, (which was not obtained without great difficulty) he petitioned the Governor of the place, setting forth the true situation of his case, the barbarous usage he had received by having his vessel and property taken from him by force, without any reason assigned therefor; that he had prosecuted a voyage from the United States to a French port, there had sold and received produce in exchange; that he had neither entered nor cleared at any English port during his voyage, and that his vessel and cargo truly was owned by a citizen and subject of the United States of America. The Governor, in answer, said, that should he interfere in this case he would be brought into trouble, for the captain of the privateer would protest against him, and send it to the Cape, therefore he must, and he did, decline the interference, nor did he protect the deponent, or his property, from the ravages of those piratical men: that he entered a protest while at St. Jago, but could not extend it agreeably to his wishes, by reason that the notaries were entirely under the influence of the French captain and crew, (as appeared to him) and would not insert any thing in the protest, but what they themselves approved of; that, on the 5th day of February following, the deponent finding that he could not obtain any satisfaction there for the loss of his vessel and cargo, with difficulty procured a passage, for himself only, in a Spanish schooner, for Gonaives, where he arrived, and soon obtained a passage in the brig Endeavor, Edward Freeman, master, for Boston, where he arrived on the 15th day of March following, and, on the 18th, at Newburyport. Wherefore, Henry Stover, the master, as aforesaid, doth require me, the said notary, to protest. I, the said notary, do therefore, at the request aforesaid, and on behalf of the said Henry Stover, the master, as aforesaid, and of the owner or owners, freighters, insurers, and all others in any wise concerned or interested in the said brigantine Valeria, and her loading as aforesaid, or any part thereof, solemnly protest against the said Lawrence Simont, his officers and crew, and the owner or owners, agent or agents of said privateer Souveraine; also, against the French republic, and the Governor of St. Jago, for all losses, damages, costs, charges, interest and expenses whatever, had, borne, suffered and sustained, or to be had, borne, suffered and sustained, by the said master, owner or owners, freighters, insurers, and all others in any wise concerned or interested in the said brigantine Valeria, or her loading as aforesaid, or any part thereof, for and by reason of being captured by a French privateer, and his taking vessel and cargo away by force, as aforesaid.

This done and protested at Newburyport, in the commonwealth aforesaid.

In faith and testimony whereof, as well the said Henry Stover, the deponent, as I, the said notary, [L. S.] have to these presents subscribed our names, and I, the said notary, have hereunto put and affixed my seal of office, the day and year aforesaid.

HENRY STOVER.
M. HODGE, *Notary Public.*

BRIG CALLIOPE, (LEONARD.)

Extract from the Records of the Registry of the Municipality of Basseterre, Guadaloupe.

On this day, 28th of Ventose, fifth republican year, in the afternoon, at the municipal office of the city of Basseterre, Guadaloupe, in presence of citizens Patriat, mayor; Négré, national agent; Due, municipal officer on service, assisted by the secretary recorder, appeared Mr. John Leonard, master and owner of the American brig the Calliope, of New York, in America, who being duly sworn, and assisted by the interpreter of the English language, did declare that he sailed from the said place on the twenty-third of November last, (O. S.) with a cargo of staves and dry goods, bound to Madeira or Teneriffe; that he arrived at the last mentioned island the latter part of December following, or thereabouts, where he sold his said cargo, and loaded, as return cargo, two hundred and twenty-five pipes of Teneriffe wines, for his account and risk; that he sailed again from thence on the sixteenth of February last, bound to Curaçoa or St. Bartholomew's, but twenty-two days after sailing, steering straight for the place of his destination, without having put into any port, ten leagues to windward of Dominico and Martinico, her head then bearing upon Curaçoa, he met with the privateer called the Dragut, Gabot, commander, who fired two guns at them, which compelled him to shorten sail and bring his vessel to for the said privateer, who, on being within hail, inquired where he was from? to which he answered he was from Teneriffe, bound to Curaçoa; that, afterwards, the said privateer seized the said brig, and obliged the said appearer to give up all his papers; that he was detained on board the said privateer, with his mate and four of his hands; that the master of the said privateer put a prizemaster and crew on board of the said brigantine, and ordered them to steer for Basseterre, Guadaloupe, where they arrived on the twenty-fourth instant, and the said privateer, on the next day that he was brought to an examination before the municipality, and, afterwards, the judgment of the court of commerce, sitting in this city, being given, declared the said brig Calliope, and her cargo, a lawful prize for the benefit of the captors. Therefore, he requires act of the reservations and protestations he makes, as well against the commander of the said privateer the Dragut, her owners, and those concerned, and security on account of his detention and being brought into this harbor, as against

the judgment of the court of commerce, on account of the condemnation of the said brig Calliope, and her cargo, and for all losses, charges, damages, expenses, and injury, thereby accruing to his interest, and all others concerned in the said brigantine, reserving to himself to make use of the said protestations against and before whom and where it may belong; also, to extend the same hereafter, either at New York, or elsewhere, if he thinks proper.

Of all which appearances, protestations, and reservations, act hath been granted to John Leonard, that the same may serve and be of value, as of right, and he hath signed, together with the interpreter, the members of office, and the secretary. Recorder so signed on the record; John Leonard; Bernier, interpreter; Patriat, mayor; Négré, national agent; Due, municipal officer on service, and Deschamps, secretary recorder.

Compared.

DESCHAMPS, *S. R.*

Invoice of the following wines on the American brig Calliope, captain John Leonard, bound for St. Bartholomew, by order, and for account and risk of the said John Leonard, citizen of the United States of America, and to him consigned.

I L.	87 pipes,	175 pipes.
I M P.	88 hhds.	
Branded in the head,	176 quar. casks.	
I L.	50	
	225 pipes particular.	

Teneriffe wine, at £17 1*s.* G. on board, £3,825. E. E.

TENERIFFE, 18*th February*, 1797.

Signed, as in the original,

JAMES BARRY.

I do certify the above invoice is a true copy of the original one detained by the commercial tribunal, and also the bill of lading agreed with the said invoice.

BERNIER, *Sworn Interpreter.*

BASSETERRE, GUADALOUPE, 29*th Ventose, 5th year of the French republic, one and indivisible.*

I do certify that the within written is a true copy of an original paper this day handed to me in order to have a notarial copy made thereof.

JOHN WILKES, NOT. PUB.

NEW YORK, *May* 25, 1797.

SHIP COMMERCE. (LAWTON.)

NEWPORT, *March* 9, 1797.

SIR:

We consider it our duty to lay before you, for the inspection of Government, an extract of a letter we have just received from Robert Lawton, master of our ship Commerce, informing of his being plundered on the high seas by a French privateer.

This ship was bound from Hamburg to this port; the ship and her cargo are solely our property. As she carried out and was to return with a very valuable cargo, we were particular in procuring and sending in her, every official paper that is granted by the custom house, for the verification of American property; and we made a declaration on oath before a notary public of the ship and cargo being wholly ours, and that no foreign subject or citizen was interested therein. The notary giving a certificate thereof under seal, as also, of our being citizens of the United States; to which Mr. Arcambel, consul of France, annexed his official certificate. That no doubts would appear on the first inspection of the ship's papers, of her being American property, and bound from one neutral port to another. But neither these circumstances, nor the peculiar distress the ship was in, were a protection from the rapacious acts of pillage on the high seas.

When the ship arrives, which we expect will be in all this month, we will obtain from the captain the name of the privateer, his protest, and such other information as we may give, which we will forward to you.

We are, &c.

GIBBS & CHANNING.

TIMOTHY PICKERING, Esq. *Secretary for the Department of State.*

ST. BARTHOLOMEW'S, *February* 2, 1797.

MESSRS. GIBBS & CHANNING:

GENTLEMEN: In my last letter, dated the 1st of this month, being the day of my arrival in this port, after a passage of 118 days from Hamburg, I could not inform you of my distress, as time would not permit. I left Hamburg on the 7th of October, and the 18th I left Coxhaven, and put to sea all in good order on board, and proceeded on my passage until the 20th November, when finding myself on the banks of Newfoundland, on the 29th I was in the longitude 57, with heavy gales of wind until the 31st of December; during these gales I sprung my rudder, and stove in the cabin dead lights, filled the cabin with water, and I apprehend stove some casks of gin in the after hold in the ground tier; on the 31st December, I was obliged to bear away, my rudder being so weak, and the weather so bad, that the ship would not bear sail on her; I proceeded under all sail that the ship would bear to the southward until the 30th of January, when I was taken by a French privateer in the lat. 18. 2. and long. 60. 10.; after overhauling my papers, and threatening to make a prize of me, sent the boat on board, and plundered the ship, and broke open the letters, and my trunks and chests, which they took from me, two gold watches, and what clothes they had a mind for, and three gold watches, and three silver ditto, belonging to Mr. Robert Stephens, Newport, sent on by his brother E. Greene, and broke open sundry bales and boxes in the hold, and started one butt of brandy of yours.

ROBERT LAWTON.

SCHOONER BETSEY, (BROWN.)

By this public instrument of protest, be it made known and manifest, that on this day, the fourth of January, in the year 1797, before me Jacob Mayer, consul of the United States at the city of Cape François, personally came and appeared Reynold Brown, master of the schooner Betsey, of Washington, in the State of North Carolina, and being duly sworn according to law, declared and averred for truth, that he sailed from the said port of Washington in the United States, on the 12th day of September last, with a cargo of lumber, and bound to the Island of St Bartholomew's, but through stress of weather and sickness among his crew, he, this deponent, was forced to enter the first port he could make, which was the port of Jeremie, in this island, where he arrived on the 9th day of November following, and disposed of the cargo of the said schooner Betsey, to the best advantage in his power; that he sailed

from the said port of Jeremie on the 20th day of December following, for Turk's Island, and on the 24th day of the same month, being between Cape Nichola Mole and Tortuga, he was captured by the French privateer Le Poisson Volant, commanded by one Captain Thomas, and owned in this port; that on the next day, being the 25th day, he, this deponent, was carried in his own vessel, the aforesaid schooner Betsey, to Jean Rubel, where one of the officers of the said privateer Le Poisson Volant took from him, this deponent, one thousand three hundred and fifty-three dollars and one quarter of a dollar; that in the afternoon of the 31st day following, he was carried to Port de Paix, from which place he obtained leave to come to this city, but was not permitted to bring with him, his mate, or any off the crew of the aforesaid schooner Betsey; and that he accordingly arrived here on the third instant, in a very distressed and sickly state, and now desires a protest, requiring an act of me, the said Jacob Mayer, to avail him, when and where it may be needful and necessary.

REYNOLD BROWN.

Whereupon, I, the said Jacob Mayer, at the request aforesaid, have protested, and by these presents do protest, against the said capture, and for the damages thereby occasioned to the said schooner Betsey and cargo, that all losses, cost, charges, and damages suffered or to be suffered, or sustained thereby, may be submitted unto, suffered, and borne, by those to whom of right it shall or may belong.

Thus done and protested at Cape François aforesaid. In testimony whereof I have hereunto set my hand, [L.S.] and affixed my seal, this 4th day of January, 1797, the day and year first above written.

JACOB MAYER.

The above is a true copy of the original.

WM. JORDAN, *Justice of Peace.*

PITT COUNTY, *May* 31, 1797.

LIBERTY. EQUALITY.

IN THE NAME OF THE FRENCH REPUBLIC.

Extract from the Register of Deliberations of the Commission sent by the French Government to the Windward Islands.

CAPE, 17 *Nivose, 5th year of the French republic, one and indivisible.*

Having seen the minutes of the proceedings on the capture of the galliot the Betsey, of Washington, North Carolina, Captain Reynold Brown, taken the 5th of this month by the French privateer le Poisson Volant, (Flying Fish) Captain Thomas de Haunot, the proceedings on the examination on board of the said galliot, on the 7th of this month, by the justice of peace, John Rabel, from which it results that the said galliot is in ballast, and finding nothing on board except one thousand three hundred and forty-three dollars and one-quarter of a dollar.

Having seen the maritime papers of the said galliot, consisting only of a register and a roll of the crew—the account of the sales of the cargo of the said galliot amounting to 11,460 livres 9 sols 4 deniers, dated at Jeremie the 19th December, 1796, signed La Vigne; a letter from Abm. Welfe, dated at Jeremie the 15th December, 1796, addressed to James Sear, merchant, at Turk's Island, and announcing to him that Captain Brown goes to the said island for a cargo of salt.

A bill of exchange for four hundred dollars, drawn at Jeremie the 15th December, 1796, upon James Sear, of Turk's Island, by Abraham Welfe, to the order of Brown.

Having seen sundry official papers dated at Jeremie, in the month of December, 1796, such as certificates and clearances of the custom houses, permits from the commandant of Jeremie, considering that the papers above mentioned prove, incontestably, that the said galliot sailed from Jeremie, considering that Jeremie is one of the colonial ports in rebellion againt the French republic, and under protection of the British Government, declared in a state of siege by the arrêt of the commission of the 6th of this month.

The commission has decreed, and does hereby decree, that the galliot the Betsey, of the port of Washington, North Carolina, taken the 5th of this month by the French privateer le Poisson Volant, Captain Thomas de Haunot, is a good prize, as well as the moneys found on board, and every thing belonging to the said vessel; that, therefore, all persons having the same in custody, are held to give up the same to the captors.

The present arrêt shall be notified to the captain of the said galliot by the captain of the said privateer, and for the complete execution of the present decree the captor captain shall make proper provision.

Signed on the Registers of the Proceedings,

SANTHONAX, *President,*
RAIMOND, *Commissioner,*
PASCAL, *General Secretary.*

True copy.

The General Secretary, PASCAL.

NANCY, (CUNNINGHAM.)

NORTH CAROLINA, *Port Wilmington:*

Be it known that, on the twentieth day of March, A. D. one thousand seven hundred and ninety-seven, before me, Mark Robert Willkings, notary public for the town of Wilmington, by authority duly commissioned, personally appeared Archibald Cunningham, and entered and reserved a legal protest in my office, and, in order to extend the same, hath this day brought before me John Pollis and Haam Hackmaster, seamen, and each being duly sworn, upon their solemn oaths declare and say, that, on the 22d day of December last, they sailed in and with the ship Nancy, of Wilmington, North Carolina, whereof the said Archibald Cunningham is master, from Bristol, she being tight, staunch, well found, and completely manned, bound to this port, having on board as cargo fifty casks earthen ware, twenty-five casks nails, twenty boxes pipes, forty-two boxes glass, and five thousand five hundred and forty-three bushels salt, and twenty crates empty bottles; that on the 2d day of March following, they were in the latitude of Charleston, in thirteen fathom water, having met with contrary winds and a tedious passage, but with no material occurrence, when they saw a schooner in company with a sloop; that, at three o'clock, they observed the schooner standing for them with all sail; that they, these deponents, crowded all sail to get away, but, notwithstanding, the schooner soon came up with them, and, at half past four, the said schooner was so near as to hail them, and order them to hoist out their boat and come on board; that they, these deponents, suspected the said privateer to be French, although they had no colors up, and did not immediately hoist out their boat, but told the schooner that they had been a long time out, and were very scarce of provisions, and anxious to get into port; whereupon the said schooner hoisted French colors and prepared to fire into the ship, ordering them, at the same time, to send the boat on board with their papers, which they were obliged to do; that the said schooner proved to be a French privateer, called the Pauline, Alexander Bolchoz, master, who sent on board the ship armed men, who took charge of her and sent on board the said privateer the first mate, boatswain, and several of the crew; that the captain of the privateer then declared the said ship and cargo to be a lawful prize, saying that he found by the log-book she had carried naval stores to Great Britain, which were contraband; that the captain of the privateer then made sail, ordering the

ship to keep company, and they arrived at Nassau river, on the coast of East Florida, where the captain of the privateer took some provisions and water and a pilot; and on the 9th following, in the said month of March, they anchored off the bar at St. Augustine, East Florida; that he, the said Archibald Cunningham, went on shore in the pilot boat, together with the captain of the privateer and others belonging to her; that the Government would not consent to the ship being brought into the port of St. Augustine as a prize, in consequence of the good understanding, friendship, and harmony existing between Spain and the United States: whereby the captain of the privateer concluded to send the ship to a French port; that he, this deponent, Archibald Cunningham, taking into consideration the consequence of being sent to a French port, whereby much detention and expense would necessarily arise, and probably a total loss, and then lying at anchor in a very dangerous situation, proposed to the captain of the privateer to ransom the ship, which, after some time, was agreed to, upon the captain of the privateer receiving, in cash, the sum of fifteen hundred dollars, which was to be paid down; that he, the said Archibald Cunningham, went on shore for the purpose of borrowing the money, but found much difficulty in obtaining it, and was under the necessity of giving a premium of fifty per cent.; that, by this means, he obtained the said sum of fifteen hundred dollars, and gave bills upon his owners for the same, with the addition of the fifty per cent., making, in all, two thousand two hundred and fifty dollars; that the said sum of fifteen hundred dollars was counted, paid, and delivered to the said Alexander Bolchoz, master of the said privateer, on the 11th day of the present month, March, in presence of F. R. Fatio, Thomas Travers, George Fleming, Thomas Sterling, and A. Buyck, as by their certificate will appear; that they, these deponents, then got the command of the ship, and proceeded for this port, leaving James Murray, the first mate, who chose to continue with the privateer, and arrived here the 18th day of said month, March. And the said Archibald Cunningham, speaking for himself, further saith, that he verily believes that it was for the benefit of all concerned in said ship and cargo, to effect her liberation in the manner it was done; that it was impossible to get any part of the cargo landed to sell to raise cash, and that he was under the necessity of giving so large a premium for the amount of the ransom money, because it could not be got on better terms, and he thought it was most advisable to accede to that, rather than suffer the ship and cargo to be carried to a French port. And the said John Pollis and Haam Hackmaster, each concurring and agreeing with the foregoing affidavit, as far as could come to their knowledge, have each respectively signed their names hereto.

ARCHIBALD CUNNINGHAM, Jr.
JOHN POLLIS,
HAAM HACKMASTER.

Wherefore the said Archibald Cunningham doth protest, and I, the said notary, at his request, do solemnly protest against the said privateer called the Pauline, the commander and crew thereof, and against the French republic, for all losses, damages, delays, detentions, costs, expenses, and charges whatever, already suffered by the said ship Nancy and her cargo, or which may arise or accrue to the owners, underwriters, and all concerned. Thus done and protested at Wilmington.

In testimony whereof I have hereunto signed my name and affixed my notarial seal, April the third, A. D. one thousand seven hundred and ninety-seven, and in the twenty-first year of our independence.

MARK R. WILLKINGS, *Notary Public.*

NORTH CAROLINA, *Port Wilmington:*

I certify the foregoing copy to be a true and exact copy of Captain Archibald Cunningham's protest, taken from the records of my office, as recorded from the original, in book C, pages 220, 221, 222.

In testimony whereof I have hereunto signed my name and affixed my notarial seal, Wilmington, May [L. S.] the tenth, A. D. one thousand seven hundred and ninety-seven, and in the 21st year of our independence.

MARK R. WILLKINGS.

The owners of the ship Nancy, Captain Archibald Cunningham and cargo,

To Robert and James Donaldson & Co., DR.

To cash paid the bottomry bond, granted to Mr. William Cooke, dated St. Augustine, March 11, 1797, being for the ransom of ship Nancy and cargo, as per Captain Cunningham's protest,	$2,250 00
To ditto, paid Captain Cunningham for the following sums disbursed by him at St. Augustine, viz:	
Paid for going from the ship at the bar to the town,	4 00
Do. for expenses of Nancy's seamen, on shore, at St. Augustine,	20 00
Do. for entering a protest, and receiving a copy of do.,	13 00
Do. filling water and carrying with the people on board the ship,	30 00
Do. paid pilotage at St. Augustine, as per receipt,	20 00
A boat carried to St. Augustine by the Frenchmen, and unavoidably left there, cost at Bristol, (Great Britain) equal to	46 66
An anchor purchased at Charleston to replace one broke at St. Augustine bar, whilst the ship was in possession of the privateer,	93 64
Paid freight of do. from Charleston,	3 00
Paid sundry repairs necessary at Wilmington, occasioned by the damage done to the ship whilst in possession of the privateer, viz: cutting away and carrying off running rigging, spare cordage of every kind, spare canvas, blocks, buoy, &c. &c. viz:	
Paid William Smeeton, for block maker's account, (dollars at 12s.) £14 15*s.*	24 58
Ditto John Calhorda's bill for cordage, as per account, (dollars at 12s.) £67 17*s.* 4*d.*	113 11
Paid Scedgewick Springs for blacksmith's account, (dollars at 12s.) £16 12*s.* 0*d.*	27 66
Ditto. John Martin, for cooper's account, £8 16*s.*	14 66
Ditto for one and one half bolt of canvas to replace so much carried off by the privateer's men, at 18 dollars per bolt, is	27 00
Ditto wages of master, officers, and seamen, for twelve days, being the time the ship was in possession of the privateer,	176 00
Half a box of candles pilfered by the privateer's men,	6 50
Paid Js. Allen for glazing and repairing skylight and cabin windows, occasioned by damages received from the privateer's men, £2 15*s.* 6*d.* is	4 62
Ditto, riggers for refitting the vessel, and putting her in the same order and situation as before the capture, is	44 50
	$2,918 93

CR.

By an anchor broke at St. Augustine bar, replaced by one purchased at Charleston; the old anchor weighed 866 pounds, at 7 cents per pound, is	60 62
Balance,	$2,858 31

Errors excepted,

ROBERT & JAMES DONALDSON & Co.

WILMINGTON, *May* 5, 1797.

STATE OF NORTH CAROLINA, *New Hanover county, ss.*

Personally appeared before me John Blakely, justice of the peace for New Hanover county, North Carolina, Archibald Cunningham, master of the ship Nancy, belonging to the port of Wilmington, and being sworn, declareth and saith, that the foregoing account is just and true; that the sums therein mentioned as paid, have been paid; that the damages and losses sustained have been repaired and replaced as per proven accounts; and the sums charged and claimed by Robert and James Donaldson and Co. being, in all, two thousand eight hundred and fifty-eight dollars thirty-one cents, is the loss, and no more, actually sustained by the owners of the ship Nancy and cargo, by the capture, pilferage, and detention of the said ship by the French privateer Pauline, as per his protest, dated at Wilmington, March the twentieth, A. D. one thousand seven hundred and ninety-seven.

ARCHIBALD CUNNINGHAM, Jun.
JOHN BLAKELY, J. P. (Seal.)

BRIG TRIO, (STORY.)

JAMAICA, *ss.*

William Williams Story, master of the brig Trio, of New York, in the United States of America, Samuel Wordelin, boatswain, James Johnson, and Abraham Day, seamen, all belonging to the said brig, being severally duly sworn, upon the Holy Evangelists of Almighty God, make oath and say, that they sailed from New York aforesaid, on the tenth day of December, one thousand seven hundred and ninety-six, bound for Kingston in the island of Jamaica aforesaid, laden with a cargo of meal, potatoes, bread, fish, and staves, the said brig being tight, staunch, and every way properly equipped and manned for her said voyage; that nothing material occurred until the 27th following, then off Grand Turk's Island, was brought to and boarded by a French republican privateer schooner, mounting twelve guns, called the La Trompeuse, whereof one Antonio La Barrere was commander, who immediately took possession of the said brig Trio, and took on board the said schooner La Trompeuse, William Beadle, mate, John Parker and William Corben, seamen, Americans, and residents of New York, aforesaid, and also William Buly, an Irishman by birth, as these deponents are informed and verily believe, and a resident of New York, aforesaid. And also took part of three coils of new rope, one barrel of bread, and several other articles. That the said La Barrere sent a prize master and four men on board the said brig, and ordered her to proceed for Cape François, in the island of St. Domingo; that on the day following, being the 28th of the same month of December, at about seven o'clock in the forenoon, these deponents (together with William Hunter, a black man, also belonging to the said brig) having a favorable opportunity, &c. re-took possession of the said brig, and proceeded with her on their voyage to Jamaica aforesaid, and arrived at Kingston aforesaid, on the 31st day of December last.

W. W. STORY,
SAMUEL WORDELIN,
JAMES JOHNSON,
ABRAHAM DAY.

Sworn at Kingston aforesaid, the *20th day of January*, 1797.

Before me, THOMAS HUGHARD.

BRIG RUSSEL, (SMITH.)

The brig Russel, Captain Thomas Smith, owned by Messrs. John G. and Thomas Blount, and worth about eight thousand dollars, sailed from Ocacrock, North Carolina, in December last; cleared out for St. Thomas, but went to Providence, and was going from thence to Jamaica when she was captured by the French privateer Trompeuse, Captain Barrere, and carried into St. Domingo, where vessel and cargo were condemned and sold. It is to be observed that Captain Smith had positive instructions not to go, or attempt to go, to any British Island that did not belong to Great Britain at the commencement of the existing war between France and England.

Copies of the condemnation, and of Captain Smith's protest, will be deposited in the office of the Secretary of State, in a few days.

THOMAS BLOUNT.

June 15, 1797.

By this public instrument of protest be it made known, that, on this 2d day of February, 1797, before me Leonard Dessaux, notary and tabellion public, duly admitted, and sworn for the port of Washington, personally appeared Thomas Smith, late master of the brigantine Russel, and being duly sworn according to law, declares for truth, that the Russel sailed from Ocracock bar, in the State of North Carolina, on the 9th day of December last, with the following orders, to wit:

WASHINGTON, *November* 16, 1796.

CAPTAIN THOMAS SMITH:

Proceed with the Russel as fast as possible into Shew Castle road, where the Grampus will, speedily as possible, deliver you the rest of your load; when that is well completed, proceed to sea, and my present opinion is, that it will be best to proceed to the Island of St. Thomas, and either sell there or at Tortola, as you find will best answer; but sell where you will, avoid Jews and desperadoes who will run after you to purchase; always inquire for the best houses, and make your contracts in writing, and be sure to have despatch if possible.

If salt is to be had at a quarter of a dollar per bushel, ballast with it, and bring good sugar for balance; and if salt is higher, bring one-third rum, and two-thirds sugar, for your returns. I do not consider this order binding; you will inquire of all the vessels that arrive from the West Indies, and proceed to that market that promises the best voyage; and if you hear that herrings answer well at any where you can go, take them in at the Castle, and consult Jack Wallace about the market before you sail. But in no case are you to proceed to an English port in a French island. Or should I suppose lumber will answer well in any French port, as they have not yet began to improve, so that St. Thomas, St. Bartholomew's, Tortola, Barbadoes, Grenada, Antigua, or Jamaica, must probably be the place; therefore clear out for St. Thomas's.

Write me from the bar for what place you sail, and write me every opportunity to any part of the continent from the place you arrive at. Use economy, and make despatch, with my best wishes for your safety.

I am yours, &c.

J. G. BLOUNT.

And, that under these orders he sailed for the island of New Providence, in consequence of information he received, that there had been a hurricane at that place, and arrived there on the 18th of the same month; but not finding an advantageous market, he sailed again on the 19th, in search of a better. That on the day following, at eight o'clock, A. M. they were boarded by a French privateer La Trompeuse, commanded by Antoine Barrere, and owned in Cape François, in the island of St. Domingo. That the said Antoine Barrere took from on board the Russel, the said Thomas Smith, the vessel's register, and other papers, which they still detain, and sundry stores, and detained him some time on board the privateer; then sent him on board the Russel, and took out the mate, and ordered the Russel into the Cape François, where she arrived on the 31st December, and in a few days the commission condemned the said brig Russel and cargo, as a prize to the aforesaid privateer and crew. And therefore now the said Thomas Smith requires a protest.

THOMAS SMITH.
JOHN HUTCHIN.

Wherefore I, the said Leonard Dessaux, at the request aforesaid, have protested, and by these presents do protest, against the said Captain Antoine Barrere, the owners of the privateer La Trompeuse, the commission who condemned said brig Russell, the republic of France, and all concerned therein, for all loss and damages which have, or may accrue, to the owners of the said brigantine Russel and cargo, or all others concerned therein.

Thus done and protested at the port of Washington aforesaid. In testimony whereof, I the said Leonard Dessaux have hereunto set my hand, and affixed my seal of office, this day and date aforesaid.

L. DESSAUX, *Notary Public.*

LIBERTY. EQUALITY.

IN THE NAME OF THE FRENCH REPUBLIC.

Extract of the Register of the Resolutions of the Commission delegated by the French Government to the Leeward Islands.

CAPE, 21*st Nivose*, 5*th year of the French republic, one and indivisible.*

Having seen the certificate of the capture of the brig Russel of Washington, Captain Thomas Smith, taken the 30th of Brumaire last, by the French privateer La Trompeuse, Captain Barrere. Having seen the proceedings of the justice of the peace of the Cape, about said prize. Having seen the shipping papers of the said brig, consisting of the register, the sea-letter, and the manifest of the cargo. Having seen a declaration of said Captain Smith, which appears to have been made on board, in which he says he has remained thirty hours in the island of Providence, and sailed thence for Jamaica, to the consignation of Richard Lake in Kingston. Having seen a petition of the said Captain Smith reclaiming the said vessel in consequence of his pleading that he was bound to a British port, not to any of the ports of St. Domingo revolted against the republic.

Considering that from all the vouchers above related, there results the incontrovertible evidence that the said brig Russel, Captain Thomas Smith, was going from an English port to another.

Considering that the resolution passed by the Executive Directory, the 14th Messidor last, prescribes to all the vessels of the republic, and the armed vessels belonging to individuals to treat neutral vessels in the same manner as they suffered the English to treat them.

Considering that it is publicly known that no neutral flag is respected by the agents of the British Government in the Antilles. And that public evidence is confirmed by a number of declarations made, or depositions recorded in the office of the Secretary-general of the commission.

Considering that it is in consequence of the official arrival of the above resolution of the Executive Directory, and in consequence of the publicity of the manner in which the English Government in the Antilles treats neutral vessels, that the commission passed their resolution of the 18th of this month, by which they declare all neutral vessels bound to or from English ports to be legal prize.

The commission hath resolved, and do resolve that the brig Russel, of Washington, Captain Thomas Smith, taken the 30th Brumaire last, by the French privateer La Trompeuse, Captain La Barrere, is a legal prize, as well her cargo, and every thing that may belong to it, the whole to be sold to the profit of the captors; therefore all guardians and detainers of said vessel and her cargo are bound to deliver both into the hands of the captors or their attorney.

The present resolution to be notified to the captain of the said brig by the captain of the said privateer or his attorney—and for the complete execution of the present resolution, the captain, captor, or his attorney shall, and may, if necessary, apply to whom law directs.

Signed in the Register of Public Deposition,

PASCAL.

SCHOONER MILTON, (BROOKS.)

Extract from the Registers of the Secretary of the Municipality of Basseterre, Guadaloupe.

This day, the 19th Germinal, 5th republican year, at the municipal office of Basseterre, Guadaloupe, in which assisted the citizens Patriat, mayor, Négré, national agent, Jean Baptist Seignoret, municipal officer in service, assisted by the secretary, appeared Thomas Brooks, captain of the American schooner Milton, of New York, who under the faith of an oath at the moment administered to him, and assisted by the interpreter of the English language, declared that he sailed from the said place on the 7th of March, (O. S.) with a cargo of flour, maize, biscuit, peas, rice, bound for Barbadoes and Martinique, under the direction of M. Valentine Blake, one of the owners of said schooner and cargo; that he arrived at Barbadoes the 29th current, and sailed thence on the 31st of the same month for Martinique; that the day following on his route he perceived a sail at seven in the morning, bearing down upon them under full sail, and all oars out, the island of Martinique then bearing W. N. W. distant near six leagues, but being becalmed was overtaken by her, which proved to be the French privateer called the Drague, of four guns and fifty men, commanded by Captain Gabot, belonging to citizen Sevarme, of Basseterre, Guadaloupe, who manned us, and brought us to the port of Basseterre, where we arrived on the 30th of April, and after which intervened the judgment of the commercial tribunal, condemning the said schooner as good prize, together with her cargo, for the benefit of the captors. Wherefore he requires an act of reservation and protest, which he makes as well in his own, as in the name of the interested in the schooner Milton and her cargo, both on account of her arrest, and being brought into this road by the said privateer, and on account of the confiscation pronounced by the said judgment of the said schooner and her cargo, for the benefit of the captors, and generally for all wrongs, damages, losses, expenses, detentions, and prejudices, which may result therefrom, against the interests of his owners and concerned, reserving to himself to use the said reserve and protest, against whom, before whom, and wherever it may be requisite, even to make the same more full and ample, if he thinks proper, either at New York or elsewhere, which has been delivered to him by the members of the office who have signed with him, the interpreter and secretary.

Signed on the register, Thomas Brooks, Bernier, interpreter, Patriat, mayor, Négré, national agent, and Seignoret, municipal officer in service, and Deschamps, secretary.

And afterwards appeared Shillah Kelly, mate on board the schooner Milton, who, after making oath to speak the truth, and under the assistance of the same interpreter, having requested a communication by him of the declaration this day made by Thomas Brooks, captain of the said schooner, said, that it was exactly agreeable to the truth, and that he had nothing to add to, or take from the same, and thereof requested an act might be delivered to him. And he signed the same, with the interpreter and members of the office. Thus on the registers, Shillah, Bernier, interpreter, Patriat, mayor, Négré, national agent, Seignoret, officer in service, and Deschamps, secretary.

Collated, DESCHAMPS, *Secretary.*

I John Baptist Seignoret, municipal officer of this commune, Basseterre, Guadaloupe, performing in this town the functions of mayor, in the absence of citizen Patriat, mayor of this commune, Basseterre, Guadaloupe, certify to whom it may concern, that the signature above is that of citizen Deschamps, secretary of the municipality of Basseterre, Guadaloupe; that thereto, faith is, and ought to be given, as well in, as out of judgment. In faith whereof, I have signed these presents, which shall be countersigned by the secretary, and sealed with the seal of the municipality.

I further certify, the stamped and comptrolled paper are not used in this colony.

Given at the commons house of Basseterre, Guadaloupe, the 19th of Germinal, 5th republican year.

SEIGNORET, *Mayor in this quarter.*
DESCHAMPS, *Secretary.*

Extract from the registers of the Tribunal of Commerce established in the Island of Guadaloupe, sitting at the Town of Basseterre, in said Island.

We, the judges of the commercial tribunal, having seen the papers which have been sent to it, concerning the capture by the privateer Drague, Captain Antoine Gabot, of the schooner Milton, Captain Thomas Brooks, having also seen the declarations and interrogatories annexed thereto, made on the said prize with the municipality of this town of Basseterre, and after having heard thereupon citizen Bazin, surrogate for the commissioner of the Executive Directory, near the said tribunal and his conclusions, having also heard the report, and considered the whole. Whereas, it is proved by the declarations of the captain, of the supercargo, and by the crew, that the destination of the schooner Milton for the Island of St. Croix was feigned, that her true destination was Barbadoes or Martinique, that she was arrested going from Barbadoes to Martinique, that moreover she was without sea-letters emanating from the authority of the President of the United States of America, and that the supercargo was an Irishman, naturalized as an American only since the present war. The tribunal as well in virtue of the regulation of 21st October, 1744, as of the arrêt of the agents of the Executive Directory of 13th Pluviose last, declares the said schooner, her tackle, apparel, and cargo, good prize to the benefit of the captors: and therefore orders, that the same be delivered up to whomsoever the same may belong, to be disposed of as their property, an inventory thereof being previously made.

Order, &c.

Done and judged by us, Victor Croizier, president, Dominique Romain, and William Curtet, judges of the said tribunal, the 18th of Germinal, in the morning, in the 5th year of the French republic, one and indivisible.

Signed on the register, CROZIER, *President.*
D. ROMAIN, and
CURTET.

Collated, LATRIERE.

Copy for the captors.

I Victor Croizier, president of the commercial tribunal established in the Island of Guadaloupe, sitting at the town of Basseterre of the said island, certify and attest, to all whom it may concern, that Latriere who has signed the copy of judgment above written, is secretary to the said tribunal, that faith should be given to his signature, both in and out of judgment. I also certify that the stamped paper is not in use in this colony.

In testimony whereof, I have signed these presents, and caused the common seal of the tribunal to be hereto affixed.

Done at Basseterre, Island of Guadaloupe, the 18th Germinal, 5th year of the French republic, one and indivisible.

CROZIER, *President.*

Sealed at the said place, the said 18th Germinal, 5th year.

LATRIERE.

No. 4.

EXTRACTS FROM COMMUNICATIONS RECEIVED FROM CONSULS OF THE UNITED STATES, RELATIVE TO DEPREDATIONS COMMITTED ON THE COMMERCE OF THE UNITED STATES, BY THE FRENCH.

Copy of a letter from M. Roquesante, Consul of the French republic, at Cadiz, to Joseph M. Yznardi, consul of the United States, at the same place, dated

SEPTEMBER 12, 1796.

CITIZEN CONSUL:

I received your despatch of the 12th September, (O. S.) in which you desire to know my opinion on the subject of the American prize vessel, called the Mercury, commanded by Captain Samuel Brooks, of your nation, captured by the two French privateers, Le Droit de L'Homme, and L'Escamoteur, and brought into Tarifa, the day before yesterday.

The arrêt of the Executive Directory, dated 12th Messidor, which I annex to my despatch, will inform you of the reasons which have authorized our cruisers to arrest the American vessel in question.

The bill of health which was found on board of this American brigantine, shows, that this vessel was bound for Gibraltar, where she was going to sell her cargo, consisting of flour, pitch, tar, &c. It is therefore evident that these provisions and munitions of war were destined for the enemies of the republic. In consequence of the proofs which evidence the succors which it was attempted to carry to this power, with which France is at war, and of the arrêt of the Directory, of the repeal of which I have no knowledge, I do not at present see how I can avoid pronouncing my judgment in favor of the captors and owners. In the mean time to give you an unequivocal proof of the desire entertained by my Government, to maintain the good understanding which prevails between it and yours, I inform you, that I shall not pronounce judgment upon this prize, until I shall have obtained new information, and for this purpose I am about giving orders to my chancellor, to go to Tarifa, to proceed accordingly.

MALAGA, *January* 28, 1797.

SIR:

Soon after I had the honor of addressing you my former letter, No. 10, dated the 10th November, of last year, a most cruel instance of injustice happened at this port with two of our vessels, viz. the brig Rover of Baltimore, Arthur Smith, master, and the schooner Nancy of Alexandria, Virginia, commanded by Job Palmer; both of them brought from hence cargoes of sugar and coffee to this port, where, on account of the high duties paid on landing, makes the importation next to a prohibition; a sale, however, took place afloat and the vessels were to proceed, and deliver these cargoes at Tangier, a free port in Morocco, to be re-shipped there on others for a market; at this juncture, a small French privateer called the Ferret, belonging to Marseilles, and commanded by Anthony Daumas, lay here, who made sail at the same time of the Nancy and Rover, getting under way, and captured them while they were yet within gunshot of this territory, and brought them back with the French flag flying on their fore-topmasts, manned with Frenchmen, all their papers seized and put into the hands of the French consul here, who pretends to have a prior right for adjudging all cases of this nature in his chancery, although they belong to neutral Powers. When I called on the consul to know the motive of stopping the vessels, I learned from him it was founded on a suspicion of their going to an enemy's port; (say Gibraltar) another motive was the Nancy's carrying thirty pipes of wine, which the supercargo on board her had purchased here for his account, which he intended to carry home, but I believe had not yet drawn out a bill of lading to produce; another motive was, that an English passenger on board the Rover, was seen breaking up a remnant of paper, at the time of the French crew boarding her; either of which said circumstances, he said, was a sufficient motive for condemning the property, according to the established marine laws of the French republic. After hearing these vague insinuations from the consul, I judged it highly proper to call on the Spanish Government for getting the vessels and cargoes liberated from the French chancery, and to decide the business conformable to what they were bound to do by the sixth article of the treaty concluded with the United States of America; but such was the timidness I found there about meddling with any matter that had any connexion with French interest, that I could not obtain any redress until the Captain-general of Malaga consulted the court. I also carried my claim there, and after many remonstrances made to the Secretary of State, about our

ships being taken, when within gunshot of this territory, he was prevailed on to order the General at Malaga to withdraw the American papers out of the French chancery, and that he should let the consul know His Catholic Majesty's displeasure in wanting to establish a jurisdiction in Spain, not yet allowed to any nation at no time whatever; this circumstance has in no respect yet bettered the case, for the consul has on two occasions given a flat denial to the King's order, and won't give up the papers until he is desired to do it by the Directory in Paris. During this interval of knowing who is to decide the business, the consul has passed sentence on the Nancy, condemning the thirty pipes of wine as lawful prize to the captors, with costs of chancery, which is ten pounds sterling, for the neglect of not carrying a bill of lading; putting the ship and remainder of the cargo at liberty. The Rover would appear to be under worse circumstances, whereas both ship and cargo are liable to forfeiture on account of the circumstance of breaking a paper at the time of capture. Whatever may be the issue of this unlucky business, I shall take care, sir, to acquaint you, by which means you will be informed of the treatment shown by the French to our flag, and the backwardness of the Spaniards by not redressing such depredations done to the colors in their ports. I send you enclosed a copy of the consul's sentence, and his answer to a letter I wrote him, making an inquiry of all the papers that neutral vessels should have on board, to satisfy the French cruisers for my Government.

I have the honor to be, &c.

MICHAEL MURPHY.

CONSULATE OF MALAGA, *French republic.*

LIBERTY. EQUALITY.

FRENCH REPUBLIC.

We, Nicholas Maurice Champre, consul of the French republic with the kingdom of Grenada, resident at Malaga, authorized by the laws of the 3d of Brumaire and 8th of Floreal, of the 4th year of the republic, to pronounce on the validity of prizes brought into the ports within the limits of this consulate by the ships or privateers of the republic, having seen the collection and inventory of the papers found on board of the Anglo American schooner the Nancy, Captain Job Palmer, taken by the French privateer Le Ferret, Captain Anthony Daumas, arrived at Marseilles, as well as sundry other documents exhibited, as well by the said citizen Daumas as by the said Captain Palmer, and by William Bartleman, supercargo on board of the said schooner. The said collection and inventory executed by citizen John Baptist Pelieu, chancellor of the consulate, agreeably to the said law of the 3d Brumaire, 4th year.

Having also seen the instruction given by the said chancellor, consisting of the interrogatories and declarations by him received from the said Captain Palmer, the said supercargo Bartleman, the pilot Joseph Quill of the said schooner, and from the citizen Daumas, and several officers and others on board of the said privateer, among others from Anthony Joseph Daumas, prize master on board the said prize, as also the papers containing the said instruction mentioned in the said inventory.

Considering on the one hand that the only motives of detention of the Nancy, alleged by Citizen Daumas and his officers, both in the process verbal written at sea, and in their declarations, consist, 1st. That the destination of this vessel was Gibraltar. 2d. That it might be presumed that the supercargo was an Englishman.

That these two motives are destitute of foundation; that without examining the unforeseen consequences of the first motive, it is sufficient to observe that the destination for Gibraltar was assigned to the Nancy in a preceding voyage; after which this vessel had come from Gibraltar to Malaga, and her charter party proves that she went from Malaga to Tangier on a voyage entirely neutral, and from which neither delivery nor sale was to take place with the enemies of the republic; that this same act contains indeed a conditional clause in virtue of which the Nancy might make the same voyage to Gibraltar, in the case provided for in the clause; but that a conditional destination, and for a voyage which concerns only individuals of a neutral nation, as is explained sufficiently in the charter party, cannot give a motive to the lawfulness of the capture of a neutral vessel. That the objection which concerns the supercargo is not better founded, since it is proved by the declaration making part of the instruction, and by written proof that the supercargo was born at Fairfax, in America, and that at fourteen years of age he was bound an apprentice to a merchant.

That the Nancy is furnished with all the papers required by the laws of France for proving the neutrality of the vessel; considering, on the other hand, that the papers relative to her cargo are not in the same situation; that her supercargo has declared that he had on board among other merchandise thirty pipes of Malaga wine, which are not entered on any of the vessel's papers; that the said supercargo has, it is true, produced a bill of lading of them, which was found on board in the drawer of his table, but two days after he was brought into this port by the said privateer, and when it was proved also by the declaration of the said Bartleman that he had returned on board the schooner, after he had been on shore; whence it results that this bill of lading has probably been fabricated on shore after it was too late, and carried on board, and consequently it should be deemed as invalid; that hence, according to the sixth article (not abrogated by any posterior laws) chapter IX, book 3, of the marine ordinance of 1681, these thirty pipes of wine are within the confiscatory clause.

That the objection made by William Bartleman, grounded upon the Ferret's having sailed from the port of Malaga a little after the Nancy, appears to be of no consequence, 1st. Because the rule generally adopted, which establishes an interval of twenty-four hours between the sailing of a vessel and that of an enemy ship going against her, cannot be applied to the respective sailing of vessels of two neutral powers. 2d. Because in the present war upon the ocean, the enemy of the republic being also that of Spain, the rule above mentioned ceases to apply in the ports of the latter Power.

That this last motive in like manner justifies the citizen Daumas in the supposition of the contested fact, that the Nancy might have been taken in the waters of Spain, since the French privateers were free to visit neutral vessels, in order to search them for enemies' property upon the coast of Spain, in the same manner as upon those of the republic, the two Powers being engaged in a common cause.

That nevertheless the single article of thirty pipes of wine being liable to confiscation on board the Nancy, justice requires that this vessel should be put in a situation of pursuing her voyage as soon as possible, with the rest of her cargo.

We declare the thirty pipes of wine found on board the schooner Nancy to be good prize to the profit of the owners and interested in the French privateer Le Ferret, Captain Anthony Daumas; hereby authorizing them to unlade the same and make sale of them provisionally, depositing the proceeds thereof in the chancery of the consulate, subject to the duties due to the marine invalids, those which may become due on account of the said sale, and to conform themselves, moreover, to the laws and regulations relative to the marine, unless the captain or interested in the said schooner and her cargo should prefer having the said thirty pipes of wine estimated at their expense, and by proper persons appointed by them and citizen Daumas in behalf of the owners, and to have the amount thereof deposited provisionally in the said chancery. We, moreover, declare that there is no cause for a longer detention of the Nancy and the residue of her cargo. We order the citizen Daumas to withdraw his crew from the said vessel which we authorize freely to pursue and continue her voyage; without the captain of the Nancy or the interested in her being able to recover any indemnity on account of a detention justified by the want of a bill of lading of the said thirty pipes of wine; and for the same reason they shall pay the expenses of proceedings and of the present judgment, of which a copy shall be delivered and notified to the concerned, and which shall be executed, the entry of any appeal notwithstanding.

Done in the consulate house, and sealed with the national seal of the consulate at Malaga, the 5th Frimaire,
[L. S.] 5th year of the French republic, one and indivisible, &c.

CHAMPRE. *Consul of the French republic.*

Notified the said day, 5th Frimaire, in the said year, by me, John Baptist Pelieu, chancellor of the consulate of the French republic in the city of Malaga, to Don Joachin Hidalgo, consignee of the schooner Nancy and her cargo, to whom I delivered the present copy of the judgment above mentioned, duly collated with the original, deposited in the archives of this chancery.

J. B. PELIEU, *Chancellor.*

Extract of a letter from J. Cox Barnet, Consul of the United States at Brest, to the Secretary of State, dated Brest, January 29, 1797.

I have first to premise, that, since my residence at this place, most of my time and attention has been taken up in relieving, or endeavoring to relieve, many of our distressed seamen, who have been brought into this port, taken in British vessels, where they had, in most instances, been impressed, and here made prisoners of war. When any of these had been so fortunate as to have been able to preserve their passports or protection, (proofs of their citizenship) I have, till now, immediately obtained their enlargement, when, on the contrary, they have (from accident, or the violent outrage of the British commanders, who sometimes have totally disregarded them and destroyed them) been deprived of them, I have not met with the same success in my application for them. My further applications of this nature, I am too sorry to find, will no longer be of any avail, in consequence of an order from the minister of the marine and colonies, *forbidding the further enlargement of any citizens of the United States, who may have been taken on board British ships, and stating, that they shall, henceforth, be considered and treated as prisoners of war.* This information I had two days ago from the ordonnateur of the marine, in reply to my application for five of our citizens, now detained in the prisons of this place as prisoners of war.

Under this cover, sir, I have the honor of enclosing you a copy of the condemnation of the ship Diana of Savannah, taken and sent in here, in October last, by the privateer Le Vengeur, of this port, and condemned by the tribunal of commerce, of this place, on the 28th November last, for want of a sea-letter, together with a copy of the protest of the master of said ship, Nehemiah I. Ingraham, of Boston, to which I beg leave to refer you. We are going on with an appeal in this affair before the tribunal of the department at Quimper, where we hope to meet that justice we believe wanting in the tribunal of commerce.

Respecting this condemnation, I have to observe to you, sir, that the owners of this privateer are citizens of the United States; the husband, Captain John Cooper, of Virginia. The captors endeavoring to make it appear that the register of said ship is a counterfeit, alleged " that all American ships' registers were struck on American manufactured paper, whereas this appears to be of English fabric; that the signature 'Joseph Nourse,' is, in this, done with the pen, whereas, in the original ones, it is done (they say) with a stamp or plate; that this register being No. 8, only, and issued at Bath, near Wiscasset, was another mark of its falsity, there having been more than eight vessels built at Bath since the year 1794, when that register was issued," &c.

These circumstances, however, sir, were not attended to by the judges of the tribunals of commerce, who appear to have grounded the condemnation of this ship on her being deficient in the sea-letter, by virtue of the twenty-fifth article of the treaty of 1778.

No citizens of the United States are resident at this place; the few who are here, are, at this time, owners of, and interested in, French privateers. I do not think I shall expose myself to censure in hazarding the observation, that the privateers of this port which have offered any molestation or vexation to American vessels, are wholly, and in part, owned by citizens of the United States. Of these, I may quote the privateer Bonaparte, (formerly ship Apollo, of Boston) wholly owned by Americans; the privateers Vengeur and Le Hardy, owned principally by Americans, and the latter commanded by John Cowell, of Boston.

I have the honor to be, &c.

J. COX BARNET.

P. S. While concluding the above, sir, I am informed by good authority, of the arrival of Captain Cowell of the privateer Le Hardy, at Morlaix, and that he has taken a ship of four hundred tons, of Boston, bound from thence to London, loaded with sugar, coffee, cotton, &c. and ordered her to a French port; I cannot learn her name.

J. C. B.

Extract from the Register of Protest of Masters of foreign vessels.

On the 27th Frimaire, in the fifth year of the French republic, one and indivisible, at the national custom house at Brest, appeared Nehemiah I. Ingraham, master of the American ship Diana, belonging to Mr. Edward Swarbrick, of Savannah, in the State of Georgia, in the United States of America, of the burden of about two hundred and eighty tons, furnished with a crew of thirteen men; who, assisted by citizen C. N. C. Langlot, as interpreter, declared, that he sailed from Liverpool with his said vessel, on the 15th of October, 1796, with a cargo of divers merchandises; that at sea, whilst he was pursuing his destination with a favorable wind, on the 23d of October, 1796, in latitude 49 degrees, 31 seconds, and 9 degrees, 30 seconds, longitude, from the meridian of London, his mate came into the cabin very early in the morning, and told him that the wind was favorable, and a vessel was sailing towards them. Having mounted the quarter deck, he was not there long before she fired a gun at the Diana; he immediately hoisted his flag, and pursued his course: another gun was fired at him, the ball of which fell near to his vessel; then he lay to, and when the vessel came alongside of him, they asked, in English, whence he came; he answered, that he came from Liverpool, and was bound for Savannah: they then ordered him to hoist out his boat, and come on board with his papers, which he immediately did. Whilst he was aboard, he perceived she was a privateer, called the Vengeur, Captain Michel, of Brest, whereupon he was astonished seeing that she carried an English flag. His papers being examined, they were found complete. He was then asked whether he had a sea-letter on board: he answered affirmatively. His crew was kept on board the privateer, and he was sent on board his vessel, accompanied by two officers and several men. When he came on board his vessel, he immediately looked into his little trunk to find the sea-letter among his other papers, but not finding it, he was going to search for it in his chest, where it had been put with various other papers and letters, but he was not permitted to come near it; one of the officers who accompanied him, speaking to him in English, and absolutely forbidding him to search in the chest, where the paper they demanded certainly was; and finally, they obliged him to go into the boat, without even permitting him to take his bed, and letting him take only a very few of his clothes: they took from on board his vessel, seven sailors, the cook, and two passengers, who were carried on board the privateer. Several officers of the privateer spoke with the captain, and threatened him, ending the conversation by demanding from him an acknowledgment of his not having a sea-letter: he refused, as was his duty; but they answered, that if he did not sign the acknowledgment, they would put him in irons and confine him in the hold. To avoid this ill treatment, and knowing that an act extorted by violence, and from one who was not free, cannot prejudice him who signs it, he determined to give them the acknowledgment they demanded, because he found himself threatened and surrounded by armed men, a circumstance which must justify him relatively to the writing of the acknowledgment and its form: he adds, that he saw unloaded, and taken out of the Diana, cordage, sail cloth, painter's oil, compasses, fowls, cheese, brushes, brooms, a speaking trumpet, &c.; that he continued on board of the privateer Vengeur, until the 25th of October, when she was captured by the English frigate St. Margaret, which carried her to Cork; and he was informed at London, that his vessel, the Diana, was carried into the port of Brest, which determined him to go there in order to claim his said vessel and her cargo, that he might proceed according to his destination, seeing his neutral and friendly quality, which is proved by his register, or deed of property, the deed of sale, shipping articles, bills of lading and invoices of part of the cargo, and even by a sea-letter, which might be found in his chest remaining on board the privateer.

For all which he protests as well against his arrest as against the distress of his person, and against the violence used towards him in extorting from him the acknowledgment above mentioned, reserving his right to sue for damages and interest against the agents and owners of the privateer Vengeur, and to oblige them to bear all losses resulting from the arrest of his said vessel; reserving his right to extend his protest and to have the present declaration attested to by his crew, in case they should come to France, as he expects to pursue the remainder of his voyage, and has signed on the register with citizen Langlot, his interpreter.

NEHEMIAH I. INGRAHAM, *Captain and*
LANGLOT, *his Interpreter.*

A copy conformable with the original,

LE TOURNEUR.

I, J. Cox Barnet, consular agent of the United States of America, for the port of Brest, do certify that the above protest is a true copy of the original in my hands, delivered to me by citizen Le Tourneur, collector of the customs of this port.

J. COX BARNET.

January 28, 1797.

IN THE NAME OF THE FRENCH PEOPLE.

The Tribunal of Commerce of Brest, Department of Finistere, has rendered the following Judgment.

Extract of the Register of Audience of the Tribunal of Commerce of Brest, Department of Finistere.

The tribunal of commerce established at Brest, exercising the functions attached to it by the decree of the 14th February, 1793, (O. S.) and in execution of the law of the 3d Brumaire last, which gives to it the power of rendering judgment in cases of prize, which had been before given to it by a decree of the committee of public safety, of the 4th Floreal, 2d year, having seen the declarations made before a justice of the peace, of the 8th of last Brumaire, by the prize-master, that citizen Michel, commandant of the privateer Vengeur, being on a cruise, in latitude 50 degrees 30 seconds, and 11 degrees 43 seconds longitude, took the ship Diana, Captain Ingraham, calling himself an American, of the burden of about three hundred tons, laden with divers merchandise, on a voyage from Liverpool to Savannah, having six passengers, under the American flag; the request of citizen Corbet, commissary *aux classes*, of the same date, to the justice of the peace, to go on board the said vessel and make a summary inventory, and to place the seals; eleven examinations of the persons hereafter mentioned, to wit, George, Mernezie, Cambuzier, of Charleston, three passengers of the vessel called the Sally, put on board the Diana by the privateer Vengeur, Zenard, carpenter of the Diana, James Stanley, mate of the said vessel, Mark John, passenger, Richard J. Wambrick, supercargo, John Miller, tanner, passenger, Petatin, prize-master from the privateer Vengeur, Louis Garandroux, second prize-master, J. B. Laferu, officer of marines; the commission of the said prize-master; the declaration made on board the privateer Vengeur, by Captain Michel, relative to the causes of stopping the ship Diana; the process verbal of the placing of the seals by the justice of the peace, of the 6th of the said month; the act of property or register; the shipping articles; the declaration of Nehemiah I. Ingraham, Captain of the Diana, that the captain of the privateer Vengeur took his papers from him, and that he had no sea-letter; the contract of sale of the Diana by Thomas Agri, formerly of Pittston and at present at Liverpool, to Edward Swarbrick, formerly of Savannah and at present at Liverpool; two invoices of divers merchandise; divers receipts of lighthouse duties of the coast of England; divers declarations respecting merchandise laden on board the Diana; two bills of lading of the said merchandise; a passport of the United States for J. Miller, Esquire; another of the American consul at Liverpool for James Stanley; the act of naturalization in America of Richard Swarbrick; which papers above mentioned have been translated into the French language by the sworn interpreters, Lecointre and Marzin.

The whole being maturely examined, the tribunal considering,

1. That, from the result of divers examinations, and particularly from those of George, Mernezie, Cambuzier, and of divers passengers, there exists a doubt on the quality of the ship Diana;*

2. That it appears, from the said examinations, that papers were thrown overboard at the time of the capture;† that the regulation of the 26th of July, 1778, declares, article 3d, that vessels belonging to neutrals or allies which, under such circumstances, throw papers overboard, shall be good prize;

3. That article 25th of the treaty of the 6th of February, 1778, concluded between France and the United States, expressly declares, that the vessels of the contracting parties shall be furnished with sea-letters, or passports, from their respective Governments;

4. That the 27th article of the same treaty declares that, when the vessels of one of the contracting parties shall be met by a vessel of war of the other, or by a privateer, the master of the vessel shall show his passport evidencing the property of the vessel, and that it shall not be free for her to continue her voyage until she has shown this passport;

5. Considering, in fine, that it results from the declaration made by Captain Ingraham, commanding the ship Diana, that he had no sea-letter or passport,

Declares to be good prize the said ship Diana, with her tackle, and her apparel, and her cargo; orders that sale shall be made of her in the accustomed manner, in order that the proceeds may be divided among the owners, officers, and crew of the privateer Vengeur, and that, in consequence, all guardians, sequestrators, and depositaries, shall deliver them up, for doing which they shall be warranted.

Brest, the 8th Frimaire, 5th year of the republic, one and indivisible. Signed on the register, Joseph Duplessis, president, Guilhem, the elder, Binard, the father, Lorans, judges, and Chalands, an assistant to the judges.

Signed and delivered,

HETET, *Secretary.*

I, J. Cox Barnet, consular agent of the United States of America, for the port of Brest, do certify that the above is a true copy of the original, signed by Hetet, Greffier of the tribunal of commerce of this commune, now in my hands.

J. COX BARNET.

BREST, 28*th January*, 1797.

Extract of a letter from Joseph Iznardi, Consul of the United States at Cadiz, to the Secretary of State, dated

CADIZ, 15*th December*, 1796.

I shall now proceed to exhibit, in one point of view, the number and actual situation of the American vessels detained in the ports under the district of this consulate, which are as follow:

Notes by Mr. Barnet.

*A mulatto man, who denies having made a declaration of this kind.

† Declaration made by an Irishman, prisoner, sent in here on board the Diana, and since set at liberty, and entered into the service of the republic.

Mercury, of New York, Captain Brooks.—She was taken by a French privateer, going into Gibraltar for instructions from the owner's correspondents to proceed up the Mediterranean. She is now detained at Malaga, and the judicial proceedings sent to Madrid in order to have the affair settled by the ministers.

Eliza, of Charleston, Captain William Flagg.—She was taken by the same privateer, going also to Gibraltar for instructions to proceed up the Mediterranean. The judicial proceedings of her cause were sent to Madrid, with those of Captain Brooks, to be conjointly arranged. The cargo of this vessel has been landed at Ceuta, and I have opposed its being sold until a determination is agreed to by the ministers at Madrid. The vessel is released and now here.

Elizabeth, of Philadelphia, Captain Garner.—She was taken coming from London, and brought here; and was going to Sevilla to load with fruit, on account of a house at Hamburg. She has no proper sailing documents, but only a certificate that she is American property by purchase in London. I have opposed her being condemned, and wrote to London, demanding the documents wanting. Independent of the difficulties arisen on that account, this admiralty wants to condemn her for not having the passports required by the 17th article of the late treaty of commerce and amity between the United States and the King of Spain; but I have shown to the court she could not possibly be provided with it.

Mary Ann, of Philadelphia, Captain Smith.—She was taken by the Grand Dorade French privateer, going from Saffi to Lisbon, with wheat, and brought in here. Her papers are perfectly right, and the French seem perfectly satisfied on that head, which made me expect her immediate release; when they have suddenly started difficulties, which are nothing but cavilling and chicane. The cargo is on account of a neutral established at Lisbon, and is to be sold, and the amount given security for. This is the vessel I mentioned in my last, which had had the mate and crew taken out on the high sea, and nothing has since then been heard respecting them.

Commerce, of Boston, Captain Langlois, and another American vessel.—Have been taken and carried into Algesiras, going for, and steering towards the Mediterranean. I have wrote to be acquainted with the particulars, and act accordingly.

Extract of a letter from P. H. Philips, Esq. and addressed to the Secretary of State, dated

CURACOA, *25th March*, 1797.

SIR:

Within a few days past, the following vessels have been sent in here by cruisers under French colors, in consequence of a proclamation done by Victor Hughes, at Guadaloupe, in the last month, and of which, no doubt, you have had notice ere this. The vessels sent in are: Ship Fame, Captain Joseph Brown, belonging to Portsmouth, New Hampshire, from whence she sailed the —— January, bound with a cargo of lumber to Grenada, where she sold her cargo, and received a return cargo of sugar and rum, which she has on board.

Brig Lady Washington, Captain Mayo Garrish,—belonging to Newburyport, sailed from Charleston, South Carolina, the 29th of January last, bound, with a cargo of rice, staves, pork, and shingles, for a market, and sold her cargo at Barbadoes, where he received sugar and rum, which she has on board.

Schooner Two Friends, Captain —— Van Ransley,—(the captain was kept on board the privateer, and is not yet arrived) belonging to New York, sailed from Wilmington, North Carolina, 20th of January, loaded with a cargo of turpentine, pitch, tar, tobacco, and lumber, cleared out for New York, but, by letters, said to be in the possession of the captors, was bound to Martinico.

Extract of a letter from Frederick Folger, Esq. appointed Consul for the United States, at Aux Cayes, to the Secretary of State, dated

FEBRUARY 10, 1797.

"Hearing with pain of the captures made on the vessels of the United States, and brought into the different ports of this island, I endeavored to obtain a list of them; but, as they are carried into ports distant from my residence, it was a long time before I could succeed; however, I have the honor to transmit you one, although imperfect. I wish it may be acceptable; it exhibits a melancholy picture of the hazardous state of our commerce, which, it seems, has been always a prey, under some pretext or other, to the belligerent Powers."

Abstract of American vessels captured by Privateers and Gunboats belonging to the citizens of the French republic, and carried into the French ports in St. Domingo.

When captured.	Vessels' Names.	Captains' names.	Where belonging.	By what Privateer or Gunboat taken.	Captain of Privateer's names.	What port carried into.	Cargo.	Amounting in dollars.	Amount of vessel.	Where from.	Fate.
1796.											
August 20.	Brig Brutus, -	Aborn,	New York,	LaFleur de la Mer	Antoine Aragon,	Petit Frou,	Provisions, dry goods, and cash,	10,000	$5,000	St. Marks, -	For trial the 9th Dec.
" 3.	Sloop Honor, -	Kimball,	New London,	Delay, -	John Delard,	Do.	Do. and live stock,	3,000	-	New London,	Do.
" 3.	Schooner Burnstoff,	Bonavista,	St. Thomas's,	Do. -	Do. -	Do.	- - -	- -	-	St. Thomas's,	Cleared.
Septem. 4.	Charming Polly, -	Pritchett,	Baltimore,	Triumphant, -	Henry Gressalie,	Do.	Coffee and cotton,	25,000	3,500	Jeremie, -	Condemned.
	Sloop Nelly, -	Adams,	Boston,	L'Alouette, -	L'Oiseau, -	Lancea Veau,	Ballast, -	- -	-	- - -	For trial.
	Schr. Somerset, -	Dillingham,	Charleston,	- - -	- - -	- -	Salt and wine, -				
	Schr. Catharine, -	Story,	Philadelphia,	Triumphant, -	Mouline, -	- -	Provisions, &c. -	- -	-	- - -	Condemned.
	Schr. Rainbow, -	Hawland,	New Bedford,	Macaque, -	Benorgne, -	- -	Oil, - -	- -	-	Cape François,	Cleared.
August 24.	Brig Kiren Happuch,	Lillibridge,	Philadelphia,	Santhonax, -	Roland, -	Miragoane,	Provisions, -	12,600	9,000	Philadelphia,	Condemned.
Septem. 17.	Brig Nancy, -	May,	New York,	Passe Par Tout,	Cadet, -	- -	Do. and goods,	20,000	5,000	St. Marks.	
August 26.	Brig Franklin, -	Peck,	Philadelphia,	Santhonax, -	Roland, -	- -	Do. sugar, -	5,400	4,000	Port au Prince,	Trial.
" 11.	Brig Freemason, -	Wyre,	Do.	L'Irondelle, -	- - -	- -	Provisions, &c. -	25,000	3,000		
" 27.	Brig Mary, -	Boyle,	Baltimore,	Santhonax, -	Roland, -	- -	Provisions, -	6,000	6,000		
	Brig Clio, -	Ball,	Do.	Adelaide, -	Jatard, -	Petit Grove,	- - -	- -	-	Baltimore, -	Trial.
May 21.	Schr. Amelia, -	Cochran,	Boston,	- -	Cadet, -	Do.	Wine and goods,	16,000	-	Europe.	
Septem. 1.	Schr. Hope, -	Jacobs,	Philadelphia,	- -	Jatard, -	- -	Provisions, &c. -	8,000	-	Philadelphia, -	Captain dead.
	Sloop Leader, -	Warner,	Cape Ann,	Bas Blanche, -	- - -	- -	- - -	5,000	-	Cape Ann.	
	Brig Polly, -	Watson,	Philadelphia,	Adelaide, -	Jatard, -	- -	- - -	- -	-	Philadelphia, -	Captain dead.
	Brig Nymph, -	Sullivan,	Do.	- -	- - -	- -	- - -	10,000			
	Brig Pearl, -	Webb,	New London,	- -	- - -	- -	- - -	6,000	-	New London.	
	Schr. Three Friends,	Wilson,	Baltimore,	- -	- - -	Leogane,	- - -	24,000			
	Brig Industry, -	Massy,	Do.								
	Brig Pomona, -	-	Do.								
	Brig Experiment, -	Huston,	Philadelphia.								
	Brig Triton, -	Flin,	Do.								
	Schr. Hannah, -	-	Do.								
	Schr. Nancy, -	-	Do.								
	Sloop Sincerity, -	-	Do.								
	Schr. Alethia, -	-	Georgetown.								
	Sloop Delia, -	-	New York.								
	Schr. Hibernia, -	-	Do.								
	Brig Charlotte, -	-	Do.								
	Brig Glasgow, -	-	Do.								
	Sloop Joanna, -	-	Providence, R. I.								
	Sloop Polly, -	-	Staten Island.								
	Schr. Three Friends,	Parker,	Charleston.								
	Schr. Eliza, -	-	Do.								
	Schr. Liberty, -	Williams,	Boston.								
	Schr. Juno, -	-	Do.								
	Brig Despatch, -	Lunt,	Do.	- -	- - -	Port de Paix.					
	Schr. Ann Maria, -	Wilson,	Baltimore,	La Vertue, -	Augustus Love,	St. Jago de Cuba	Sugars, -	5,000	4,000	Jamaica, -	Trial.
	Wilmington Packet,	Francis,	Charleston,	- -	- - -	- -	Sugar and coffee,	-	3,500	Port-au-Prince.	
	Brig Walwich, -	M'Cuckhon,	Philadelphia,	- -	- - -	- -	Sugar, -	-	4,100		
	Ship Success, -	Gordon.									

[Endorsed, "all the within mentioned vessels, except one, are condemned."]

An Abstract of depredations committed on the commerce of the United States, by French cruisers, where the capture was made, or sentence pronounced, since October 1, 1796, and to substantiate which documents are remaining in the Department of State.

No.	Vessels' names.	Masters' names.	Where belonging.	Where from.	Whither bound.	When captured.	And by whom.	Value.	Species of Lading.	Whither carried.	Whether condemned.
1	Schooner Milton,	Thomas Brooks,	New York,	Barbadoes,	Martinique,	April 1, 1797,	French privateer.	Unkno'n.	Provisions,	Guadaloupe,	Ves. & cargo con-
2	Ship Diana,	N. I. Ingraham,	Savannah,	Liverpool,	Savannah,	October 23, 1796,	Do.	Do.	Various articles,	Brest,	Do. [demned.
3	Ship Pattern,	W. Bull,	New York,	New York,	Jamaica,	Decem. 28, 1796,	Do.	Do.	Unknown,	Fort Liberty,	Do.
4	Ship Lady Walterstorff,	Gutterson,	Philadelphia,	Demarara,	Philadelphia,	March 5, 1797,	Do.	Do.	Sugar, rum, coffee, &c.	Guadaloupe,	Do.
5	Brig Russell,	Smith,	North Carolina,	New Providence,	Jamaica,	Novem. 20, 1796,	Do.	8,000 00	Unknown,	St. Domingo,	Do.
6	Schooner Zilpha,	S. Briard,	Portsmouth, N. H.	Tobago,	Portsmouth,	February 24, 1797,	Do.	10,308 78	Sugar and rum,	Porto Rico,	Crew driv'n away
7	Ship Eliza,	Burton,	- - -	Barbadoes,	Norfolk,	February 14, 1797,	Do.	-	Same,	Guadaloupe,	Cargo condem'd,
8	Brig Trio,	Story,	New York,	New York,	Jamaica,	Decem. 27, 1796,	Do.	-	- - -	Rescued by crew.	vessel released.
9	Schooner Betsey,	Brown,	North Carolina,	Jeremie,	Turk's Island,	Decem. 24, 1796,	Do.	-	- - -	Port de Paix,	Condemned.
10	Brig Betsey,	Baker,	- - -	- - -	- - -	- - -	Do.	-	- - -	Guadaloupe,	Ves. & car. con'd.
11	Brig Eliza,	Francis,	New York,	New London,	Windward Islands	January 16, 1797,	2 frigates, French,	-	[tobacco, lumber,	Do.	Cargo sequest. &
12	Schooner Two Friends,	Van Renselear,	Do.	Wilmington, N.C.	Martinique,	March 6, 1797,	A French privt'r,	-	Turpentine, pitch, tar,	Curracoa.	vessel released.
13	Brig Almy,	Cutter,	Do.	Jamaica,	New York,	October 12, 1796,	Two do.	-	Rum, coffee, pimento,	Recap. by British.	
14	Ship Nancy,	Dill,	- - -	Savannah,	Cape Nichola Mole	March 25, 1797,	A French privt'r,	-	- - -	Jean Rabel,	Deserted.
15	Ship Commerce,	Ham,	Newburyport,	Norfolk,	Jamaica,	Decem. 25, 1796,	Do.	-	Lumber, &c.	Capt'd; aband'd.	
16	Brig Despatch,	Lunt,	Portsmouth, N. H.	Cape Nichola Mole	Portsmouth,	October 18, 1796,	Do.	14,454 00	Molasses,	Port de Paix,	Ves. & car. con'd.
17	Schooner Delight,	Hatch,	Penobscot,	Barbadoes,	- - -	February 20, 1797,	Do.	7,200 00	Rum and sugar,	Porto Rico,	Do.
18	Brig Resolution,	———,	Portsmouth, N. H.	Demarara,	Portsmouth,	Aug. 29; condem'd in Nov. 1796,	Do.	12,500 00	- - -	Do.	Cargo condem'd.
19	Ship Commerce,	Lawton,	Newport,	Hamburg,	Newport,	Plundr'd at sea by a French privt'r.					[demned.
20	Brig Rover,	Smith,	Baltimore,	Malaga,	Tangier,	November, 1796,	A French privt'r,	-	Sugar, coffee, & wine,	Malaga,	Part of carg. con-
21	Schooner Nancy,	Palmer,	Alexandria,	- - -	Tangier,	Do.	Do.	-	Sugar and coffee,	Do.	Not decided.
22	Ship Kitty,	McPherson,	Philadelphia,	Isle of France,	Philadelphia,	March 30, 1797,	Do.	-	- - -	Porto Rico,	Undecided.
23	Brig Lady Washington,	Gerrish,	Newburyport,	Barbadoes,	- - -	March, 1797,	A French cruiser.	-	Sugar and rum,	Curacoa,	Do.
24	Ship Fame,	Brown,	Portsmouth, N. H.	Grenada,	Portsmouth,	Do.	Do.	-	Do.	Do.	Do.
25	Ship Success,	Gorton,	Philadelphia,	Jamaica,	Philadelphia,	Aug. 20; condem'd in Oct. 1796,	Do.	14,000 00	Sugar, coffee, & rum,	St. Jago de Cuba,	Cargo condem'd.
26	Ship James,	Smith,	Baltimore,	Baltimore,	- - -	December 1, 1796,	2 French frigates,	30,250 00	- - -	Guadaloupe,	Released.
27	Brig Alcona,	Isaacs,	Do.	St. Nichola Mole,	Baltimore,	- - -	- - -	8,797 00	- - -	Cape François,	Do.
28	Brig Mercury,	Brooks,	New York,	- - -	Gibraltar,	- - -	A French privt'r,	-	- - -	Malaga.	
29	Brig Eliza,	Flagg,	Charleston,	- - -	Do.	- - -	Do.	-	- - -	Ceuta.	[condemned.
30	Brig Calliope,	Leonard,	New York,	Teneriffe,	Curaçoa or St. B.	March, 1797,	Do.	-	Wine,	Guadaloupe,	Vessel and cargo
31	Brig Nancy,	Cunningham,	Wilmington, N.C.	Bristol,	Wilmington,	March 2, 1797,	Do.	-	Glass, nails, &c.	Augustine,	Ransomed.
32	Brig Valeria,	Stover,	Newburyport,	Aux Cayes,	Newburyport,	January 15, 1797,	Do.	-	Molasses, sug. cotton,	St. Jago.	

No. 5.

Schedule of the names of American vessels captured by the French, and of the circumstances attending them, extracted from the Philadelphia Gazette, and the Gazette of the United States, and commencing with July, 1796.

1. Ship Hope, Coward, of Philadelphia, from Baltimore to Port-au-Prince, sent into Leogane.
2. Brig Friendship, Ryley, of Philadelphia, sent into Port de Paix.
3. Schooner Betsy, M'Culloch, from Jamaica, plundered at sea.
4. Brig Cornplanter, Cohoon, from Demarara, bound home, was sent to Guadaloupe, and condemned.
5. Brig Glasgow, Codwise, carried into Leogane, and condemned.
6. Brig Charlotte, King, of New York, carried into Leogane snd condemned.
7. Sloop Nancy, Small, of Philadelphia, carried into Leogane.
8. Sloop Sincerity, Boyd, of Philadelpnia, carried into Leogane, and condemned.
9. Sloop Delia, Huggins, of Philadelphia, carried into Leogane, and condemned.
10. Sloop Dolphin, Moray, of Philadelphia, carried into Leogane.
11. Brig Triton, Flinn, of Philadelphia, carried into Leogane, and condemned.
12. Brig Experiment, Huston, of Philadelphia, carried into Leogane, and condemned.
13. Schooner Bride, Robert, of Philadelphia.
14. Brig Industry, Massey, of Baltimore, carried into Leogane and condemned.
15. Schooner Hannah, Phillips, of Baltimore, carried into Leogane.
16. Schooner Alatæa, Mann, of Georgetown, (S. C.) was carried into Leogane.
17. Brig Eliza, Whitefield, of Wilmington, (N. C.) was carried into Leogane, and condemned.
18. Sloop Joanna, Hunt, of Providence, was carried into Leogane, and condemned.
19. Sloop Sally, Smith, of Providence, was carried into Leogane.
20. Schooner Ann, Gibbs, of Boston, was carried into Leogane and condemned; having been bound to Port-au-Prince, with horses.
21. Schooner Juno, of Boston, was carried into Leogane, and condemned.
22. Sloop Britannia, Young, of New Yarmouth, was carried into Leogane.
23. The Amie, of Boston, was condemned at Leogane.
24. The schooner Two Friends, Place, was plundered at sea of every thing the privateers could take.
25. The brig Polly, Watson, of Philadelphia, was captured by a French privateer, but recaptured by a British frigate: and she was again captured, and carried into Petit Guave, and there abandoned by the captain.
26. The brig Brutus, Aborn, of New York, from St. Mark's, with a cargo of provisions, dry goods, and cash, valued at ten thousand dollars, and the vessel at five thousand, condemned.
27. Schooner Regulator, Stanwood, on her passage from New York, was captured and carried into Leogane. The cargo was taken, without payment, and the vessel detained fifty days, during which time the mate and all the crew died.
28. Brig Keranhapuch, Lillibridge, of Philadelphia, was captured, carried into Meriguane, and her cargo of provisions, valued at twelve thousand six hundred dollars, and vessel at nine thousand dollars, were both condemned. She was from Philadelphia.
29. Brig Theodosia, Vansize, of Philadelphia, was carried into Basseterre, Guadaloupe, and condemned, with her cargo, without a trial.
30. Brig Flora, was carried into St. Domingo.
31. Brig Nymph, Sullivan, of Philadelphia, was captured and carried into Petit Guave. Her cargo of provisions and dry goods was valued at ten thousand dollars.
32. Brig Franklin, Peck, of Philadelphia, from Port-au-Prince, with a cargo of sugar, valued at five thousand four hundred dollars, was carried into Meriguane. The vessel and cargo were condemned. The vessel was valued at four thousand dollars.
33. Schooner Catharine, Towne, was captured and carried into St. Domingo.
34. Schooner Mayflower, belonging to Norfolk, and bound thither from an English port, with a cargo of coffee, was captured and carried into Leogane.
35. Brig Mercury, Brooke, of Norfolk, from Cadiz to Gibraltar, was captured by a French privateer, and carried into Tariffa.
36. Schooner Ariel, Compton, of and from Baltimore, bound to Martinique, was captured and carried into Guadaloupe, where vessel and cargo were condemned.
37. Schooner Ranger, Brown, was detained at St. Martin's, and her crew confined because she had no sea-letter.
38. Schooner Friendship, Harlow, from Martinique for Boston, was carried into St. Martin's under pretence of her not having a sea-letter; but on producing it she was liberated, though not before she had been plundered of various articles. Two other American vessels, at that time in St. Martin's, were condemned, because they could not produce such a document.
39. Brig Nancy, May, of New York, was carried into Meriguane, whilst she was on a voyage from St. Mark's, with a cargo of provisions and dry goods, valued at twenty thousand dollars; the vessel was valued at five thousand dollars. They were condemned.
40. Brig Mary, Boyle, of Baltimore, was carried into Meriguane, with a cargo of provisions, valued at six thousand dollars. The vessel was valued at six thousand dollars; she was from Baltimore. They were condemned.
41. Brig Freemason, Wire, of New York, from Jeremie, with a cargo of provisions and dry goods, valued at twenty-six thousand dollars, which, with the vessel, valued at three thousand dollars, were condemned.
42. Schooner Rainbow, Howland, of New Bedford, was carried into l'Ance-à-Veau, with a cargo of oil from Cape François to Petit Guave—cleared.
43. Schooner Catharine, Story, of Philadelphia, carried into l'Ance-à-Veau, with a cargo of provisions and dry goods, and condemned.
44. Sloop Jenny, Adams, of Boston, was carried into l'Ance-à-Veau.
45. Ship Mount Vernon was condemned at Porto Rico.
46. Brig Almy, Cutter, was captured by a French privateer, but recaptured by a British sloop of war.
47. The ship Diana, of South Carolina, from Liverpool, bound to Savannah, was captured and carried into Brest.
48. The ship Sally, of Boston, from Ireland, was captured by a French privateer and sent into Brest.
49. The ship Golden Age, of Philadelphia, was captured on her homeward voyage from Kingston, and sent into Havanna.
50. The ship Thomas, Martin, of Charleston, was boarded by a privateer without a commission, plundered of a great number of articles, and carried to St. Jago, and thence to Havanna.
51. The Ann and Maria, of Baltimore, was captured on her homeward passage from Jamaica, carried into St. Jago de Cuba, and condemned.
52. Schooner Charming Polly, Preschett, of Baltimore, from Jeremie, with a cargo of coffee and cotton, valued at twenty-five thousand dollars, was captured and carried into Petit Trou. The vessel was valued at three thousand six hundred dollars. They were both condemned.
53. Schooner Zephyr, Hansford, of Norfolk, was condemned at Cape François.
54. Schooner Three Friends, Wilson, of Baltimore, from Port-au-Prince, was carried into Leogane, with a cargo of sugars and dry goods, valued at twenty-four thousand dollars—condemned.
55. Schooner ——, Harding, of New York, was carried into Aux Cayes, and abandoned there.
56. Ship Active, from Norfolk to Jamaica, was sent into Port de Paix.

57. The brig Despatch, Lunt, from Port-au-Prince, with a cargo of molasses, valued at eight thousand dollars, which, with the vessel, valued at four thousand dollars, were condemned.

58. Schooner Argus, of Baltimore, was condemned at Guadaloupe for trading with a British island.

59. Schooner Citizen, Gilbert, on her passage from Norfolk to Martinique, was captured and carried into Guadaloupe, and there released.

60. Schooner Phœbe, Webb, from New London to Jeremie, was carried into Petit Guave, where she was plundered and detained.

61. Brig Nancy, Webb, was carried into Petit Guave. She belonged to New London.

62. Schooner Hope, Jacocks, of Philadelphia, from Philadelphia, was carried into Petit Guave with a cargo of provisions, &c. valued at eight thousand dollars.

63. Brig Clio, Ball, of and from Baltimore, was carried into Petit Guave with a cargo of provisions.

64. Sloop Leader, Warner, of Cape Ann, from thence with a cargo of provisions, valued at five thousand dollars, was carried into Petit Guave.

65. Schooner Amelia, Cockrin, of and from Boston, for Europe, was carried into Petit Guave, with a cargo of wine and dry goods, valued at sixteen thousand dollars.

66. Schooner Jane, Atwood, went to Fort François on a trading voyage, and there the governmental administration seized the cargo without allowing any compensation.

67. Brig Clarissa, Bruton, of and from Philadelphia, for Trinidad, was carried into Guadaloupe, and her cargo condemned.

68. Ship James, Buchanan, of Baltimore, bound to the West Indies, was captured the beginning of January, and carried into Guadaloupe, where her cargo was sold and sequestered.

69. Schooner Return, Nichols, from Barbadoes to New York, was carried into Guadaloupe, where her cargo, and all the specie she had on board, were condemned.

70. The brig Mary, of New York, from Barbadoes for North Carolina, was taken on the 29th December, and carried into St. Marks.

71. The brig Westmoreland, Troop, of New York, was captured off the Havanna by a French privateer, and sent for New Orleans.

72. Ship Hope, Sewall, of Boston, was captured by a French privateer, four hours after leaving St. Thomas's, and sent to leeward.

73. The Schooner Washington, Jones, of Baltimore, was condemned at Port de Paix.

74. The Schooner Hannah, Bright, of Alexandria, was condemned at the same place.

75. The sloop Hiram, Baldwin, was condemned at the same place.

76. Ship Hope, Seward, of Boston, was carried into Porto Rico.

77. Brig Susan, Lines, of New Haven, was carried into Guadaloupe, and her cargo taken.

The following vessels were captured by French privateers, and carried into Cabo Roxa, in Porto Rico:

78. Brig Resolution, Moore, of Portsmouth, New Hampshire, from Demarara; cargo condemned. 79. Schooner Neptune, Pease, of Savannah, from Grenada; vessel and cargo condemned. 80. Schooner Shetucket, Bowdish, of New Haven, also from Grenada; vessel and cargo condemned.

81. The Juliana, Captain Hayward, was captured on her voyage from Hamburg to Baltimore by a prize brig belonging to Commodore Barney. She was carried to Porto Rico, and, after some detention, dismissed.

82. The ship Sally, Bayne, of New York, from Demarara, bound home, was carried into St. Martin's, and the vessel and cargo condemned.

83. The brig Mary, Beattie, of New York, was carried into St. Martin's. She was on a voyage from Barbadoes to Turk's Island.

84. Brig ——, of Sheepscut, Massachusetts, Captain Crawford, from St. Bartholomew's to Georgia, was carried into the same place.

85. Schooner ——, of Newbern, Captain Tinker, had cleared out from St. Martin's for St. Bartholomew's, but was brought back by a privateer, and was waiting for trial.

86. The ship Reimsdyke, of Providence, Aborn, master, from the Isle of France, was captured by a French cruiser, and carried into St. Martin's, but was cut out of the harbor by a British lugger, and carried to Tortola.

87. The brig Betsey, Baker, from Wells, in Massachusetts, to Cape François, was carried into St. Martins, where the vessel and cargo were condemned.

88. The schooner Rebecca, of Baltimore, Hall, master, was captured and carried into St. Martin's, and there abandoned.

89. The brig Peggy, Kilby, of and bound to Philadelphia from Port-au-Prince, was captured by a French privateer, and afterwards re-captured by a British ship of war.

90. Ship Commerce, Ham, of Newburyport, was captured by a French privateer, and abandoned by them on the appearance of a British ship of war.

91. 92. Brig John, Tucker; and schooner Kitty, Harper, from Jeremie, with coffee, bound to New York, were taken by a French privateer and sent into Cuba.

93. The brig Russel, Smith, of Newbern, sailed thence with a cargo of lumber, bound for a market in the West Indies. She was captured, carried to Cape François, and condemned.

94. The brig Susan and Polly, of and from New York to Jamaica, was carried into Port de Paix, and condemned without a trial.

95. Ship Andromache, Kingston, of Philadelphia, from Cadiz, was captured, detained, and plundered by a French privateer.

96. Sloop Polly, Turner, of Derby, Connecticut, was taken on the 3d of December; carried into Guadaloupe and condemned.

97. Brig Patriot, Bishop, with her cargo, were condemned at Cape François.

98. The Speedwell, of Alexandria, was forced by distress to enter Cape François, where she was seized and condemned.

99. Ship ——, Butt, of New York, was sent into Cape François for adjudication.

100. Schooner Hopewell, Skinner, was condemned at the Cape.

101. Brig Speedwell, Crawford, from Nevis to Savannah, was carried into Guadaloupe, and, after a long detention, acquitted.

102. Brig Nancy, of Newbern, was carried into St. Martin's.

103. Schooner Elizabeth, Trott, from Demarara to New London, was carried into St. Martin's by a French privateer, and the captain and some of the crew imprisoned.

104. Brig Woolwich, M'Cutcheon, of Philadelphia, from Port-au-Prince, with one hundred hogsheads and one hundred barrels of sugar, was carried into Cuba and condemned.

105. Brig Lavinia, of Salem, from Aux Cayes, was sent into Cuba.

106. Schooner Harriet, Shield, of Philadelphia, was taken, and carried into Port de Paix and condemned there.

107. Schooner Henry and Gustavus, Hempsted, from St. Bartholomew's, was boarded by a French brig, and robbed of one hundred and twenty-nine joes, and some small articles.

108. Brig Polly, Clemens, of Portland, bound from London to Virginia, was carried into St. Bartholomew's.

109. The Friends, of Norfolk, from London for Norfolk, was sent into Guadaloupe and condemned.

110. The brig Swift, Luke, of and from Norfolk for Barbadoes, was carried into Guadaloupe, where the vessel was cleared, but the cargo condemned.

111. Brig Neptune, Blanchard, bound to St. Bartholomew's with lumber, was carried into Guadaloupe, and condemned, because she had no sea-letter.

112. Ship Charlotte, of Baltimore; carried into Guadaloupe, tried, and acquitted.

113. Brig ——, Captain Drane, bound to Europe, was carried into Guadaloupe, and compelled to sell her cargo.
114. Brig ——, Captain Bickford, from Russia to America, was carried into Guadaloupe.
115. Schooner Apollo, White, of Wiscasset, from Martinique to Savannah, was captured, plundered, and ordered to Port Rico; but, on the passage, re-captured by a British vessel.
116. The Ruby, Smith, was captured by a French privateer, and ordered to St. Domingo, but rescued by the crew.
117. Ship St. Tammany, Dangerfield, of Virginia, from Liverpool to Savannah, with salt, was captured and carried into Guadaloupe.
118. Brig Thetis, Peterkin, of Baltimore, from Jeremie, was captured and carried into Baracoa, in the island of Cuba: plundered and detained as a prize.
119. Ship Pattern, Boal, of New York, was condemned for being bound to Jamaica.
120. Schooner Speedwell, Atkins, from Penobscot, was taken by a French privateer and sent into Guadaloupe.
121. Schooner Jenny and Hannah, from Barbadoes for Connecticut, was boarded by a French privateer and robbed.
122. Brig Eliza, Seymour, of and from New London, in Connecticut, to the West Indies, with horses, was carried into Guadaloupe, and condemned, together with her cargo.
123. Brig Betsey, Clark, from Wilmington, (N. C.) to Martinique, with lumber, grain, &c. carried into Guadaloupe; her cargo sequestered.
124. Brig Eliza, Francis, from New London, was carried into Guadaloupe, where her cargo was condemned.
125. Ship Washington, from the Isle of France to Boston, being blown off the coast, and in distress, was captured in sight of Deseada, and carried into Guadaloupe for adjudication.
126. Schooner Harriot, Eddow, of New York, from Carolina, was carried into Guadaloupe: her cargo was sequestered, and the vessel cleared.
127. Ship Eliza, Hambin, from Cork for New York, having sprung a leak, was obliged to bear away for the West Indies. She was captured by a French privateer, and run on shore at Mariegalante. The captain was imprisoned thirty-two days, and then dismissed.
128. Sloop Honor, Kemble, of and from New London, was carried into Petit Trou, with a cargo of provisions, and live stock, valued at three thousand dollars, which, with the vessel, valued at one thousand five hundred dollars, was condemned.
129. Sloop Nelly, Adams, of Boston, was captured and carried into L'Ance-à-Veau in ballast.
130. Schooner Somerset, Dillingham, of Charleston, was carried into L'Ance-à-Veau, with a cargo of salt and wine.
131. Brig Pearl, Webb, of and from New London, was carried into Petit Guave, with a cargo of provisions, valued at six thousand dollars; she was abandoned.
132. Brig Pomona, of Baltimore, was carried into Leogane, and condemned.
133. Schooner Hannah, of Philadelphia, was carried into Leogane, and condemned.
134. Schooner Nancy, of Philadelphia, was carried into Leogane, and condemned.
135. Schooner Hibernia, of New York, was carried into Leogane, and condemned.
136. Sloop Polly, of Staten Island, was carried into Leogane, and condemned.
137. Schooner Three Friends, Parker, of Charleston, was carried into Leogane, and condemned.
138. Schooner Eliza, of Charleston, was carried into Leogane, and condemned.
139. Schooner Liberty, Williams, of Boston, was carried into Leogane, and condemned.
140. Schooner Wilmington Packet, Francis, of Charleston, was carried into St. Jago de Cuba, where she was condemned with her cargo, consisting of sugar and coffee.
141. Ship Success, Gordon, of Philadelphia, was carried into the same place, with a cargo of sugar, and condemned. She was from Jamaica.
142. Schooner Harriet, Chadwick, of New York, from North Carolina, for Barbadoes, was carried into Guadaloupe, where the cargo was condemned, and the vessel cleared.
143. Brig Hope, Sanford, of Alexandria, from Barbadoes for Virginia, was carried into Guadaloupe, where the vessel and cargo were condemned.
144. Ship Mohawk, Sutherland, of New York, from Barbadoes, was carried into Guadaloupe, where the cargo was condemned.
145. Brig Betsey, Lord, of New London, from Surinam, was captured and carried into Guadaloupe. She was cleared.
146. Schooner Active, Atkins, from Penobscot, was carried into Guadaloupe, where her cargo was condemned.
147. Brig Trial, Dean, from Norfolk for Cadiz, was carried into Guadaloupe, and her cargo sequestered.
148. Schooner Commerce, Wilds, from Boston, for a market at the West Indies, was carried into Guadaloupe, and the cargo condemned.
149. Snow Two Sisters, of Portsmouth, (N. H.) was captured and carried, the captain knew not where.
150. Brig Dolphin, Merry, of Boston, from Bonavista for Norfolk, was carried into Guadaloupe.
151. Brig Two Sisters, Hubbard, of Baltimore, from Berbice, was sent to Porto Rico, and condemned, with her cargo.
152. Brig Panther, Merril, of Kennebunk, from Barbadoes, was captured and sent to St. Martin's, where the cargo was condemned.
153. Ship James, Smith, of and from Baltimore, was carried into Guadaloupe; but cleared, having been taken before the promulgation of the arrêt authorizing it.
154. Sloop Betsey, of Boston, from Berbice, was carried into Guadaloupe, where the vessel and cargo were condemned.
155. Brig Abigail, Fibbits, was carried into Guadaloupe, where the cargo was condemned.
156. Schooner Robinson Crusoe, Church, from Barbadoes, was captured, carried into Guadaloupe, plundered, detained, and then given up.
157. Schooner Lark, Hands, was carried into Port de Paix, and condemned.
158. Ship Active, Whitehouse, was carried into Port de Paix, and condemned.
159. Schooner Betsey, Brown, war carried into Port de Paix, and condemned.
150, Schooner Federal Jones, was carried into Port de Paix, and condemned.
161. Schooner Thankful, Howland, was carried into Port de Paix, and condemned.
162. Brig Fanny, Brown, was carried into Port de Paix, and condemned.
163. Brig Digby, Taylor, was carried into Port de Paix, and condemned.
164. Brig Susan and Polly, Abecton, was carried into Port de Paix, and condemned.
165. Brig Georgia Packet, McKeever, was carried into Port de Paix, and condemned.
166. Schooner Eutaw, Smith, was carried into Port de Paix, and condemned.
167. Brig Abigail, of Portsmouth, New Hampshire, was captured as she was going into Antigua, with provisions.
168. Brig Hope, Bradford, of and to Alexandria, from Barbadoes, was carried to Guadaloupe, and condemned.
169. The Mermaid, Tilton, from Boston for London, was met by a French privateer, which put on board of her twenty prisoners, without allowing them any provisions.
170. Schooner Two Cousins, Dewall, from Jeremie to Philadelphia, was captured by a French privateer, run on shore by them, and then deserted.
171, '2, '3, 4, '5. Schooner Henry, Walker, and Snow Endeavor, Freeman, both of Philadelphia, and the sloop Speedwell, Clark, Schooner Kitty and Maria, Logan, and Schooner Triton, Beeby, were all condemned and sold at Gonaives.
176. Ship Mary, Nye, of Baltimore, was chased on shore within a few leagues from Berbice, by a French privateer.

177. Schooner Poll, Woodward, of Philadelphia, was taken on her passage from Jeremie, and sent for Cuba, by a French privateer.

178. Ship Eliza, Burton, from Barbadoes for Norfolk, was carried into Guadaloupe. Her cargo was condemned, and the crew plundered and insulted.

179. Ship Nancy, Cunningham, from Bristol, bound to Wilmington, was captured by a French privateer, carried to St. Augustine, and ransomed by the master.

180. Sloop George, of Kennebunk, Grant, master, was captured and carried into Cabo Roxa, where being driven from his vessel by the privateers, Captain Grant abandoned her.

181. Brig Union, Lyddleman, of Norwich, was carried into Porto Rico.

182. Schooner Lepper, Breard, of Portsmouth, was captured and carried into Porto Rico.

183. Brig Fanny, Gould, of Biddeford, cleared for Leogane, was carried into Port de Paix, and condemned.

184. Brig America, Town, of Philadelphia, bound from St. Thomas's to Port de Paix, or Cape François, arrived at the former place, where her cargo and cash, to the amount of near seventeen thousand dollars, were taken by the administration.

185. Brig Two Sisters, Worth, from Norfolk for Leogane, was carried into Cuba and sold.

186. Brig Three Sisters, Wardwell, from London to Halifax, was carried into Havre, with a cargo supposed to belong to the British Government, but both vessel and cargo were condemned.

187. '8, '9. Brigs Nalouisca, of Newburyport, Oxen, of New York, and John, of the same place, were carried into St. Jago.

190. The Penelope, on her passage from Petit Guave, was sent for Carthagena, but re-captured by a British ship, and sent for Jamaica.

191. Schooner John, Cook, was carried into St. Martin's.

192. Sloop Minerva, of Providence, from Africa to St. Thomas, was carried into Guadaloupe, and condemned.

193. Brig Fly, Russel, on her passage from Antigua to Philadelphia, was taken by a French privateer, and carried into St. Martin's.

194. Schooner Governor Clinton, bound from Jeremie to Philadelphia, was captured by a French privateer, and sent it is not known whither.

195. Schooner Two Friends, Rensellear, of New York, from Wilmington, N. C., to Martinique, was captured and ordered for Curaçoa.

196. Schooner Clara, of Baltimore, bound to Leogane, was captured and ordered for Port-de-Paix, but re-captured by a British cruiser.

197. Schooner Cynthia, Appleton, bound from Esquibo to Boston, was sent into St. Martin's. The vessel and cargo were condemned.

198. Schooner Columbia, Bordman, from Tobago to Boston, was captured and carried into St. Martin's.

199. Brig Hannah, Lathrop, of Boston, bound to Trinidad, was carried into Guadaloupe, but cleared.

200. Brig Ann, of New York, and from thence bound to St. Thomas, was carried into Guadaloupe and cleared.

201. Sloop Shepherdess, Dean, of and from Philadelphia, for the West Indies, was carried into Guadaloupe, where her cargo was sequestered.

202. Sloop Mary, Goodhue, of and from Newburyport for Surinam, was carried into Guadaloupe and cleared.

203. Ship Eliza, Burton, of Norfolk, from Barbadoes, was carried into Guadaloupe.

204. Brig Scipio, M'Nair, of New York, from Dublin to St. Croix, was carried into Guadaloupe.

205. Ship Little Mary, Banners, was captured off Mariegalante by the French, and re-captured by the British.

206. Schooner Hiram, Buchanan, from St. Bartholomew's, was plundered and injured by a French privateer: she was captured by another and carried to Guadaloupe.

207. Brig Sally, of New York, was carried into Guadaloupe and condemned.

208. Ship William, Strong, of Portland, was captured and carried into Porto Rico.

209. Schooner Active, Canoby, from Martinique for America, was carried into St. Martin's.

210. Schooner Nabby, Munroe, of Bristol, R. I., from Africa for St. Thomas, was carried into Guadaloupe.

211. Sloop Shepherdess, of Alexandria, Dean, master, was carried into Guadaloupe by a French privateer, and her cargo was there condemned.

212. Brig Alexander, Shepherd, of Boston, was carried into Guadaloupe.

213. Schooner Trial, Roper, of Alexandria, was carried into Guadaloupe.

214. The Sea Nymph, Hastia, was captured by a French privateer, and sent it is not known whither.

215. Ship Nancy, Dill, of Philadelphia; 216. Ship Polly, Pienew, of Portland; 217. Ship Brandin, Gay, of Norfolk; 218. Ship Louisa, Talman, of Boston; 219. Brig Two Sisters, Skaler, of New York; 220. Brig Sally, Yardly, of Philadelphia; 221. Schooner Citizen, Massey, of Baltimore; 222. Schooner Molly, Wise, of Baltimore; 223. Schooner Columbia, Thompson, of Providence; 224. Sloop James, Palmer, of Philadelphia; 225. Sloop Betsey, Pope, of Philadelphia; 226. Sloop Martha, Towles, of Fredericksburg; 227. and Sloop Industry, Hitchcock, of New Haven; were all captured by French cruizers and carried into Jean Rabel, in St. Domingo, where they were also all condemned.

228. The Brigantine Lady Walterstorff, Gutterson, of Philadelphia, from Demarara, was carried into Guadaloupe and condemned.

229. The Ship Ann and Susan, West, of Philadelphia, was seen in possession of a French privateer.

230. Schooner Hawk, Parrock, from Jamaica to Philadelphia, was plundered at sea by a French privateer, and then dismissed.

231. Brig Baron de Carondelet, M'Call, from Leghorn, was twice boarded, plundered, and detained, by French privateers.

232. Brig Lipsbury, Farly, from Guadaloupe to Boston, was boarded by a French privateer, plundered, and searched.

233. Brig General Warren, Stowel, was captured by the French, carried into St. Eustatia, condemned at Guadaloupe, and sold at the former place.

234. The sloop Urania was lying at Guadaloupe as a prize.

235. The sloop Fox, Brooks, of Hartford, bound thence to Leogane, was captured, carried to Port de Paix, and vessel and cargo there condemned; the owners of the privateers having given the commissioners 100 half joes to pronounce that sentence.

236. The brig Peace, Allen, of Providence, bound from Dover to Surinam, having touched at Cayenne, was seized there as being bound from a British port, and condemned. Her value was twenty-five thousand dollars.

237. Schooner Columbus, Mason, from St. Vincent's to Kennebunk, was boarded by a French privateer, plundered, set fire to, and abandoned.

238. Sloop John, Lee, captured by a French privateer and carried into St. Martin's, but was suffered to depart after being plundered, and the captain was obliged to pay for the shot fired at him.

239. Brig Alexander, Shepherd, of Boston, was carried into Point Petre.

240 and 241. Brig Matilda, of Baltimore, and schooner Neptune, of Boston, bound from Teneriffe, were captured by a French privateer and carried into St. Thomas's, where they were restored.

242. Ship Atlantic, of Baltimore, from Teneriffe, was captured by the French, but re-captured by the British.

243. Schooner Ranger, Riply, from Surinam for Boston, was fired at, boarded, plundered, and dismissed, by a French privateer.

244. Brig Sally, Johnson, from Surinam to Newburyport, was plundered by a French privateer, which also flogged the captain.

245. Brig Seven Brothers, Singleton, from Port-au-Prince to Jamaica, was carried into Gonaives and condemned.

246. Ship Sedgley, from Philadelphia to Jamaica, with staves, was carried into St. Domingo and condemned.

247. Brig Orange, Hunt, of Rhode Island, from St. Lucia to Havanna; 248. schooners Active, and 249. Eliza, both of Norwich and from Tobago, bound home, were captured by a French privateer and sent into Curacoa.

250. Barque Susannah, Smith, of Biddeford, was taken and carried into Porto Rico. She was bound from St. Vincent's.

251. Schooner Isabella, Jones, from St. Kitts, was carried into Porto Rico, but released.

252. Schooner Adventure, Compton, of Baltimore, from Demarara, with coffee, was carried into Guadaloupe.

253. Schooner Jenny, Butts, of Alexandria, was carried into Guadaloupe with flour.

254. Brig Diana, Fairchild, of New York, was sent into Guadaloupe and condemned.

255. Schooner Lucy, Califf, was taken and carried into Cape François and condemned.

256. Schooner Mary, Thompson, was carried into Cape François and acquitted.

257. Ship Friendship, Smith, was robbed and maltreated by a French privateer.

258. Ship Louisa, Clark, of Kennebeck, was carried into Jean Rabel and condemned.

259. Brig Lavinia, Cassin, was carried into St. Eustatia.

260. Schooner Delight, Hatch, of Penobscot, from Barbadoes, was carried into Porto Rico and condemned.

261. —— ——, Captain Duckendorff, of Boston, from Tobago, carried into St. Thomas, and the mate and crew turned on shore naked and moneyless.

262. Brig John, Fry, of Baltimore, bound to St. Bartholomew's, was carried into Porto Rico.

263. Brig Triumphant, was carried into Porto Rico and cleared.

264. Brig Harmony, Bunham, of Kennebeck, was carried into Porto Rico.

265. Schooner Molly Farley, Williams, was carried into ——, and condemned at St. Domingo.

266. Sloop Maria, of New York, from Martinique, was taken by a French privateer and carried into Porto Rico.

267. Ship Hope, Rodgers, of Baltimore, from Rotterdam, and 268. the ship Fox, from New York to Hamburg were taken and carried into L'Orient; and the former condemned.

269. Schooner Sally, Richardson, of Philadelphia, from Port-au-Prince, was taken by a French privateer and ordered for Cape François.

270. Schooner Penguin, Walters, from Alexandria, was taken by a French privateer and sent to Port de Paix.

271. Brig Trio, White, was taken by a French privateer and carried into the Havanna, and condemned.

272. Brig Virginia, Butts, of Alexandria, was taken, carried to Guadaloupe, and condemned.

273. Ship Fair American, of New York, was carried into St. Domingo, and condemned.

274. Ship Nancy, Perry, from Philadelphia to London, and 275. brig Two Sisters, Sheret, from Philadelphia to Jamaica, were captured by a French privateer, and sent for Cape François.

276. Brig Sally, Baty, of Baltimore, with flour and corn, was condemned at Guadaloupe.

277. The Maria Wilmans, Gardner, of Baltimore, was carried to Guadaloupe, where the cargo was condemned, and the vessel cleared.

278. Brig Sally, Vetel, of Rhode Island, and 279, schooner Susannah, were both condemned at Guadaloupe.

280. Brig Juno, Walker, from Charleston to Hamburg, was taken by a French privateer, and sent into Brest.

281. Ship Charlotte, from Charleston to Bremen, was taken by a French privateer, and sent into Brest.

282. Ship Sally, from Guernsey to Dieppe, was taken by a French privateer, and sent into Dieppe.

283. Brig Ceres, Moore, of Newbern, bound to Trinidad, was taken by a French privateer, and sent into Porto Rico.

284. Brig Industry, Rider, from Demarara, bound to Boston, was captured by a French privateer, and sent into Cape Rooke.

285. Schooner Betsey, Sturges, from Trinidad, was taken by a French privateer, and carried into Porto Rico.

286. Brig Industry, Oran, of Portsmouth, (N. H.) was taken by a French privateer, and carried into Cape Rooke.

287. Brig Elizabeth, Gardner, of Philadelphia, was taken by a French privateer, and carried into Cadiz.

288. Brig Betsey & Patty, was taken by a French privateer. She belonged to Alexandria, and was coming from Antigua.

289. Ship Sally & Betsey, Dubbel, of Newfield,
290. Brig Alexander, Backhouse, of New York,
291. Brig Experience, Fitch, of New York,
292. Brig American, Rhodes,
293. Schooner Polly, Erwin,
294. Sloop Sterea, Russell, of Middletown,
295. Schooner Two Cousins, Devol, of Philadelphia,

} Were all captured by French cruisers, and carried into Havanna.

296. Schooner Citizen, Lawrence, of Baltimore, from Martinique,
297. Schooner Art, Dennison,
298. Schooner Richmond, Rea, of Charleston, from Trinidad,
299. Hestor & Eliza, Freeman, of Baltimore, from Tobago,
300. Schooner Isabella, Higgins, from St. Vincent's,
301. Sloop Sally, Cargill, from Demarara,
302. Ship Nancy, Gardner, of Boston, from the Isle of France, having touched at the Cape of Good Hope,

} Taken by French privateers, and carried into Curaçoa.

303. Ship Alfred, Asquith, of Boston, from Lisbon to Saffee, with twelve thousand dollars on board, was captured by a French privateer, but was re-captured by the British.

304. Schooner Industry, Mesroon, from Charleston to Jamaica, was carried into St. Jago by a French privateer.

305. Brig Commerce, Green, was carried into St. Jago by a French privateer; 306.. also brig Neutrality, Clark, of Kennebeck.

307. Brig Jefferson, Morris, was taken by a French privateer, but rescued by the captain.

308. The D. Forester, from London to New York, is taken and carried into Morlaix.

309. The Schooner Success, of Norfolk, was condemned at the Cape.

310. Ship Maria, Ferris, of New York, was taken by a French privateer, but re-captured by a British frigate.

311. Brig Eliza, Simpson, of New York, was carried into Guadaloupe, where vessel and cargo were condemned.

312. Brig William, M'Lellan, of Portland, from Barbadoes to New York, was carried it is not known whither.

313. Schooner Polly, Willis, of Alexandria, was carried into Guadaloupe and cleared.

314. Brig Nancy, Nimmo, of Alexandria, was carried into Guadaloupe and condemned, vessel and cargo.

315. Schooner Milton, Brooks, of New York, was condemned at Guadaloupe.

316. Brig William, of Wiscasset, from Demarara, bound home, was captured by a French privateer and sent into St. Martin's.

A few remarkable cases of French Captures, extracted from the newspapers.

1. A ship, from Salem, was taken by a French privateer to the windward of Turk's Island passage: a British sloop of war heaving in sight, the Frenchman quitted her, and heaving round under her stern, poured in several broadsides, which wounded four of her men.—*See Gaz. U. S. 7th Feb.* 1797.

2. The brig Glasgow, Codwise, of New York, being bound from Jeremie to Port-au-Prince, was captured and carried into Leogane. The captain was confined on board his vessel, his crew were excited to assassinate him; and on the fifteenth day of his confinement, having ventured on shore, he was taken up, placed in the fort, and there detained thirty-six hours, without provisions. After a detention of sixty-eight days, seeing no prospect of a trial, he abandoned the vessel, and returned home.—*See Ph. Gaz. 18th Nov.* 1796.

3. Captain Pierce, who had been carried to Leogane, mentions, that, on his outward bound passage, in the Bite of Leogane, he was boarded by an armed French barge, the master of which beat his supercargo in so unmerciful a

57. The brig Despatch, Lunt, from Port-au-Prince, with a cargo of molasses, valued at eight thousand dollars, which, with the vessel, valued at four thousand dollars, were condemned.

58. Schooner Argus, of Baltimore, was condemned at Guadaloupe for trading with a British island.

59. Schooner Citizen, Gilbert, on her passage from Norfolk to Martinique, was captured and carried into Guadaloupe, and there released.

60. Schooner Phœbe, Webb, from New London to Jeremie, was carried into Petit Guave, where she was plundered and detained.

61. Brig Nancy, Webb, was carried into Petit Guave. She belonged to New London.

62. Schooner Hope, Jacocks, of Philadelphia, from Philadelphia, was carried into Petit Guave with a cargo of provisions, &c. valued at eight thousand dollars.

63. Brig Clio, Ball, of and from Baltimore, was carried into Petit Guave with a cargo of provisions.

64. Sloop Leader, Warner, of Cape Ann, from thence with a cargo of provisions, valued at five thousand dollars, was carried into Petit Guave.

65. Schooner Amelia, Cockrin, of and from Boston, for Europe, was carried into Petit Guave, with a cargo of wine and dry goods, valued at sixteen thousand dollars.

66. Schooner Jane, Atwood, went to Fort François on a trading voyage, and there the governmental administration seized the cargo without allowing any compensation.

67. Brig Clarissa, Bruton, of and from Philadelphia, for Trinidad, was carried into Guadaloupe, and her cargo condemned.

68. Ship James, Buchanan, of Baltimore, bound to the West Indies, was captured the beginning of January, and carried into Guadaloupe, where her cargo was sold and sequestered.

69. Schooner Return, Nichols, from Barbadoes to New York, was carried into Guadaloupe, where her cargo, and all the specie she had on board, were condemned.

70. The brig Mary, of New York, from Barbadoes for North Carolina, was taken on the 29th December, and carried into St. Marks.

71. The brig Westmoreland, Troop, of New York, was captured off the Havanna by a French privateer, and sent for New Orleans.

72. Ship Hope, Sewall, of Boston, was captured by a French privateer, four hours after leaving St. Thomas's, and sent to leeward.

73. The Schooner Washington, Jones, of Baltimore, was condemned at Port de Paix.

74. The Schooner Hannah, Bright, of Alexandria, was condemned at the same place.

75. The sloop Hiram, Baldwin, was condemned at the same place.

76. Ship Hope, Seward, of Boston, was carried into Porto Rico.

77. Brig Susan, Lines, of New Haven, was carried into Guadaloupe, and her cargo taken.

The following vessels were captured by French privateers, and carried into Cabo Roxa, in Porto Rico:

78. Brig Resolution, Moore, of Portsmouth, New Hampshire, from Demarara; cargo condemned. 79. Schooner Neptune, Pease, of Savannah, from Grenada; vessel and cargo condemned. 80. Schooner Shetucket, Bowdish, of New Haven, also from Grenada; vessel and cargo condemned.

81. The Juliana, Captain Hayward, was captured on her voyage from Hamburg to Baltimore by a prize brig belonging to Commodore Barney. She was carried to Porto Rico, and, after some detention, dismissed.

82. The ship Sally, Bayne, of New York, from Demarara, bound home, was carried into St. Martin's, and the vessel and cargo condemned.

83. The brig Mary, Beattie, of New York, was carried into St. Martin's. She was on a voyage from Barbadoes to Turk's Island.

84. Brig ——, of Sheepscut, Massachusetts, Captain Crawford, from St. Bartholomew's to Georgia, was carried into the same place.

85. Schooner ——, of Newbern, Captain Tinker, had cleared out from St. Martin's for St. Bartholomew's, but was brought back by a privateer, and was waiting for trial.

86. The ship Reimsdyke, of Providence, Aborn, master, from the Isle of France, was captured by a French cruiser, and carried into St. Martin's, but was cut out of the harbor by a British lugger, and carried to Tortola.

87. The brig Betsey, Baker, from Wells, in Massachusetts, to Cape François, was carried into St. Martins, where the vessel and cargo were condemned.

88. The schooner Rebecca, of Baltimore, Hall, master, was captured and carried into St. Martin's, and there abandoned.

89. The brig Peggy, Kilby, of and bound to Philadelphia from Port-au-Prince, was captured by a French privateer, and afterwards re-captured by a British ship of war.

90. Ship Commerce, Ham, of Newburyport, was captured by a French privateer, and abandoned by them on the appearance of a British ship of war.

91. 92. Brig John, Tucker; and schooner Kitty, Harper, from Jeremie, with coffee, bound to New York, were taken by a French privateer and sent into Cuba.

93. The brig Russel, Smith, of Newbern, sailed thence with a cargo of lumber, bound for a market in the West Indies. She was captured, carried to Cape François, and condemned.

94. The brig Susan and Polly, of and from New York to Jamaica, was carried into Port de Paix, and condemned without a trial.

95. Ship Andromache, Kingston, of Philadelphia, from Cadiz, was captured, detained, and plundered by a French privateer.

96. Sloop Polly, Turner, of Derby, Connecticut, was taken on the 3d of December; carried into Guadaloupe and condemned.

97. Brig Patriot, Bishop, with her cargo, were condemned at Cape François.

98. The Speedwell, of Alexandria, was forced by distress to enter Cape François, where she was seized and condemned.

99. Ship ——, Butt, of New York, was sent into Cape François for adjudication.

100. Schooner Hopewell, Skinner, was condemned at the Cape.

101. Brig Speedwell, Crawford, from Nevis to Savannah, was carried into Guadaloupe, and, after a long detention, acquitted.

102. Brig Nancy, of Newbern, was carried into St. Martin's.

103. Schooner Elizabeth, Trott, from Demarara to New London, was carried into St. Martin's by a French privateer, and the captain and some of the crew imprisoned.

104. Brig Woolwich, M'Cutcheon, of Philadelphia, from Port-au-Prince, with one hundred hogsheads and one hundred barrels of sugar, was carried into Cuba and condemned.

105. Brig Lavinia, of Salem, from Aux Cayes, was sent into Cuba.

106. Schooner Harriet, Shield, of Philadelphia, was taken, and carried into Port de Paix and condemned there.

107. Schooner Henry and Gustavus, Hempsted, from St. Bartholomew's, was boarded by a French brig, and robbed of one hundred and twenty-nine joes, and some small articles.

108. Brig Polly, Clemens, of Portland, bound from London to Virginia, was carried into St. Bartholomew's.

109. The Friends, of Norfolk, from London for Norfolk, was sent into Guadaloupe and condemned.

110. The brig Swift, Luke, of and from Norfolk for Barbadoes, was carried into Guadaloupe, where the vessel was cleared, but the cargo condemned.

111. Brig Neptune, Blanchard, bound to St. Bartholomew's with lumber, was carried into Guadaloupe, and condemned, because she had no sea-letter.

112. Ship Charlotte, of Baltimore; carried into Guadaloupe, tried, and acquitted.

113. Brig ——, Captain Drane, bound to Europe, was carried into Guadaloupe, and compelled to sell her cargo.
114. Brig ——, Captain Bickford, from Russia to America, was carried into Guadaloupe.
115. Schooner Apollo, White, of Wiscasset, from Martinique to Savannah, was captured, plundered, and ordered to Port Rico; but, on the passage, re-captured by a British vessel.
116. The Ruby, Smith, was captured by a French privateer, and ordered to St. Domingo, but rescued by the crew.
117. Ship St. Tammany, Dangerfield, of Virginia, from Liverpool to Savannah, with salt, was captured and carried into Guadaloupe.
118. Brig Thetis, Peterkin, of Baltimore, from Jeremie, was captured and carried into Baracoa, in the island of Cuba: plundered and detained as a prize.
119. Ship Pattern, Boal, of New York, was condemned for being bound to Jamaica.
120. Schooner Speedwell, Atkins, from Penobscot, was taken by a French privateer and sent into Guadaloupe.
121. Schooner Jenny and Hannah, from Barbadoes for Connecticut, was boarded by a French privateer and robbed.
122. Brig Eliza, Seymour, of and from New London, in Connecticut, to the West Indies, with horses, was carried into Guadaloupe, and condemned, together with her cargo.
123. Brig Betsey, Clark, from Wilmington, (N. C.) to Martinique, with lumber, grain, &c. carried into Guadaloupe; her cargo sequestered.
124. Brig Eliza, Francis, from New London, was carried into Guadaloupe, where her cargo was condemned.
125. Ship Washington, from the Isle of France to Boston, being blown off the coast, and in distress, was captured in sight of Deseada, and carried into Guadaloupe for adjudication.
126. Schooner Harriot, Eddow, of New York, from Carolina, was carried into Guadaloupe: her cargo was sequestered, and the vessel cleared.
127. Ship Eliza, Hambin, from Cork for New York, having sprung a leak, was obliged to bear away for the West Indies. She was captured by a French privateer, and run on shore at Mariegalante. The captain was imprisoned thirty-two days, and then dismissed.
128. Sloop Honor, Kemble, of and from New London, was carried into Petit Trou, with a cargo of provisions, and live stock, valued at three thousand dollars, which, with the vessel, valued at one thousand five hundred dollars, was condemned.
129. Sloop Nelly, Adams, of Boston, was captured and carried into L'Ance-à-Veau in ballast.
130. Schooner Somerset, Dillingham, of Charleston, was carried into L'Ance-à-Veau, with a cargo of salt and wine.
131. Brig Pearl, Webb, of and from New London, was carried into Petit Guave, with a cargo of provisions, valued at six thousand dollars; she was abandoned.
132. Brig Pomona, of Baltimore, was carried into Leogane, and condemned.
133. Schooner Hannah, of Philadelphia, was carried into Leogane, and condemned.
134. Schooner Nancy, of Philadelphia, was carried into Leogane, and condemned.
135. Schooner Hibernia, of New York, was carried into Leogane, and condemned.
136. Sloop Polly, of Staten Island, was carried into Leogane, and condemned.
137. Schooner Three Friends, Parker, of Charleston, was carried into Leogane, and condemned.
138. Schooner Eliza, of Charleston, was carried into Leogane, and condemned.
139. Schooner Liberty, Williams, of Boston, was carried into Leogane, and condemned.
140. Schooner Wilmington Packet, Francis, of Charleston, was carried into St. Jago de Cuba, where she was condemned with her cargo, consisting of sugar and coffee.
141. Ship Success, Gordon, of Philadelphia, was carried into the same place, with a cargo of sugar, and condemned. She was from Jamaica.
142. Schooner Harriet, Chadwick, of New York, from North Carolina, for Barbadoes, was carried into Guadaloupe, where the cargo was condemned, and the vessel cleared.
143. Brig Hope, Sanford, of Alexandria, from Barbadoes for Virginia, was carried into Guadaloupe, where the vessel and cargo were condemned.
144. Ship Mohawk, Sutherland, of New York, from Barbadoes, was carried into Guadaloupe, where the cargo was condemned.
145. Brig Betsey, Lord, of New London, from Surinam, was captured and carried into Guadaloupe. She was cleared.
146. Schooner Active, Atkins, from Penobscot, was carried into Guadaloupe, where her cargo was condemned.
147. Brig Trial, Dean, from Norfolk for Cadiz, was carried into Guadaloupe, and her cargo sequestered.
148. Schooner Commerce, Wilds, from Boston, for a market at the West Indies, was carried into Guadaloupe, and the cargo condemned.
149. Snow Two Sisters, of Portsmouth, (N. H.) was captured and carried, the captain knew not where.
150. Brig Dolphin, Merry, of Boston, from Bonavista for Norfolk, was carried into Guadaloupe.
151. Brig Two Sisters, Hubbard, of Baltimore, from Berbice, was sent to Porto Rico, and condemned, with her cargo.
152. Brig Panther, Merril, of Kennebunk, from Barbadoes, was captured and sent to St. Martin's, where the cargo was condemned.
153. Ship James, Smith, of and from Baltimore, was carried into Guadaloupe; but cleared, having been taken before the promulgation of the arrêt authorizing it.
154. Sloop Betsey, of Boston, from Berbice, was carried into Guadaloupe, where the vessel and cargo were condemned.
155. Brig Abigail, Fibbits, was carried into Guadaloupe, where the cargo was condemned.
156. Schooner Robinson Crusoe, Church, from Barbadoes, was captured, carried into Guadaloupe, plundered, detained, and then given up.
157. Schooner Lark, Hands, was carried into Port de Paix, and condemned.
158. Ship Active, Whitehouse, was carried into Port de Paix, and condemned.
159. Schooner Betsey, Brown, war carried into Port de Paix, and condemned.
150. Schooner Federal Jones, was carried into Port de Paix, and condemned.
161. Schooner Thankful, Howland, was carried into Port de Paix, and condemned.
162. Brig Fanny, Brown, was carried into Port de Paix, and condemned.
163. Brig Digby, Taylor, was carried into Port de Paix, and condemned.
164. Brig Susan and Polly, Abecton, was carried into Port de Paix, and condemned.
165. Brig Georgia Packet, McKeever, was carried into Port de Paix, and condemned.
166. Schooner Eutaw, Smith, was carried into Port de Paix, and condemned.
167. Brig Abigail, of Portsmouth, New Hampshire, was captured as she was going into Antigua, with provisions.
168. Brig Hope, Bradford, of and to Alexandria, from Barbadoes, was carried to Guadaloupe, and condemned.
169. The Mermaid, Tilton, from Boston for London, was met by a French privateer, which put on board of her twenty prisoners, without allowing them any provisions.
170. Schooner Two Cousins, Dewall, from Jeremie to Philadelphia, was captured by a French privateer, run on shore by them, and then deserted.
171, '2, '3, 4, '5. Schooner Henry, Walker, and Snow Endeavor, Freeman, both of Philadelphia, and the sloop Speedwell, Clark, Schooner Kitty and Maria, Logan, and Schooner Triton, Beeby, were all condemned and sold at Gonaives.
176. Ship Mary, Nye, of Baltimore, was chased on shore within a few leagues from Berbice, by a French privateer.

177. Schooner Poll, Woodward, of Philadelphia, was taken on her passage from Jeremie, and sent for Cuba, by a French privateer.

178. Ship Eliza, Burton, from Barbadoes for Norfolk, was carried into Guadaloupe. Her cargo was condemned, and the crew plundered and insulted.

179. Ship Nancy, Cunningham, from Bristol, bound to Wilmington, was captured by a French privateer, carried to St. Augustine, and ransomed by the master.

180. Sloop George, of Kennebunk, Grant, master, was captured and carried into Cabo Roxa, where being driven from his vessel by the privateers, Captain Grant abandoned her.

181. Brig Union, Lyddleman, of Norwich, was carried into Porto Rico.

182. Schooner Lepper, Breard, of Portsmouth, was captured and carried into Porto Rico.

183. Brig Fanny, Gould, of Biddeford, cleared for Leogane, was carried into Port de Paix, and condemned.

184. Brig America, Town, of Philadelphia, bound from St. Thomas's to Port de Paix, or Cape François, arrived at the former place, where her cargo and cash, to the amount of near seventeen thousand dollars, were taken by the administration.

185. Brig Two Sisters, Worth, from Norfolk for Leogane, was carried into Cuba and sold.

186. Brig Three Sisters, Wardwell, from London to Halifax, was carried into Havre, with a cargo supposed to belong to the British Government, but both vessel and cargo were condemned.

187. '8, '9. Brigs Nalouisca, of Newburyport, Oxen, of New York, and John, of the same place, were carried into St. Jago.

190. The Penelope, on her passage from Petit Guave, was sent for Carthagena, but re-captured by a British ship, and sent for Jamaica.

191. Schooner John, Cook, was carried into St. Martin's.

192. Sloop Minerva, of Providence, from Africa to St. Thomas, was carried into Guadaloupe, and condemned.

193. Brig Fly, Russel, on her passage from Antigua to Philadelphia, was taken by a French privateer, and carried into St. Martin's.

194. Schooner Governor Clinton, bound from Jeremie to Philadelphia, was captured by a French privateer, and sent it is not known whither.

195. Schooner Two Friends, Rensellear, of New York, from Wilmington, N. C., to Martinique, was captured and ordered for Curaçoa.

196. Schooner Clara, of Baltimore, bound to Leogane, was captured and ordered for Port-de-Paix, but re-captured by a British cruiser.

197. Schooner Cynthia, Appleton, bound from Esquibo to Boston, was sent into St. Martin's. The vessel and cargo were condemned.

198. Schooner Columbia, Bordman, from Tobago to Boston, was captured and carried into St. Martin's.

199. Brig Hannah, Lathrop, of Boston, bound to Trinidad, was carried into Guadaloupe, but cleared.

200. Brig Ann, of New York, and from thence bound to St. Thomas, was carried into Guadaloupe and cleared.

201. Sloop Shepherdess, Dean, of and from Philadelphia, for the West Indies, was carried into Guadaloupe, where her cargo was sequestered.

202. Sloop Mary, Goodhue, of and from Newburyport for Surinam, was carried into Guadaloupe and cleared.

203. Ship Eliza, Burton, of Norfolk, from Barbadoes, was carried into Guadaloupe.

204. Brig Scipio, M'Nair, of New York, from Dublin to St. Croix, was carried into Guadaloupe.

205. Ship Little Mary, Banners, was captured off Mariegalante by the French, and re-captured by the British.

206. Schooner Hiram, Buchanan, from St. Bartholomew's, was plundered and injured by a French privateer: she was captured by another and carried to Guadaloupe.

207. Brig Sally, of New York, was carried into Guadaloupe and condemned.

208. Ship William, Strong, of Portland, was captured and carried into Porto Rico.

209. Schooner Active, Canoby, from Martinique for America, was carried into St. Martin's.

210. Schooner Nabby, Munroe, of Bristol, R. I., from Africa for St. Thomas, was carried into Guadaloupe.

211. Sloop Shepherdess, of Alexandria, Dean, master, was carried into Guadaloupe by a French privateer, and her cargo was there condemned.

212. Brig Alexander, Shepherd, of Boston, was carried into Guadaloupe.

213. Schooner Trial, Roper, of Alexandria, was carried into Guadaloupe.

214. The Sea Nymph, Hastia, was captured by a French privateer, and sent it is not known whither.

215. Ship Nancy, Dill, of Philadelphia; 216. Ship Polly, Pienew, of Portland; 217. Ship Brandin, Gay, of Norfolk; 218. Ship Louisa, Talman, of Boston; 219. Brig Two Sisters, Skaler, of New York; 220. Brig Sally, Yardly, of Philadelphia; 221. Schooner Citizen, Massey, of Baltimore; 222. Schooner Molly, Wise, of Baltimore; 223. Schooner Columbia, Thompson, of Providence; 224. Sloop James, Palmer, of Philadelphia; 225. Sloop Betsey, Pope, of Philadelphia; 226. Sloop Martha, Towles, of Fredericksburg; 227. and Sloop Industry, Hitchcock, of New Haven; were all captured by French cruizers and carried into Jean Rabel, in St. Domingo, where they were also all condemned.

228. The Brigantine Lady Walterstorff, Gutterson, of Philadelphia, from Demarara, was carried into Guadaloupe and condemned.

229. The Ship Ann and Susan, West, of Philadelphia, was seen in possession of a French privateer.

230. Schooner Hawk, Parrock, from Jamaica to Philadelphia, was plundered at sea by a French privateer, and then dismissed.

231. Brig Baron de Carondelet, M'Call, from Leghorn, was twice boarded, plundered, and detained, by French privateers.

232. Brig Lipsbury, Farly, from Guadaloupe to Boston, was boarded by a French privateer, plundered, and searched.

233. Brig General Warren, Stowel, was captured by the French, carried into St. Eustatia, condemned at Guadaloupe, and sold at the former place.

234. The sloop Urania was lying at Guadaloupe as a prize.

235. The sloop Fox, Brooks, of Hartford, bound thence to Leogane, was captured, carried to Port de Paix, and vessel and cargo there condemned; the owners of the privateers having given the commissioners 100 half joes to pronounce that sentence.

236. The brig Peace, Allen, of Providence, bound from Dover to Surinam, having touched at Cayenne, was seized there as being bound from a British port, and condemned. Her value was twenty-five thousand dollars.

237. Schooner Columbus, Mason, from St. Vincent's to Kennebunk, was boarded by a French privateer, plundered, set fire to, and abandoned.

238. Sloop John, Lee, captured by a French privateer and carried into St. Martin's, but was suffered to depart after being plundered, and the captain was obliged to pay for the shot fired at him.

239. Brig Alexander, Shepherd, of Boston, was carried into Point Petre.

240 and 241. Brig Matilda, of Baltimore, and schooner Neptune, of Boston, bound from Teneriffe, were captured by a French privateer and carried into St. Thomas's, where they were restored.

242. Ship Atlantic, of Baltimore, from Teneriffe, was captured by the French, but re-captured by the British.

243. Schooner Ranger, Riply, from Surinam for Boston, was fired at, boarded, plundered, and dismissed, by a French privateer.

244. Brig Sally, Johnson, from Surinam to Newburyport, was plundered by a French privateer, which also flogged the captain.

245. Brig Seven Brothers, Singleton, from Port-au-Prince to Jamaica, was carried into Gonaives and condemned.

246. Ship Sedgley, from Philadelphia to Jamaica, with staves, was carried into St. Domingo and condemned.

247. Brig Orange, Hunt, of Rhode Island, from St. Lucia to Havanna; 248. schooners Active, and 249. Eliza, both of Norwich and from Tobago, bound home, were captured by a French privateer and sent into Curacoa.

250. Barque Susannah, Smith, of Biddeford, was taken and carried into Porto Rico. She was bound from St. Vincent's.

251. Schooner Isabella, Jones, from St. Kitts, was carried into Porto Rico, but released.

252. Schooner Adventure, Compton, of Baltimore, from Demarara, with coffee, was carried into Guadaloupe.

253. Schooner Jenny, Butts, of Alexandria, was carried into Guadaloupe with flour.

254. Brig Diana, Fairchild, of New York, was sent into Guadaloupe and condemned.

255. Schooner Lucy, Califf, was taken and carried into Cape François and condemned.

256. Schooner Mary, Thompson, was carried into Cape François and acquitted.

257. Ship Friendship, Smith, was robbed and maltreated by a French privateer.

258. Ship Louisa, Clark, of Kennebeck, was carried into Jean Rabel and condemned.

259. Brig Lavinia, Cassin, was carried into St. Eustatia.

260. Schooner Delight, Hatch, of Penobscot, from Barbadoes, was carried into Porto Rico and condemned.

261. —— ——, Captain Duckendorff, of Boston, from Tobago, carried into St. Thomas, and the mate and crew turned on shore naked and moneyless.

262. Brig John, Fry, of Baltimore, bound to St. Bartholomew's, was carried into Porto Rico.

263. Brig Triumphant, was carried into Porto Rico and cleared.

264. Brig Harmony, Bunham, of Kennebeck, was carried into Porto Rico.

265. Schooner Molly Farley, Williams, was carried into ——, and condemned at St. Domingo.

266. Sloop Maria, of New York, from Martinique, was taken by a French privateer and carried into Porto Rico.

267. Ship Hope, Rodgers, of Baltimore, from Rotterdam, and 268. the ship Fox, from New York to Hamburg were taken and carried into L'Orient; and the former condemned.

269. Schooner Sally, Richardson, of Philadelphia, from Port-au-Prince, was taken by a French privateer and ordered for Cape François.

270. Schooner Penguin, Walters, from Alexandria, was taken by a French privateer and sent to Port de Paix.

271. Brig Trio, White, was taken by a French privateer and carried into the Havanna, and condemned.

272. Brig Virginia, Butts, of Alexandria, was taken, carried to Guadaloupe, and condemned.

273. Ship Fair American, of New York, was carried into St. Domingo, and condemned.

274. Ship Nancy, Perry, from Philadelphia to London, and 275. brig Two Sisters, Sheret, from Philadelphia to Jamaica, were captured by a French privateer, and sent for Cape François.

276. Brig Sally, Baty, of Baltimore, with flour and corn, was condemned at Guadaloupe.

277. The Maria Wilmans, Gardner, of Baltimore, was carried to Guadaloupe, where the cargo was condemned, and the vessel cleared.

278. Brig Sally, Vetel, of Rhode Island, and 279, schooner Susannah, were both condemned at Guadaloupe.

280. Brig Juno, Walker, from Charleston to Hamburg, was taken by a French privateer, and sent into Brest.

281. Ship Charlotte, from Charleston to Bremen, was taken by a French privateer, and sent into Brest.

282. Ship Sally, from Guernsey to Dieppe, was taken by a French privateer, and sent into Dieppe.

283. Brig Ceres, Moore, of Newbern, bound to Trinidad, was taken by a French privateer, and sent into Porto Rico.

284. Brig Industry, Rider, from Demarara, bound to Boston, was captured by a French privateer, and sent into Cape Rooke.

285. Schooner Betsey, Sturges, from Trinidad, was taken by a French privateer, and carried into Porto Rico.

286. Brig Industry, Oran, of Portsmouth, (N. H.) was taken by a French privateer, and carried into Cape Rooke.

287. Brig Elizabeth, Gardner, of Philadelphia, was taken by a French privateer, and carried into Cadiz.

288. Brig Betsey & Patty, was taken by a French privateer. She belonged to Alexandria, and was coming from Antigua.

289. Ship Sally & Betsey, Dubbel, of Newfield,
290. Brig Alexander, Backhouse, of New York,
291. Brig Experience, Fitch, of New York,
292. Brig American, Rhodes,
293. Schooner Polly, Erwin,
294. Sloop Sterea, Russell, of Middletown,
295. Schooner Two Cousins, Devol, of Philadelphia,

} Were all captured by French cruisers, and carried into Havanna.

296. Schooner Citizen, Lawrence, of Baltimore, from Martinique,
297. Schooner Art, Dennison,
298. Schooner Richmond, Rea, of Charleston, from Trinidad,
299. Hestor & Eliza, Freeman, of Baltimore, from Tobago,
300. Schooner Isabella, Higgins, from St. Vincent's,
301. Sloop Sally, Cargill, from Demarara,
302. Ship Nancy, Gardner, of Boston, from the Isle of France, having touched at the Cape of Good Hope,

} Taken by French privateers, and carried into Curaçoa.

303. Ship Alfred, Asquith, of Boston, from Lisbon to Saffee, with twelve thousand dollars on board, was captured by a French privateer, but was re-captured by the British.

304. Schooner Industry, Mesroon, from Charleston to Jamaica, was carried into St. Jago by a French privateer.

305. Brig Commerce, Green, was carried into St. Jago by a French privateer; 306.. also brig Neutrality, Clark, of Kennebeck.

307. Brig Jefferson, Morris, was taken by a French privateer, but rescued by the captain.

308. The D. Forester, from London to New York, is taken and carried into Morlaix.

309. The Schooner Success, of Norfolk, was condemned at the Cape.

310. Ship Maria, Ferris, of New York, was taken by a French privateer, but re-captured by a British frigate.

311. Brig Eliza, Simpson, of New York, was carried into Guadaloupe, where vessel and cargo were condemned.

312. Brig William, M'Lellan, of Portland, from Barbadoes to New York, was carried it is not known whither.

313. Schooner Polly, Willis, of Alexandria, was carried into Guadaloupe and cleared.

314. Brig Nancy, Nimmo, of Alexandria, was carried into Guadaloupe and condemned, vessel and cargo.

315. Schooner Milton, Brooks, of New York, was condemned at Guadaloupe.

316. Brig William, of Wiscasset, from Demarara, bound home, was captured by a French privateer and sent into St. Martin's.

A few remarkable cases of French Captures, extracted from the newspapers.

1. A ship, from Salem, was taken by a French privateer to the windward of Turk's Island passage: a British sloop of war heaving in sight, the Frenchman quitted her, and heaving round under her stern, poured in several broadsides, which wounded four of her men.—*See Gaz. U. S. 7th Feb.* 1797.

2. The brig Glasgow, Codwise, of New York, being bound from Jeremie to Port-au-Prince, was captured and carried into Leogane. The captain was confined on board his vessel, his crew were excited to assassinate him; and on the fifteenth day of his confinement, having ventured on shore, he was taken up, placed in the fort, and there detained thirty-six hours, without provisions. After a detention of sixty-eight days, seeing no prospect of a trial, he abandoned the vessel, and returned home.—*See Ph. Gaz. 18th Nov.* 1796.

3. Captain Pierce, who had been carried to Leogane, mentions, that, on his outward bound passage, in the Bite of Leogane, he was boarded by an armed French barge, the master of which beat his supercargo in so unmerciful a

manner with his sword, that he died a few days afterwards. The barge robbed captain Pierce of about three hundred dollars worth, and captain Miller, from Norfolk, to the amount of nine hundred dollars worth; also, Captain Boyd, of Philadelphia, to a considerable amount. They afterwards saw the pirate in Leogane, and complained of him to the commandant, who imprisoned him three days, and then liberated him without giving further satisfaction.—*See Phil. Gaz. 28th Nov.* 1796.

4. The Hirondale, after having captured the schooner Zephyr, captain Breard, of Portsmouth, and carried her into Cabo Raxo, plundered her of all her provisions, leaving captain B. and crew nothing to subsist on. Captain B. went on board the Hirondale to obtain satisfaction for the loss of his property, and to request, if it should not be made, leave to remain on board the privateer until his vessel was tried. The captain refused him any, ordered him on shore, and, finally, threw him overboard, the privateer being then under way, on another cruise.—*Ph. Gaz. 5th April.*

5. The brig Two Sisters, Captain Worth, from Norfolk for Leogane, was brought to by a French privateer, to the leeward of Hispaniola. Captain Worth was ordered on board, and, when there, the captain of the privateer, offering a paper written in French, ordered Captain Worth to sign it. On his refusing, the pirate drew his cutlass and swore he would cleave his scull if he did not immediately put his name to the paper; but captain Worth persisted in refusing, reasoning on the absurdity of his signing a writing in a language he did not understand. The privateersman then turned to the sailors (two Italians) and commanded them to write their names: they could not write: he then forced them, with threats, and a drawn sword over their heads, to make their marks at the bottom of the paper. He then directly hailed the brig, informing that she was a good prize, as the men had signed a declaration that she was bound to Jamaica. Captain W. was carried to Cuba, in the privateer, and four days afterwards the brig came in. On Captain Worth's observing to the picarooning captain that he could not have her tried and sold at Cuba, he was told that she was already sold; and soon afterwards a Spanish merchant was put in possession of her. Her papers were then sent to Cape François for trial.—*Ph. Gaz. 6th April*, 1797.

6. The schooner Columbus, Mason, from St. Vincent's, for Kennebunk, was boarded by a French privateer, which detained her six hours, and took out of her sixty gallons of rum, a barrel of sugar, &c. The privateersmen said they would have carried her in, if they had found property enough to engage their attention. They brought fire from the privateer, ordered the boy to kindle it in the caboose, said they were going to burn the vessel, and ordered the crew to put their things on board the vessel, and convey them to the privateer. One of the privateersmen then carried a firebrand to the mast head, another took one into the cabin, while a third conveyed one into the steerage; but on Captain M. declaring he had no money, and refusing to quit his vessel, they desisted, and permitted him to proceed.—*Ph. Gaz. 23d May*, 1797.

7. The brig Almy, Cutter, was captured off the east end of Jamaica by two French privateers, one of which was the Flying Fish, built at Baltimore, by one John Love, who afterwards sold her to her present owner at the Cape, and then went captain of her. He fired upwards of thirty shot at the Almy without hailing her, although lying to for twenty minutes before, with American colors flying. He then hailed, and ordered the boat on board, which being done, he detained the mate, two seamen, the ship's register and other papers, and sent a prize master and three others, all armed, on board. They then hoisted in the boat and stood for Gonaives. Next day, however, they were re-captured by a British sloop of war.—*Ph. Gaz. 3d Jan.* 1797.

8. A gentleman from Porto Rico, informs that the American ship Mount Vernon, captured by the French privateer Flying Fish, Captain Paris, had been condemned and sold there. The pretences for her condemnation were various; but on their being principally obviated, judgment was finally given on instructions to the commander of the privateer, sent by the French minister, directing him to make prize of the ship. Paris, captain of the privateer, had been appointed consul at Porto Rico, and sat in judgment on his own cause.—*Ph. Gaz. 28th Dec.*

9. The schooner Ranger, Brown, was detained three days at St. Martin's, after having been cleared out; and the captain and crew were confined on board a French frigate, under pretence that she had no sea letter. Previous to the Ranger's sailing, a schooner from Baltimore, and another from New York, were condemned under a similar pretext.—*Ph. Gaz. 1st Dec.*

10. The schooner Friendship, Harlow, was captured and carried into St. Martin's, under a supposition that she had no sea-letter; but upon producing it, she was released.—*Ph. Gaz. 24th Dec.*

11. The Speedwell, of Alexandria, bound home, was 63 days on her passage; and owing to the hands having been a long time on short allowance, and to the damage she had sustained, she was obliged to bear away for Cape François, where the administration breaking through every tie of humanity, seized and condemned her.—*Ph. Gaz. 23d Feb.*

12. Brig Neptune, Blanchard, bound to St. Bartholomew's, with lumber, was carried into Guadaloupe, where she was tried and acquitted. Afterwards, she was tried again, in consequence of Victor Hugues's orders, and condemned, because, as it was said, she had no sea-letter; although Captain B. had a certificate from the custom house that there were not any sea-letters at the time she sailed, in that office.—*Ph. Gaz. 25th Feb.*

13. Ship Charlotte, of Baltimore, was carried into Guadaloupe, with a cargo of flour, tried and acquitted. The supercargo, Mr. Buchanan, *in consequence merely of his name was, without examination*, put into close prison for several days by Victor Hugues's orders, who afterwards finding himself mistaken in the person, had him released. *Ph. Gaz. 25th Feb.*

14. Captain Barney, on his passage from France, captured five or six vessels sailing under certificates of property; these he set fire to, and has publicly declared he will do so in every instance, which is poor encouragement for Americans to purchase prizes of them. One of them was a brig belonging to P. & T. Mackie, from Malaga, Andrew Poden, master, who was murdered the second day after they sailed, by the mate and crew, and a considerable sum of money divided among them.

15. The ship Washington, from the Isle of France to Boston, out 153 days, blown off the coast, and in distress, was taken in sight of Deseada, and sent into port for adjudication.—*Ph. Gaz. 6th March*, 1797.

16. Captain Bright, on his passage from Alexandria to Miraguane, a French port, with a cargo of flour, was captured by a French privateer, off Port de Paix, carried in there, and condemned without a hearing. There were about fifteen sail more of American vessels in that port, the whole of them condemned, though several were bound to French ports. The administration at the Cape had issued orders to capture all Americans bound to leeward of Cape François.—*Gaz. U. S. 28th March.*

17. Schooner Clara, of Baltimore, with a valuable cargo of dry goods, bound to Leogane, was captured by a French privateer, and re-captured by a British vessel.—*Ph. Gaz. 29th April.*

18. The sloop Fox, Brooks, from Hartford, for Leogane, a French port, was captured and sent into Port de Paix, where both vessel and cargo were condemned, under the pretence of her being bound to a British port. The owners of the privateer gave the commissaries 100 half joes to condemn the vessel; and the captain had to pay three half joes for his register after the vessel was sold.—*Gaz. U. S. 15th May.*

19. The brig Peace, Allen, of Providence, was bound from Dover to Surinam, but touched at Cayenne. After she had been there several days, she was seized; and the vessel and cash she had on board, valued at $25,000, were condemned, under the pretence of her being from a British port.—*Gaz. U. S. 18th May.*

20. Captain John Hall, of the schooner Rebecca, of Baltimore, was plundered of every thing he had by the prize master, and crew put on board his vessel; and part of his crew were put on board a prison ship, and obliged to work in the day time; at night they were put in irons.—*Gaz. U. S. 7th Feb.*

21. The schooner Elizabeth, Trott, from Demerara, bound to New London, was captured by the French privateer Flybuster, and carried into St. Martin's, where the captain and three of his crew were imprisoned.—*Ph. Gaz. 14th March.*

22. The Friends, of Norfolk, from London, was captured by a French privateer, and carried into Guadaloupe. The vessel was condemned, and the captain and crew imprisoned. The captain was afterwards, with four others, sent to Martinique, to be exchanged for Frenchmen.—*Ph. Gaz. 24th Feb. and 15th March.*

23. Captain Church informs, that the French take all American vessels bound to or from English ports, and behave in a most scandalous manner to the captains and crews, by putting them in jail, or turning them on shore without the means of procuring even a meal.—*Ph. Gaz. 10th March.*

24. Captain Calvert says the treatment of Victor Hugues to the Americans is very cruel. They are thrown into prison, loaded with irons, stripped of their apparel, and scarcely allowed a miserable subsistence.—*Ph. Gaz. 25th March.*

25. From every one of the unfortunate Americans who were exchanged at Martinique for Frenchmen, accounts were given of the conduct of Victor Hugues towards their countrymen. Americans were dying at Guadaloupe in greater numbers than ever was known on board the Jersey prison ship at New York, during the late American war. *Gaz. U. S. April 1.*

26. The brig Fanny, Gould, of Biddeford, was cleared out for Leogane, a French port in Hispaniola, with lumber only, with a regular sea letter, register and clearance; nevertheless she was taken by a French national cutter, and carried into Port de Paix. The papers were carried to the Cape, and the vessel and cargo soon afterwards condemned, on the plea, that the vessel was deficient of certificates of her cargo in the usual style from the officers of the port whence she sailed, agreably to treaty. The captain and crew were deprived of their adventures, clothes, &c. thrown into jail among common thieves and murderers, put into irons, and allowed only four ounces of beef, and half a pound of bread per day for their subsistence, in which confinement they were continued for twenty days. The preceding facts were sworn to before justice Barret, of Boston.—*See Ph. Gaz. 6th April.*

27. Mr. Molay, supercargo of the Ann and Maria, of Baltimore, informs that she was taken on her homeward bound passage from Jamaica, by a French privateer, and carried into St. Jago de Cuba, where (the captain of the privateer having bribed two of the hands to swear she was British property) she was condemned, with her cargo, without even the semblance of a trial; and that her cargo being immediately landed, ports were knocked into her, and she was sent out on a cruise as a French privateer.—*Ph. Gaz. 19th Jan.*

28. The administration take by force all American cargoes, without any mode of payment whatever, and likewise take all American vessels bound to or from English ports, and condemn them *without a hearing.—Extract of a letter from Cape François in the Gaz. U. S. 20th Jan.*

29. The Government of this place seems determined to lay every obstacle in the way of American commerce. It now not only refuses paying old debts, but contracts (if it can be so called) new ones, without so much as a promise of ever paying; its armed vessels have sent in all Americans bound to or from any British ports, either in this island, or real English colonies, which have been condemned *without so much as even the ceremonies of a trial.* Such as have come here of their own accord, have had their cargoes taken by force; some have abandoned their vessels, and gone home, depending, as I suppose, upon the insurers for indemnification; others, whose cargoes have been partly taken, stay, but to no purpose.—*Extract of another letter from the same place, ibid.*

30. Schooner Phœbe, Webb, was taken on her passage from New London to Jeremie, and carried to Petit Guave, where she was detained ninety days, and the greatest part of her cargo taken, *without a trial:* they even refused giving a receipt for what property they took, and the commissaries refused Captain Webb provisions to subsist his sick people.—*Phil. Gaz. 24th Jan.* 1797.

31. There were lying at Petit Guave, on the 10th November, seven American vessels, which had been captured, in pursuance of orders issued by the commissioners at the Cape, making all Americans bound to or from British ports, lawful prize. They had been lying there from two to three months, during which time their cargoes were taken from them, without the form of a trial: more than three-fourths of the men (captains and sailors) fell a sacrifice to the fever, and the remaining fourth were more like walking ghosts than men; most of them destitute of money, and unable to give a decent burial to those who die. A few days before, one Gaston, a mulatto, at the head of the administration of the place, enticed a Philadelphia schooner, lying at Leogane with flour, to come to Petit Guave, by promising the captain, upon his sacred word of honor, that he would take nothing from him. But he had no sooner arrived than Gaston ordered a guard on board the vessel, and took away the flour. There were then lying in the several ports of the Bite fifty-one sail of Americans, which had been brought in by privateers; and at a moderate computation, half of their crews had died.—*Phil. Gaz. 15th Feb.* 1797.

32. The brig Susan and Polly, of and from New York, bound to Jamaica, was taken by a French privateer, and carried to Port de Paix. She was condemned, with her cargo, without the form of a trial, by Santhonax, who declared it was unnecessary to ask any questions, as the French Directory had given positive instructions to seize every American vessel bound to or from British ports. Thirty-five sail of American vessels were condemned and sold in the same port, in the same manner, within a few days afterwards.—*Gaz. U. S. 22d Feb.*

33. The snow Endeavor, Freeman, was bound from St. Croix to Aux Cayes, but was forbidden to enter by two British armed vessels. Soon afterwards, she was taken by two French armed boats, and sent into Gonaives, where the crew were insultingly turned on shore without the means of subsistence, and would have suffered but for the assistance they received from their American brethren there. The vessel and cargo were condemned and sold, with *scarcely the ceremony of a trial.* Some days after being sent on shore, Captain Freeman returned to his vessel, for the purpose of shifting his clothing, which was not only refused him, but threats were uttered against his life: and he found it necessary to leap into his boat, to prevent the execution of their designs. Two of his crew, having afterwards gone on board for a similar purpose, they were mangled in a most shocking manner, and one of them was mortally wounded.—*Phil. Gaz. 25th March.*

34. "From every American vessel that arrives at Cape François, the cargo is forcibly taken by the administration, who promise payment, apparently without any intention of performing, as cargoes thus forcibly taken remain yet unpaid, though many months have elapsed. When remonstrances are made, nothing but persecution results from it. From Captain Barney, of the Medusa frigate, being a native American, the captains of American vessels had reason to suppose he would rather have wished to alleviate their sufferings; but to persecution he added insult, not only to the American captains there, but to their country, by ignominiously hoisting its flag reversed on board his frigate."

JAMES M'CALL,
Mate of the Brig Baron de Carondelet.
THOMAS ATWOOD,
Late Master of the Schooner Jane, abandoned at the Cape.

Gaz. U. S. 10th Jan.

No. 6.

Extract of a letter from Rufus King, Esq. Minister of the United States in London, enclosing the protest of William Martin, Master of the Cincinnatus, of Baltimore, relative to the torture inflicted upon said Martin by a French cruiser; dated

April 19, 1797.

"Hitherto the captures in Europe have not been numerous, though several of our valuable ships have been carried into France, and in a few instances the masters and other officers of our vessels have been treated in a barbarous and cruel manner by the French cruisers, who have put them to the torture, in order to compel them to make such declarations relative to the property and destination of their ships and cargoes as were desired. Enclosed I send you the protest of William Martin, master of the Cincinnatus, of Baltimore, who lately arrived here, after having fallen into the hands of a French cruiser, which obliged him to leave his own vessel, and to go on board the cruiser, when he was tortured for more than three hours. Captain Martin's thumbs, which I examined, bear the marks of the screws, and the scars will go with him to the grave.

"It is impossible that these barbarous outrages should be authorized; indeed, the concealment observed by the perpetrators of them, who refused to tell their names, or the port of their equipment, evince that they are not so."

By this public instrument of protest, be it known and made manifest to all people whom it doth or may concern, that on the 26th day of March last, before me, James Gravener, notary and tabellion public, residing in the town and port of Dover, in the county of Kent, by lawful authority admitted and sworn, personally appeared William Martin, master of the ship or vessel called the Cincinnatus, belonging to Baltimore, in America, of the burthen of two hundred and twenty-nine tons, or thereabouts, then and now lying in Dover harbor, and entered a protest in due form; and that on this third day of April, 1797, again personally appeared the said William Martin, together with Eugene Sweeny, mate, and Robert Jackson, mariner, also belonging to the said vessel, and upon their faith and honesty solemnly declared, and for truth affirmed and witnessed, that the said vessel, on the proceed of her present intended voyage from Baltimore aforesaid, laden with a cargo of sundry merchandise, bound to London, met with hard gales of wind and high seas, therein sustained loss and damage, and was obliged to put into Galway road, as by reference to a protest made thereon, and dated the 19th day of January last, more fully appears; that they were detained in the said road repairing and reinstating their loss and damage, and with hard gales of wind unfavorable to proceed on their voyage, until the 15th day of February following, when they got under way, and put to sea with light winds and variable, and prosecuted their voyage with variable, contrary, and stormy winds and weather, without any particular circumstance occurring until the 28th, when they had a hard gale at south by west, in which the said vessel labored very heavily, and was almost constantly under water, and they were obliged to pump every half hour, and the quarter-block strap of the fore yard was carried away; that they proceeded their voyage with southwardly winds, and on the 2d day of March it blew a violent gale at south, in which the said vessel labored excessive hard, and shipped so much water, that the main deck was almost constantly covered therewith, and the said vessel's pumps were obliged to be kept going every quarter of an hour; that on the next day, at six o'clock in the evening, the gale and sea continuing, the said vessel made so much water that they were obliged to pump constantly, and at eight o'clock a sea struck her abaft, stove in one of the dead lights, filled the cabin with water, (so that they were obliged to lade it out with buckets) and carried away part of the quarter boards, and stove the skylight; that on the 4th the weather became moderate, with the wind to the eastward, and from that to the northward, with which they proceeded, meeting no particular occurrence until the 7th, about nine o'clock in the morning, when, being in north latitude about 50° 35′, they were boarded by a French armed brig, under English colors, who took the said master, with five of his crew, from the said ship on board the said brig. And the said master for himself now saith that the officer and crew of the latter vessel examined the papers, respecting his said vessel and her lading, and expressed no doubt that the ship was an American, but insisted the cargo to be English property, and assured him, if he would acknowledge it to be so, his full freight should be paid, and he have a present of one thousand pounds, which overtures the said master would not pay any other attention to than declaring the whole property to belong solely to Aquilla Brown, of Baltimore aforesaid, merchant—Whereupon the French officers thumbscrewed the said master in the cabin of their said brig, kept him in torture to extort a declaration that the said cargo was English property, for nearly four hours, but without having its desired effect; when a vessel heaving in sight he was liberated from the barbarous punishment he had undergone, and shortly afterwards the last mentioned vessel was captured by the said brig, and proved to be the Diana of Lancaster, Captain Derbyshire, from St. Thomas bound to Lancaster; and on the eighth about five o'clock in the evening, the said master with the said five of his crew, together with fourteen of the crew of the said captured vessel were put on board the said appearer's vessel, which was permitted to proceed; but the said master, on being sent from the said brig, requested the captain to give him some provisions to supply the said fourteen men with, but he would allow them only about forty pounds of bread, saying they would soon have a fair wind: the said appearer's vessel was then in latitude 50°, longitude 14°, 27′, and they accordingly proceeded with the wind southwardly. And the said Eugene Sweeney, mate, for himself, now saith, that while the said master was so detained on board the said French brig, the captain and first lieutenant therof, with some of their crew came on board the said appearer's vessel, broke open and plundered the captain's chest of a purse containing several guineas, a gold watch, sextant, great part of his wearing apparel, stole a spying glass, speaking trumpet, eleven bags of coffee, broke open two boxes of sugar, and stole therefrom several bags, and robbed them also of their boat. And further, that the said French captain and lieutenant showed the now attestant a note, as under the hand of the master of his said ship, signifying that he the said master acknowledged the cargo to be English property, and that he the said mate was to do the same; but this he would by no means comply with; and, at the same time, perceived the note to be forged, and violent threats were made use of towards him, the said mate, to produce such acknowledgment, which he persisted in not doing, as contrary to the truth; and the said Robert Jackson, for himself, now saith that while on board the said brig, twenty pieces of gold (which he supposed to be joes) were offered to one of the crew to declare the said vessel's cargo was English property. And all the said appearers again declare that they still prosecuted their voyage, and, on the eleventh, being in latitude 49°, in consequence of the number of men on board, they were reduced to a biscuit a man per day. That, on the twelfth, it was dark and squally weather, and at two o'clock in the afternoon, in a sudden squall, their said vessel was hove down on her beam ends, and the bowsprit carried away, when they were obliged, for the safety of their lives, and preservation of the said vessel, and cargo, to cut away the rigging belonging to the bow-sprit jib boom, and the topsail sheets, by which she fortunately righted, and, then, to clear the wreck and secure the foremast, they were obliged to bear away before the wind, which being accomplished, they, to avoid further damage, were obliged to cut away the bowsprit (the same beating against the said vessel's bows) with all the rigging of their bowsprit and jib boom, and the jib and foretopmast stay sail and sprit sail yard, and endeavouring to secure the foremast, they found the foretopmast and main yard were sprung, in consequence of her having been laid down on her beam ends, as aforesaid, when they immediately used every exertion possible to get down the foretopmast, to rig up a jury one in its stead, and also in rigging out a jury bowsprit, the weather then continuing boisterous. That, on the thirteenth, it blew a gale of wind at east by north, when they finished a temporary bowsprit out of a spare topmast, and a fore topmast out of a spare mizen topmast, and proceeded on the voyage. That, on the fourteenth, they had a hard gale of wind at the last mentioned quarter, attended with a heavy sea, which broke over the said vessel incessantly, and they were obliged to pump every quarter of an hour, and were then still under short allowance. That, on the fifteenth, they spoke a Swedish brig, which supplied them with a bag of bread, two pieces of beef, and a few stock fish, and had then the wind eastwardly, which was contrary, and, on the sixteenth, they were supplied from another brig with two bags of bread, some peas and wine, on payment, and proceeded their voyage, with variable winds and weather, without any particular circumstances happening, until the twenty-second, when, being in latitude 48° 23′, they were boarded by His Britannic Majesty's ship Galatea, the officers of which pressed from the said appear-

er's vessel the said fourteen men, three passengers, and one of their own crew, and supplied the said appearers with provisions, when they continued the pursuit of the voyage, with the wind southwardly. And, on the twenty-third, had sounding in seventy-five fathoms, and proceeded the channel course, with the wind continuing southwardly, with hazy weather. And, on the twenty-fourth, in the evening, the Lizard lights bore north northeast, distant about five leagues. That, on the twenty-fifth, in the morning, Portland lights bore northeast by east, distant three leagues. And, on the same day, it began to blow hard, which increased to a gale, and, in the afternoon, being off Beachy Head, with the weather continuing very thick and hazy, they, upon consultation on the state and condition of the said vessel, adjudged it most expedient for the safety of their lives, and preservation of her and her cargo, to put into the first port of safety, to refit, that they might be enabled safely to proceed to their place of destination, and accordingly hoisted a signal for a pilot, and assistance to take charge of the said vessel, for the purpose of conducting her to such said port of safety; and, about four o'clock, they procured a pilot and assistance from a cutter which came alongside, whom the said master employed for the purpose aforesaid; but, the weather being hazy, and night time coming on, they laid off and on until the said twenty-sixth at 5 o'clock in the morning, when they bore away for Dover harbor, and at ten o'clok in the forenoon, on arriving at the entrance of the same, the said vessel was, by the strong tide and swell forced against the north Pier Head, whereby the figure head, rails, cutwater, and bow, were damaged; and the anchor hooking the head, and having a long range of the cable, the same run out nearly thirty fathom, which, stopping the said vessel, and she then touching the ground, they were obliged, for the purpose of preventing her laying thereon, to cut the cable the length it had so run out, by doing of which, and with the utmost exertions on board, and assistance on shore, she was hove from the dangerous place she was likely to lay on, and into safety; and, also, the said appearers declare, that they have used their utmost endeavors for the preservation of the said vessel and cargo; that whatever damage or loss the same have already sustained, or may hereafter sustain, was not occasioned by, or through any neglect, or default of them, or any of the crew, or by reason of any defect or default in the said vessel, or her tackling; but merely by means of the circumstances before stated. Therefore, the said master hath desired a protest; wherefore, I, the said notary, at his request, have solemnly protested, and, by these presents, do protest, against the wind, weather, and sea, the officers and crew of the said French brig, (whose names, together with the name of their said vessel, is unknown to these appearers, or to their belief to any of their crew) and every other person and cause occasioning the said vessels damage and loss of, and for all losses, costs, charges, damages, and expenses already and hereafter to be suffered and sustained, to be allowed and recovered in time and place convenient. Thus done and protested in Dover aforesaid, in the presence of Robert Steriker and Thomas Paine, witnesses thereto called and requested.

In testimony of the truth whereof, the said appearers and witnesses subscribed their names in the registry of me, the said notary; and, I, the said notary, have hereunto set my hand, and affixed my notarial seal, dated the day and year second above written.

JAMES GRAVENER, [L. S.]

And I, James Gravener, a master extraordinary in His Majesty's high court of chancery, do hereby certify, that the said William Martin, Eugene Sweeney, and Robert Jackson, were duly sworn on the Holy Evangelists to the truth of the aforegoing protest, at Dover aforesaid, the said 3d day of April, 1797, before me.

JAMES GRAVENER.

5th CONGRESS.] **No. 126.** [1st SESSION.

ALGIERS.

COMMUNICATED TO CONGRESS, JUNE 24, 1797.

UNITED STATES, *June* 23, 1797.

Gentlemen of the Senate and of the House of Representatives:

The Dey of Algiers has manifested a predilection for American built vessels, and, in consequence, has desired that two vessels might be constructed and equipped as cruisers, according to the choice and taste of Captain O'Brien. The cost of two such vessels, built with live oak and cedar, and coppered, with guns and all other equipments complete, is estimated at forty-five thousand dollars. The expense of navigating them to Algiers may, perhaps, be compensated by the freight of the stores with which they may be loaded, on account of our stipulations by treaty with the Dey.

A compliance with the Dey's request appears to me to be of serious importance; he will repay the whole expense of building and equipping the two vessels; and as he has advanced the price of our peace with Tripoli, and become pledged for that of Tunis, the United States seem to be under peculiar obligations to provide this accommodation; and I trust that Congress will authorize the advance of money necessary for that purpose.

It also appears to be of importance to place at Algiers a person, as consul, in whose integrity and ability much confidence may be placed, to whom a considerable latitude of discretion should be allowed, for the interest of the United States in relation to their commerce. That country is so remote, as to render it impracticable for the consul to ask and receive instructions in sudden emergencies. He may sometimes find it necessary to make instant engagements for money, or its equivalent, to prevent greater expenses or more serious evils. We can hardly hope to escape occasions of discontent, proceeding from the regency, or arising from the misconduct, or even the misfortunes, of our commercial vessels navigating in the Mediterranean sea; and, unless the causes of discontent are speedily removed, the resentment of the regency may be exerted with precipitation on our defenceless citizens, and their property, and thus occasion a tenfold expense to the United States. For these reasons, it appears to me to be expedient to vest the consul at Algiers with a degree of discretionary power, which can be requisite in no other situation. And, to encourage a person, deserving public confidence, to accept so expensive and responsible a situation, it appears indispensable to allow him a handsome salary. I should confer on such a consul, a superintending power over the consulates for the States of Tunis and Tripoli, especially in respect to pecuniary engagements, which should not be made without his approbation.

While the present salary of two thousand dollars a year appears adequate to the consulates of Tunis and Tripoli, twice that sum probably will be requisite for Algiers.

JOHN ADAMS.

5th CONGRESS.] No. 127. [1st SESSION.

SPAIN.

COMMUNICATED TO CONGRESS, JULY 3, 1797.

UNITED STATES, *July 3d*, 1797.

Gentlemen of the Senate, and
Gentlemen of the House of Representatives:

The whole of the intelligence which has for some time past been received from abroad, the correspondences between this Government and the ministers of the belligerent Powers residing here, and the advices from the officers of the United States, civil and military, upon the frontiers, all conspire to show in a very strong light the critical situation of our country. That Congress might be enabled to form a more perfect judgment of it, and of the measures necessary to be taken, I have directed the proper officers to prepare such collections of extracts from the public correspondences as might afford the clearest information. The reports made to me from the Secretary of State and the Secretary of War, with a collection of documents from each of them, are now communicated to both Houses of Congress. I have desired that the message, reports, and documents may be considered as confidential, merely that the members of both Houses of Congress may be apprized of their contents before they should be made public. As soon as the Houses shall have heard them, I shall submit to their discretion the publication of the whole, or any such parts of them, as they shall judge necessary or expedient for the public good.

JOHN ADAMS.

DEPARTMENT OF STATE, *July 3*, 1797.

Additional report of the Secretary of State to the President of the United States, of the proceedings of the officers of His Catholic Majesty in relation to the posts occupied by his troops within the limits of the United States, the boundary line, and other matters therewith connected.

On Thursday last, the 29th of June, I received further despatches from Andrew Ellicott, Esq. the commissioner of the United States at the Natchez, dated the 10th of May last, of which an extract and copies, numbered 1, 2, and 3, are subjoined. By these it appears that a new motive has been assigned by the commander in chief, Baron de Carondelet, and Governor Gayoso, for still retaining the possession of the posts of the Natchez and the Walnut Hills, and for strengthening the fortifications, viz: *to guard against an attack by the British from Canada.* This motive being derived from information communicated to the Baron de Carondelet by the Chevalier de Yrujo, the minister of His Catholic Majesty to the United States, it appears necessary again to bring before the President my correspondence with the Spanish and British ministers on that subject. These papers are numbered 4, 5, 6, 7, 8, and 9.

Although the minister declared he had just reasons for suspecting an expedition from Canada was preparing by the British against the upper posts of Louisiana, yet he never mentioned a single fact or reason on which his suspicion was founded. From all the existing circumstances, I ever believed the suspicion to be groundless. And the note of Mr. Liston, the British minister, of the 19th of the last month, declares that no such expedition has been, or is intended, by the British Government.

On the 16th of March last, by the President's direction, I inquired of the minister of His Catholic Majesty whether the Spanish troops had been withdrawn, agreeably to the treaty, from the territory of the United States; and if not, what orders or measures for withdrawing them had been taken. To this the minister answered, on the 17th of April, that not having for some months heard from the Baron de Carondelet, he was "deprived of any information touching the steps taken for the execution of the treaty." Nevertheless he had previously informed the Baron de Carondelet of his suspicions of a projected expedition from Canada; for on the 1st of May it is offered by Governor Gayoso, as a new reason for continuing to hold the posts. These two letters are numbered 10, 11.

On the 24th of June last, the minister of His Catholic Majesty wrote me the letter numbered 12, in which he undertakes to give the substance of two letters from the Baron de Carondelet, and which about a week before he had orally translated to me from the Spanish originals. These letters (as appears by the detail of them now given by the minister) exhibited divers complaints against Mr. Ellicott, whose conduct is assigned as the cause of an alleged misunderstanding between him and Governor Gayoso; and of the delay in commencing the running of the boundary line.

One article, however, the minister has omitted in his recital. The Baron de Carondelet complained, among other things, that Mr. Ellicott had not given him notice of his arrival at the Natchez, as the commissioner on the part of the United States for running the boundary line between their territories and those of Spain. I was astonished at this complaint, as I had then lying on my table a copy of Mr. Ellicott's letter to the Baron, dated the 27th of February, only three days after Mr. Ellicott's arrival at the Natchez, announcing his arrival as the commissioner of the United States for the object above expressed, and two copies of the Baron's answer, dated at New Orleans, the 1st of March, one of the original Spanish, and the other a translation in English, acknowledging the receipt of Mr. Ellicott's letter, and "congratulating him on his arrival in that country in the character of commissioner on the part of the United States, to run the dividing line between the territories of His most Catholic Majesty and the United States." I immediately presented those copies to the minister, in whom the repugnance of fact to assertion excited the natural sensation; but soon recollecting himself, he made this apology for the Baron, that he supposed he did not consider Mr. Ellicott's letter as official! This letter, and the translation of the Baron's answer, have been already laid before Congress and published. I now subjoin the copy of the Baron's answer in Spanish, No. 13.

The facts I have here stated relative to the complaint of the Baron de Carondelet, which the Spanish minister has omitted in his detail, appeared to me important to be laid before you, to be considered together with the other complaints which the minister has recited. As to the complaint that Mr. Ellicott "attempted to get possession of the Natchez fort by surprise, and that the Governor Gayoso has in his power documents which evidently prove the intention of that attempt," I have examined the two gentlemen who have brought Mr. Ellicott's despatches, and they declare that they never heard of such an attempt being made or intended by Mr. Ellicott, and that far from exciting dissatisfaction to the Spanish Government, in the minds of the inhabitants at the Natchez, he uniformly recommended patience and submission, until the Spanish jurisdiction should be withdrawn.

Upon a view of the whole correspondence now and before submitted to the President, it appears that the Governors of His Catholic Majesty on the Mississippi have, on various pretences, postponed the running of the boundary line, and the withdrawing of his troops from the posts they occupied within the territory of the United States; that, after repeated overtures, promises, and appearances of commencing the execution of the treaty between the two nations, in both those respects, their conduct demonstrates that for an indefinite period they mean to avoid doing either; that there is but too much reason to believe Mr. Ellicott's suspicions well founded, that an undue influence has been exercised over the Indians by the officers of His Catholic Majesty to prepare them for a rupture with the United States, those suspicions corresponding with other intelligence recently received by the Secretary of War and by me. Mine is by a private letter from Colonel Sargent, the Secretary of the territory northwest of the river Ohio, of which an extract, No. 14, is annexed.

Whether this plan of exciting the Indians to direct hostilities against the United States, has been contemplated and promoted by any of our own citizens, it may be difficult to say; but that one or more of those citizens have proposed and taken measures to detach the southern Indians from the interests of the United States, and to destroy

the influence of the public agents over those nations, and thus to defeat the great objects of their appointment, the chief of which is to preserve peace, is certain. The evidence of this important fact will be laid before you by the Secretary of War. That evidence having a reference to the British minister and his Government, I took the liberty of addressing to him a letter, dated the 1st instant, No. 15, to which I received the answer, No. 16.

As closely connected with this business, I lay before you the copy of my letter No. 17, dated the 27th of April last, to Charles Jackson, Esquire, the district attorney of Georgia, reciting a passage in a letter from the Spanish minister dated the 21st of April, declaring his positive knowledge that the English had made propositions to General Clarke of Georgia, to obtain his influence in that State, in conjunction with some persons who might make a diversion or serious attack against Florida. By Mr. Jackson's answer, from which an extract, No. 18, is herewith presented, it appears that after diligent inquiry, he could not find any person that knew any thing of the business, or that entertained a belief of the kind; and that from General Clarke's known violent antipathies to the English, and other circumstances, he doubted the truth of the report altogether.

On the 30th ult. I received a letter from General Pinckney, dated the 9th of May, which contains the latest intelligence from him, and seems proper to accompany the other papers now laid before you. His letter, No. 15, therein referred to, has not yet come to hand. All which is respectfully submitted.

TIMOTHY PICKERING.

No. 1.

Extract of a letter from Andrew Ellicott, Esq. commissioner of the United States, to the Secretary of State, dated

NATCHEZ, *May* 10, 1797.

SIR:

Since my despatches by Mr. Knox, the whole of the Spanish commission for the purpose of running the boundary lines between the territory of His Catholic Majesty, and that of the United States has arrived; but notwithstanding this circumstance, I see no appearance of getting to business in any reasonable time; various pretences are resorted to by the Baron de Carondelet and Governor Gayoso to justify the delay; but the true reason, I am well persuaded, has never yet been made known to myself, or to the inhabitants of the district of Natchez, who are generally very uneasy, and many of them consider their situations as desperate if not supported in a few months by the United States.

As the arrival of the whole Spanish commission produced no effect favorable to our business, I expected that of Lieutenant Pope with a detachment of about forty troops, which happened on the 24th of last month, would make some change for the better; in this I have been disappointed. Additional laborers were set to work in the fort, and several more pieces of artillery mounted.

On the first of this month, I received a letter from Governor Gayoso, a copy of which, with the answer, you will find enclosed.

On Sunday last, the fort at this place was reinforced by about forty men, and a company of grenadiers are on their way, and hourly expected to join them. Yesterday Mr. Gillimard, the Spanish surveyor, an engineer, and several other military officers, with a boat load of intrenching tools, left this place for the Walnut Hills, where the works are to be immediately put into a complete state of defence. The laborers who were employed, by the direction of Governor Gayoso, to go on the line, are now ordered to the Walnut Hills, to assist in repairing the fortifications.

If the court of Madrid has any design of carrying the late treaty with the United States into effect, the conduct of the Baron de Carondelet and Governor Gayoso is to me altogether inexplicable; all their measures have the appearance of approaching hostility; and from some information which I have lately received from a source to which I cannot avoid giving a degree of credit, but a short period will elapse before we shall be ordered to leave this place, if not the country. I have, in a former communication, mentioned my suspicions, that an undue influence has been exercised over the Indians to prepare them for a rupture with the United States, and to awe into a quiet submission the inhabitants of this district who are at their mercy. I am very sorry that no circumstance has yet occurred to make me change this opinion.

Immediately upon Mr. Pope's arrival, he was joined by Ensign M'Clary, who commands my escort, which consists of about thirty-seven men, and all encamped with me. We now make a respectable appearance—the men are in good health, and well clothed, and the strictest discipline is observed by the whole camp. Lieutenant Pope has hitherto conducted himself in such a manner as to give general satisfaction to the neighboring inhabitants, without incurring the displeasure of the present governor, or his officers, and at the same time steadily supported the honor of the United States; but he has unfortunately been indisposed almost ever since his arrival.

I am, sir, with great esteem, &c.

ANDREW ELLICOTT.

SECRETARY OF STATE, *United States.*

No. 2.

Manuel Gayoso de Lemos to the Honorable Andrew Ellicott.

NATCHEZ, *May* 1, 1797.

SIR:

I have the honor to acquaint you, that the Commander-general of this province desires me to inform you that His Majesty's envoy in the United States has given him the intelligence of an attack proposed against our part of the Illinois, by the British from Canada; and as such an expedition cannot take place without passing through the territory of the United States, said envoy did officially communicate what was necessary, to the Secretary of State of the United States, requiring that convenient orders should be issued to have their territory respected and provide for their own safety, which we doubt not but the United States will acquiesce to, in consequence of the treaty and the good harmony that subsists between the United States of America and His Majesty.

The said Commander-general of this province, in consequence of the foregoing information, finds himself under the necessity of putting in a state of defence several points of this river, and particularly Nogales,* to cover Lower Louisiana, in case the British should succeed in their project against Illinois, for which purpose a convenient force shall be sent to Nogales, to repair and defend that post, which, far from being against the interest of the United States of America, will, in case of being agreed to, leave the military posts in that state of defence which it may be found.

As this is a powerful reason in addition to those that offered before to suspend the evacuation of these posts and of running the line; as our attention is entirely drawn towards the defence of the province, the said Commander-general orders me to pass to you this official communication, and, in consequence of the unavoidable delay, to repeat to you, in his name, the proposal of remaining here to go down to Lower Louisiana; or, as he thinks might be preferable to remove to Villa Gayoso, where there are sufficient buildings to accommodate you; this insinuation being an effect of the desire we have to show every degree of consideration as a proof of our disposition to improve the friendship between our nations, assuring you that in any part that you should determine to remove to, or stay, the Commander-general will facilitate every conveniency in his power for your satisfaction.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

The Hon. ANDREW ELLICOTT.

*Walnut Hills.

No 3.

Andrew Ellicott to his Excellency Manuel Gayoso de Lemos.

NATCHEZ, *May* 2, 1797.

SIR:

Your excellency's favor of yesterday is now before me, but as it principally concerns the commanding officer of the troops of the United States in this quarter, who, I presume, will give you a satisfactory answer, it will therefore be unnecessary for me to make any remarks upon it.

In a former communication you were apprized of my determination to remain at this place until we proceed to running of the line, or recalled by the Executive of the United States.

I am, &c.

ANDREW ELLICOTT.

His Excellency MANUEL GAYOSO DE LEMOS.

No. 4.

PHILADELPHIA, *March* 2, 1797.

SIR:

Three days ago I declared to you the just reasons which I had for suspecting that an expedition was preparing on the lakes, on the part of the English, the object of which is to attack Upper Louisiana, and take by surprise the posts of St. Louis and New Madrid. The proofs which I have since been able to obtain confirm me in my suspicion that the English troops who meditate this *coup-de-main*, intend to descend the Mississippi by *Fox River*, *Onisconsin*, or by the Illinois or other parts of the territory of the United States. I suppose the Government of this country too jealous of its rights to suffer so scandalous a violation of its territory; but having always in view the interests of the King my master, and the security of his possessions in this part of the world, in his name I request, sir, that in virtue of the information cited, this Government may take the measures necessary for preventing the passage of foreign troops, of what description soever, over its territory. An undertaking in which are united the dignity of the United States, and the security of the possessions of a friendly nation, assures me beforehand that the administration of this country will take the measures which shall be most adapted to this end.

With these reasons, I offer myself to your disposal, and pray God to preserve you many years.

Your most obedient humble servant,

CHARLES MARTINEZ DE YRUJO.

No. 5.

Timothy Pickering to the Chevalier de Yrujo, Minister Plenipotentiary of His Catholic Majesty.

DEPARTMENT OF STATE, *March* 11, 1797.

SIR:

I have laid before the President of the United States your letter of the 2d instant, mentioning your suspicions, that an expedition is preparing on the lakes, on the part of the English; the object of which is to attack Upper Louisiana, and to take by surprise the posts of St. Louis and New Madrid; and that to accomplish this object, the English troops intend to pass by the routes you mention, or by other parts of the territory of the United States: and you request their Government to take the necessary measures to prevent such a violation of their territory.

First remarking, that the Government of the United States possess no information, nor the knowledge of any circumstances indicative of such a design as that you suspect, I have the honor to assure you that, true to the principles of an impartial neutrality to which the United States have hitherto invariably adhered, their Government will be anxious to maintain the rights of their neutral situation, and on all occasions adopt and pursue those measures which shall appear proper and expedient for that end.

I am, with great respect, &c.

TIMOTHY PICKERING.

The Chevalier DE YRUJO, *Minister Plenipotentiary of His Catholic Majesty.*

No. 6.

The Chevalier De Yrujo to the Secretary of State.

PHILADELPHIA, *April* 21, 1797.

SIR:

Whilst I possess new reasons for believing that it is intended to carry into effect the expedition against Upper Louisiana, on the part of the English, by violating the territory of the United States, as was manifested to you in my letter of the 2d March last, I must add, that I know to a certainty that the English have made propositions to General Clarke of Georgia, in order to avail themselves of his influence in that State, together with some other persons, for making a diversion or serious attack against Florida; and as, by your letter of the 11th of the last month, you assure me that the United States would take the necessary measures for causing their neutrality to be respected, I do not doubt that, in consequence of this my information, the Executive Government will take the proper steps, in order that Georgia also should not infringe the laws of neutrality to the injury of the possessions of the King my master.

I embrace this opportunity to renew to you my wishes to serve you, and that God may preserve your life many years.

Your most obedient servant,

CARLOS MARTINEZ DE YRUJO.

TIMOTHY PICKERING, Esq.

No. 7.

Timothy Pickering to the Chevalier de Yrujo, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty.

DEPARTMENT OF STATE, PHILADELPHIA, *April* 28, 1797.

SIR:

I have the honor to acknowledge the receipt of your letter of the 21st instant, repeating your suspicions that it is intended to carry into effect an expedition, on the part of the English, against Upper Louisiana, through the territory of the United States; and adding that you know to a certainty that the English have made propositions to General Clarke, in Georgia, to obtain his influence in that State, with a view to a diversion or serious attack against Florida.

To the first point I have the honor to answer that, although this Government is still destitute of any knowledge of facts or circumstances indicating that an expedition on the part of the English against Upper Louisiana has been projected, yet desirous of living on terms of amity with our neighbors, on one side and the other, agreeably to subsisting treaties, I have communicated to the minister of His Britannic Majesty, for the information of his Government, the suspicions you have expressed of an intended expedition against Upper Louisiana, and the declaration of the President of the United States, that he cannot consent that either should march troops through the territory of the United States to attack the other. The sense of the American Government being thus declared beforehand, we cannot presume that a measure will be undertaken which cannot be prosecuted without a violation of our neutral rights.

With regard to the project of an expedition by the British against Florida, with the aid of General Clarke, and of persons whom he might influence, I have to inform you that orders have been forwarded to the district attorney of

Georgia, to inquire into the fact as stated by you, and if discovery should be made of designs to violate our neutral duties, and especially of forming an expedition against the territories of His Catholic Majesty from the territory of the United States, to take the most proper and effectual measures for frustrating such designs; and if the same should be manifested by any overt acts, to cause the offenders to be arrested and brought to condign punishment.

I have the honor to be, &c.

TIMOTHY PICKERING.

The Chevalier DE YRUJO,
Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty.

No. 8.

Timothy Pickering to Robert Liston, Esquire, Envoy Extraordinary, &c. of His Britannic Majesty.

DEPARTMENT OF STATE, PHILADELPHIA, *April* 28, 1797.

SIR:

The minister of His Catholic Majesty, early in March last, represented to this Government his suspicions that an expedition was preparing on the lakes, on the part of the English, whose object was an attack on the Spanish posts in Upper Louisiana, by a route through the territory of the United States, and requested the Government to take measures necessary to prevent such a violation of their territory.

In answer to the Spanish minister, after the remark that the Government of the United States had no knowledge of any circumstances indicative of the design he suspected, he was assured that, true to the principles of an impartial neutrality, to which the United States have hitherto invariably adhered, their Government would be anxious to maintain the rights of their neutral situation, and on all occasions adopt and pursue the measures which should appear proper and expedient to that end.

His Catholic Majesty's minister having lately renewed his representation, declaring that he had recent ground to believe that it is intended to carry into effect the expedition before mentioned against Upper Louisiana, through the territory of the United States, I am directed by the President of the United States to make to you this communication, and to declare that, desirous of living on terms of amity with their neighbors, on one side and the other, agreeably to subsisting treaties, he cannot consent that either should march troops through the territory of the United States to attack the other.

The sense and motives of the American Government being thus expressed, I doubt not the same will be duly respected on the part of the British Government; and without judging whether suspicions of His Catholic Majesty's minister are or are not founded, I am persuaded that the declaration now made will be considered as a proof of our good will, by preventing the great expense of preparations for an enterprise which cannot be prosecuted without occasioning a violation of the neutral rights or duties of the United States.

I have the honor to be, &c.

TIMOTHY PICKERING.

ROBERT LISTON, Esq. *Envoy Extraordinary, &c. of His Britannic Majesty.*

No. 9.

PHILADELPHIA, *29th June*, 1797.

R. Liston presents his respects to Colonel Pickering, Secretary of State:

When you first mentioned to me the suspicions expressed by the Spanish minister, respecting an expedition supposed to be preparing on the lakes, with a view to attack the Spanish posts in Louisiana, I took the liberty of observing to you that I had no knowledge of any such preparations, and did not believe that they existed.

I have since requested information on the subject from the Governor General of Canada, and from His Majesty's Secretary of State; and I have authority to assure you that no expedition of the nature of that alluded to has been, or is, intended by the British Government. Indeed, the impropriety of violating the neutral territory of the United States is an objection of sufficient magnitude to induce the King's ministers to reject any such plan, were it suggested to them.

No. 10.

DEPARTMENT OF STATE, *March* 16, 1797.

SIR:

The second article of the treaty between the United States and His Catholic Majesty stipulated "that, if there should be any troops, garrisons, or settlements, of either party in the territory of the other, (according to the boundaries fixed by the same article) they should be withdrawn from the said territory within the term of six months after the ratification of that treaty, or sooner if it were possible." The United States have no troops, garrisons, or settlements, within the territory of His Catholic Majesty. We do not know whether those of His Catholic Majesty within the United States' territory at the time the treaty above mentioned was made, have been since withdrawn. I am, therefore, directed by the President to inquire, and do request you to inform me, what is the fact; and, if those troops, &c. have not been withdrawn, what orders or measures for their withdrawing have been taken. It is now near eleven months since the ratification and exchange of the treaty took place.

I have the honor to be, &c.

TIMOTHY PICKERING.

The Chevalier DE YRUJO,
Minister Plenipotentiary of His Catholic Majesty, &c. &c.

No. 11.

PHILADELPHIA, *April* 17, 1797.

SIR:

Although I received, in due time, the letter which you did me the honor to write to me on the 16th ult. an indisposition, from which I am not yet altogether recovered, prevented me from replying to the inquiry you make relative to the evacuation of the Spanish posts within the new line of demarcation of limits. I now take up my pen to inform you that several months have elapsed since I have received a letter from the Baron de Carondelet, and, of course, I am deprived of any information touching the steps taken for the execution of the treaty.

I offer myself to your disposal, praying God to preserve your life many years.

Your most obedient servant,

CARLOS M. DE YRUJO.

TIMOTHY PICKERING, Esq.

No. 12.

PHILADELPHIA, *June* 24, 1797.

Eight or ten days ago, I made known to you the information which I had received from the Baron de Carondelet, relative to the occurrences at the Natchez, between the Governor, Don Manuel Gayoso de Lemos, and the commissioner of the United States, Mr. Ellicott; and being desirous, at this time, to avoid all equivocation as to the substance of those letters, I have determined to communicate it to you in writing.

By the 2d article of the treaty with Spain, it is stipulated that the *garrisons* which are found above the line of demarcation agreed on, shall be withdrawn. Setting out, then, with this principle, it appears that the first operation ought to be to draw this line, in order to know which were the garrisons which were to be withdrawn, according to the article cited; and, although the Natchez and some other Spanish posts are probably situated above the said line of demarcation, the formality and delicacy which one Government owes to another required that Mr. Ellicott should not pretend to take possession of the territory until the said demarcation should be made, and the more so as he had been informed officially that the Spanish engineer, M. Guillemard, was already on his way to fulfil this part of his commission.

Mr. Ellicott, not attending to these just observations, immediately began to wound the feelings of the Spanish commander, by hoisting the American flag on a territory which would not belong to the United States till after having *jointly* made the astronomical observations for ascertaining the course of the line. Not content with this, he began to exercise an authority which was unlawful, for the same reasons, to wit: that of recruiting for the United States in a place which was then under the jurisdiction of the Spanish Government.

These imprudences, which can admit of no excuse, gave rise to a personal resentment, from which there is little to hope with respect to harmony between those commissioners in future.

In these circumstances, the Governor General of the province, the Baron de Carondelet, made known the just doubts which he had about the delivery of the posts, since, in the 2d article, *it is not stipulated that they were to be given up*, and it seems that it could never have been the intention of His Catholic Majesty to deliver up any fortifications on which he had expended great sums of money, and which, through political vicissitudes, might, perhaps, be one day prejudicial to his subjects. In this situation, prudence required that the decision of this doubtful point should be left to the two Governments; but Mr. Ellicott, adding imprudence to imprudence, and with a pretext which a quarrel between some drunken Chickasaws and the people of his company afforded him, not only violated a territory then Spanish, by desiring to excite the inhabitants by all imaginable means, but also carried his zeal so far as to attempt to get possession of the fort of the Natchez by surprise. Governor Gayoso says he has in his power documents which prove evidently the intention of this attempt. Such conduct was little calculated to produce the spirit of harmony so necessary in such circumstances, and obliged Governor Gayoso, when he discovered such hostile intentions, to take, on his part, measures necessary for his defence.

This is the true state of things, by which it clearly appears that the inconsiderate conduct of Mr. Ellicott is the only cause of the disagreement at the Natchez; the more so, as the Spanish commanders declared to him that, while the two Governments were deciding on the doubt which occurred to the Baron de Carondelet, about the delivery of the posts, the drawing of the line of demarcation might be begun, when M. de Guillemard, who had already departed from New Orleans for the Natchez, should arrive.

If, in this situation of the business, the commanders changed their ideas or their measures, it could only proceed from the imprudent conduct of Mr. Ellicott. The Baron de Carondelet, desirous of observing religiously the treaty, so far as was not inconsistent with his duty, seeing the personal resentment which exists between Mr. Ellicott and Governor Gayoso, desires that there may be sent to command the detachment of American troops on that frontier a man of judgment and prudence, who, in such delicate circumstances, shall act with moderation, which is of so much importance to the two Governments.

This is what I have had the honor of communicating verbally to you, sir, in my last conference; and I repeat it now; recommending more particularly that there should be sent, on the part of the United States, to that frontier, a person of prudence and sound judgment, leaving to Mr. Ellicott the technical part only: for, while he acts as principal, it is to be feared that we shall not see the agents of the two Governments, which are interested, proceed with that union and harmony which is ever important to us.

I repeat, sir, my wishes of obliging you, and that our Lord may preserve your life many years.

Your most obedient servant,

CARLOS MARTINEZ DE YRUJO.

TIMOTHY PICKERING, Esq., &c.

No. 13.

NUEVA ORLEANS, 1 *Marzo*, 1797.

MUI SENOR MIO:

He recibido con mucha satisfacion la apreciable de V. S. de 27 Febrero pasado en que se serve participarme su arrivo a esa plaza con el caracter ne Comisario por los Estados Unidos de America para la demarcacion de limites entre los territorios de S. M. C. y los de los dichos Estados.

Me causa igualmente la mayor complacencia el testimonio que V. S. me da de la corbanidad y atenciones que ha recivido de los comandantes de las fuertes, quienes han correspondido a las intenciones del gobierno, a mis ordenis, y a los principios generales de la nacion; y no dudo que en qualquiera oportunidad encontraran los Espanides igual y reciproca correspondencia de parte de los ciudadonis de los Estados Unidos. Dios, &c.

Beni. de V. S. Su mas a°t. serr.

EL BARON DE CARONDELET.

Don ANDREW ELLICOTT.

No. 14.

Extract of a letter from Winthrop Sargent, Esq., Secretary of the Government of the Northwestern Territory, to the Secretary of State, dated

CINCINNATI, *June* 3, 1797.

General Wilkinson sending off an express, I seize the occasion to transcribe for you some paragraphs from a Western letter.

"The Spaniards are reinforcing their upper posts on the Mississippi considerably. General Howard, an Irishman, in the quality of Commander-in-chief, with upwards of three hundred men, arrived at St. Louis, and is employed in erecting very formidable works. It likewise appears, through various channels, that they are inviting a great number of Indians of the territory to cross the Mississippi, and, for this express purpose, Mr. Larromie, an officer in the pay of the crown, made a tour through all this country last fall, since which time several Indians have been sent on the same errand, and generally furnished with plenty of cash to defray their expenses."

"A large party of Delawares passed down White river, about the 6th of May, on their way to the Spanish side, bearing the national flag of Spain sent them from St. Louis."

"They (the Spaniards) have, above the mouth of the Ohio, on the Mississippi, several row galleys with cannon."

No. 15.

DEPARTMENT OF STATE, PHILADELPHIA, *July* 1, 1797.

SIR:

Your note of the 19th of the last month, alluding to the suspicions expressed by the Spanish minister, respecting an expedition suggested to be preparing at the lakes, against the Spanish posts in Louisiana, I laid before the President of the United States, who received great satisfaction from your assurance that no such expedition has been or is intended by the British Government.

Will you permit me to inquire whether you can give any information concerning any other project of an expedition against any part of the dominions of Spain, adjacent to the territory of the United States, where or from whence

any co-operation was contemplated? I am aware of the delicacy of this inquiry; but the frankness of your verbal answer, formerly, relating to the alleged expedition from Canada, and the assurances in your note above mentioned, lead me to hope that you will not deem the present inquiry improper, and the proofs you have uniformly given of respect to the rights and interests of the United States, authorize the further hope that you will feel yourself at liberty to communicate any information you may possess, which, on this occasion, may concern their tranquillity and welfare; and I beg you to be assured that it is on this ground only that I would make the inquiry. I will add, however, that it is not the result of *suspicion*, but of *information*, (in which your name is introduced) that some project of the kind has been contemplated; and that the means disposed to carry it into execution could not but be highly detrimental to the United States.

I have the honor to be, &c.

TIMOTHY PICKERING.

ROBERT LISTON, Esq.,
Envoy Extraordinary, &c. from His Britannic Majesty to the United States.

No. 16.

R. Liston presents his respects to Colonel Pickering, Secretary of State:

I have had the honor of receiving your letter of yesterday. In the course of last winter some persons did actually propose to me a plan for an attack on the Floridas and the other possessions of His Catholic Majesty adjoining to the territories of the United States.

The general outline of the project was, that the expedition should be undertaken by a British force sent by sea, and seconded by a number of men resident within the limits of the United States, who, I was assured, would be willing to join the King's standard, if it were erected on the Spanish territory.

I informed the projectors that I could not give any encouragement to a plan of this nature; and I particularly stated two objections to it—the impropriety of any measure that tended to a violation of the neutrality of the United States, and the inhumanity of calling in the aid of the Indians, a circumstance hinted at in the conversation that had taken place on the subject.

I conceived it to be my duty, however, to mention the business in my correspondence with my superiors: and I lately received an answer, acquainting me that His Majesty's ministers did not think proper to give any countenance to the project. The two objections above alluded to (which I had of course insisted on in my report) are stated sufficient reasons for its rejection.

You must allow me, sir, to decline entering into any further particulars. On the one hand because, although I have all along suspected that the persons, who proposed the plan to me, might not improbably be employed by the enemies of Great Britain to endeavor with sinister views to insinuate themselves into my confidence, yet as these my surmises may be false, I should not be justified in betraying the secrets of men who may have meant me well: and on the other hand because, however loose the principles of these speculators may have been on the subject of the law of nations, (as it regards the duties of neutrality) none of them in their intercourse with me ever expressed sentiments that were in any degree hostile to the interests of the United States.

PHILADELPHIA, *July* 2, 1797.

No. 17.

DEPARTMENT OF STATE, PHILADELPHIA, *April* 27, 1797.

SIR:

This week I received your letter expressing your acceptance of the office of district attorney for Georgia. I was gratified by the information; and hope your health may be re-established and enable you to continue to hold and exercise it.

Within a few days, the Spanish minister, the Chevalier d'Yrujo, has written me as follows:

"I know to a certainty, that the English have made propositions to General Clarke, of Georgia, in order to obtain his powerful influence in that State, in conjunction with some persons, who might make a diversion or serious attack against Florida; and I doubt not that, in consequence of this, my advice, the Executive Government will take suitable steps for effectually preventing the rights of neutrality being infringed by Georgia, to the prejudice of the possessions of the King my master."

His letter has been laid before the President of the United States, by whose direction I have now to desire you immediately to inquire into the fact asserted by the Spanish minister; and if any discovery shall be made of designs to violate our neutral duties, and especially of forming an expedition against the territories of His Catholic Majesty, from the territory of the United States, in defiance of their laws, and particularly of the act of Congress for the punishment of crimes against the United States, passed on the 5th June, 1794, that you will take the most proper and effectual measures for frustrating such designs; and if the same shall be manifested by any overt acts, to cause the offenders to be arrested and secured, that they may be brought to condign punishment. Independently of the aid, which, if necessary, you will require of the Governor of Georgia, the commanding officer of the Federal troops in that State will be directed by the Secretary of War to afford you all the assistance in his power.

I shall be obliged by your acknowledging the receipt of this letter, and by a communication of the result of your inquiries into the subject of it.

I am, sir, with great respect, &c.

TIMOTHY PICKERING.

CHARLES JACKSON, Esq. *District Attorney for the State of Georgia.*

No. 18.

Extract of a letter from Charles Jackson, Esq. District Attorney of Georgia, to the Secretary of State, dated

SAVANNAH, *May* 22, 1797.

SIR:

Your letter of the 27th ultimo, I had the honor to receive some few days past. It has remained unanswered until the present moment, that I might enable myself to ascertain whether or not the suspicions entertained by the Spanish minister, respecting General Clarke, as expressed in your letter, were well founded. I have made diligent inquiry, and cannot find any person here that knows any thing of the business, or that entertains a belief of the kind. Clarke was concerned in a former expedition against the Floridas, in conjunction with the French, and it is possible, from this circumstance, that he is again suspected. He is a man of strong passions, of warm partialities for the French, and violent antipathies to the English. From these circumstances, and from the matter being unknown to the citizens here, I am led to doubt the truth of the report altogether. It might not be improper to add, that he is far from being the man of influence suggested by the Spanish minister. But should it happen, contrary to my expectation, that Clarke should be daring enough to attempt a violation of the laws of the Union, by accepting a commission, as has been mentioned, no exertions shall be wanting on my part to bring him to punishment, and should it be necessary, I shall direct the marshal to call to his aid the Federal troops. But I have no doubt, on my own part, but the civil authority has sufficient strength in this State to carry into effect the laws of the Union.

No. 19.

ROTTERDAM, *May* 9, 1797.

DEAR SIR:

Although in the postscript to the original and quadruplicate of No. 15, forwarded to day, I have mentioned the latest intelligence, yet, as I find that the schooner Mary, of Boston, Captain Hall, is to sail from this port to-morrow, I beg leave to mention again, that a summary of some of the articles of the preliminaries of the treaty of peace between France and the Emperor arrived here this morning. "The Emperor cedes Belgium to the French republic; he recognizes the independence of the republic of Lombardy; he admits the extension of the French boundaries, to the limits already *prescribed by their Constitution and laws.*" Therefore, the Meuse, and not the Rhine, is to be the boundary. Bonaparte's flanks and rear were threatened when the preliminaries were agreed upon. The Austrians had recovered the Tyrol, Friuli, and Trieste.

I received accounts to-day, that the Juliana, from Norfolk, in Virginia, is taken, and carried into Havre, and that the Juno, Rainbow, and Charlotte, all three from Charleston, and the Hebe, from Savannah, are captured and carried into Nantz, and in all probability will be condemned for want of a "rôle d'équipage," certified by a public officer, agreeably to the regulation prescribed by France.

I enclosed you in No. 15, (the original of which I sent by Captain Simpson, of the Republican, via Baltimore; the duplicate by Captain Goodrich, of the Lydia, via New York; the triplicate by Captain Harrington, of the Eliza; to Philadelphia; and the quadruplicate to the care of Mr. King) copies of citizen Merlin's letter to Mr. Skipwith, consul general at Paris, in which he says, that when we become just and grateful, and break our incredible treaty with England, France will desist from her present conduct with respect to us. I refer you to the copies transmitted as above, for the particulars of this curious letter; it is now published as official in the "Redacteur."

Major Mountflorence informs me by the letter received to day, "that he had drawn a reply to it, but that it had been judged not proper to be sent: but that in lieu thereof, it had been proposed to inform the minister by a short note, that persisting in the former reclamations, and not authorized by the Government of the United States to enter into a formal diplomatic discussion on the subject therein mentioned, a copy of his letter of the 4th Floreal* should be transmitted to our Secretary of State."

I remain, with real respect, &c.

CHARLES COTESWORTH PINCKNEY.

Colonel PICKERING, *Secretary of the United States.*

Report of the Secretary of War to the President of the United States, accompanying the message of July 3, 1797.

WAR OFFICE, *June* 30, 1797.

The Secretary of War has the honor respectfully to report to the President of the United States, the annexed extracts of letters from Brigadier General Wilkinson and Lieutenant Colonel Hamtramck, relative to certain causes which may have affected the disposition of the Indians on the western frontiers; as also extracts of despatches to Brigadier General Wilkinson, and Captain Guion, respecting the conduct to be observed by the latter officer on his arrival at the Natchez and Walnut Hills, with copies of a correspondence between His Excellency Manuel Gayoso de Lemos, and Lieutenant Piercy Pope, of the corps of artillerists and engineers, and commandant of the advanced guard of the troops of the United States, destined to take possession of those posts, which exhibit the reasons that had prevented his receiving them.

The Secretary further reports a copy of a letter from William Blount, senator from the State of Tennessee, (the original of which is believed to be in his hand writing) addressed to James Carey, interpreter to the Cherokee nation, and assistant to the Indian factory at Tellico, in Tennessee, who had received it, and which had since come to the hands of the principal of that factory.

JAMES M'HENRY, *Secretary of War.*

No. 1.

Extract of a letter from the Secretary of War to Brigadier General James Wilkinson, dated

WAR OFFICE, *June* 9, 1797.

"Yesterday the Secretary of State received letters from Mr. Ellicott, by which, it would appear, that scruples on the part of Governor Gayoso had retarded the evacuation of the posts.

"These scruples or objections are, 1st: That, in his opinion, the forts ought to be demolished. 2d: That he thought it necessary to continue his force in that quarter till the claims of Spanish subjects to lands should be adjusted by negotiation.

"As to the first, our officer may be instructed to agree to the demolition of the works, if insisted on. As to the second, he will assure the Governor that he is authorized to say, that no person shall be disturbed in his possession or property, till an opportunity has been afforded to apply to Congress, and that they may rely upon their claims being adjusted upon the most equitable principles.

"It is to be presumed, that on receiving these explanations, the Spanish garrisons will be withdrawn. If, however, contrary to expectation, this should not happen, our officer is to take a secure position, but not so near them as to give any cause to the Spanish garrisons to apprehend insult or injury."

No. 2.

Extract of a letter from the Secretary of War to Captain Isaac Guion, commanding a detachment of the troops of the United States, destined for the Natchez, dated

WAR OFFICE, *June* 10, 1797.

"I enclose you duplicate of my letter to Brigadier General Wilkinson, of yesterday's date, for your government, in case he should have left Fort Washington, or by any accident be prevented from communicating to you the contents.

"Having a perfect reliance on your prudence and judgment, I cannot doubt but your command will prove satisfactory to yourself, and advantageous to the United States."

No. 3.

Extract of a letter from the Secretary of War to Captain Isaac Guion, dated

WAR OFFICE, *June* 15, 1797.

"Should this despatch find you, where I expect it will, at the Natchez, and the Spanish garrison still in possession of the works at that place, you will be pleased to lose no time in communicating to the commanding officer there, the enclosed copy of a message† from the President of the United States to Congress, and to the inhabitants

* April 23. † June 12, 1797.

of Natchez, its contents, that both may be fully possessed of the intentions of Government. You will also inform the Spanish commandant, that you are instructed to pay the strictest attention to the engagements the United States have entered into by the treaty with His Catholic Majesty; to permit the demolition of the works; to use your utmost endeavors to preserve a continuance of the pacific dispositions of the Indians within our limits, towards the subjects of His Catholic Majesty, or his Indians; and to prevent their commencing hostilities (of which there is no appearance) against either, conformably to the fifth article of the said treaty. That you flatter yourself, after these candid assurances, that you will have the immediate pleasure to announce to the President, a full compliance with the treaty on the part of the commander of His Catholic Majesty's forces within the United States."

No. 4.

Extract of a letter from Brigadier General James Wilkinson to the Secretary of War, received 22d instant, dated

FORT WASHINGTON, *June* 2, 1797.

"Lieutenant Colonel Howard, of the regiment of Louisiana, an accomplished Irishman, has arrived at St. Louis with four hundred regular troops; he is strengthening the works of that place, and organizing the militia; and I have information, through a confidential channel, that it was determined, as early as September last, not to give up the posts on the Mississippi."

No. 5.

Extract of a letter from Brigadier General James Wilkinson to the Secretary of War, received 22d instant, dated

FORT WASHINGTON, *June* 4, 1797.

"Letters from all quarters announce the discontents and menacing aspect of the savages; two white men have been recently murdered on the Ohio, below the Cumberland, and the savages beyond the Mississippi, and those who pass Massac, make no hesitation to avow their purpose of war; the Shawanese, at the old Tawa towns, are our nearest neighbors; they profess friendship, but are making no preparations for a crop, which is a certain indication of their intention to change ground."

"The enclosed extract of a letter from Colonel Hamtramck is corroborated by information from Kaskaskias, St. Vincennes, and Massac."

"At the same time, Colonel Howard is strengthening his works at St. Louis, and organizing the militia, who are taken into pay at nine dollars per month."

No. 6.

Extract of a letter from Lieutenant Colonel Hamtramck to Brigadier General James Wilkinson, dated

DETROIT, *May* 21, 1797.

"The departure of the fourth regiment, and now of the artillery, makes us very weak; it has reduced our guards from officer's guards to non-commissioned officer's, and our strength does not admit of three relieves.

"I have had, for a long time past, a large number of Indians; I do not know well their intentions; but I think it would be prudent not to weaken the garrison more than it is; and I am pretty sure that both the French and Spaniards have emissaries amongst the Indians. I have it from indubitable authority, that a large belt from the Spaniards is now travelling through the different nations."

No. 7.

Extract of a letter from Lieutenant Piercy Pope to the Secretary for the Department of War, received 29th June, dated

CAMP, *May* 9, 1797.

SIR:

I arrived at the Walnut Hills on the 13th of last month. Previous to my arrival at that place, orders were lodged with the commandant of that post, not to suffer my troops to come any lower down until further orders. At this place I remained for eight or ten days, when I received a letter from Governor Gayoso, informing me, that he should be happy to see myself and detachment arrive. I immediately embarked all my troops, and moved on to Natchez, at which place I arrived the 24th April, was received extremely well, and every thing appeared to go perfectly right for several days; the evacuation appeared to be going on with great life, when all at once the military stores were immediately ordered back, their troops busily engaged all night taking back and remounting the cannon. This kind of conduct, I assure you, appeared, and still appears strange; they are strengthening the garrison here, detachments of troops daily arriving; the whole of which are both day and night working and fortifying themselves; I cannot say against what. Reinforcements are daily going up to the Walnut Hills, for no other purpose but strengthening that place. The militia is ordered to be embodied—this, however, is a report, though I believe a very just one, which has alarmed the inhabitants extremely, who are respectable and numerous. I am also informed, this evening, that what is called the Mexican regiment are now on their way to garrison this place and the Walnut Hills. There have been several attempts made to draw on the Indians upon my troops. I have fully ascertained this fact, and demanded of the Governor to have a principal actor immediately brought to punishment, or sent out of the country. He has been sent for, and is now on board of one of the galleys, which is now about descending the river.

No. 8.

Don Manuel Gayoso de Lemos to Lieutenant Pope.

NATCHEZ, *March* 25, 1797.

SIR:

By Mr. Philip Minor I am informed that you was preparing to come down the Mississippi to take possession of the posts on the east bank of this river, to the north of 31 degrees latitude. Not long ago, General Wayne sent a message to Baron Carondelet, General-in-chief of this province, inquiring when it would be convenient and agreeable to him to order the said posts to be evacuated. His excellency the Baron has answered, and the answer cannot yet have produced the determination you have taken to anticipate the time appointed. Depending on the friendly arrangements that the two generals had entered into, neither Nogales or this place is yet evacuated, though the necessary steps are taken to verify it within one month; therefore, I request that you will encamp your troops in the first convenient place on either bank of this river, nigh the place where this may be delivered to you, by my adjutant, Captain Stephen Minor. I shall with pleasure see your condescension, as this will be a proof of the good harmony that subsists between our nations, which is more particularly recommended to us by the King. The presence of the troops of the United States, while the evacuation of this place is carrying on, would have an appearance of compulsion, which would not be decent to the decorum due to His Catholic Majesty, when so intimately allied to the United States of America.

As soon as the military stores are embarked, I shall do myself the honor to acquaint you with it, and then will be very happy to see you here, and to be personally acquainted with you.

I am, with the highest consideration, sir, &c.

MANUEL GAYOSO DE LEMOS.

Captain POPE.

No. 9.

Don Manuel Gayoso de Lemos to Lieutenant Pope.

NATCHEZ, *April* 1, 1797.

SIR:

Since I addressed you by Major Minor, I have received orders from his excellency Baron Carondelet, General-in-chief of this province, to suspend the evacuation of the posts within my jurisdiction, until our court has settled with the United States of America some difficulties, which can be levelled only by our respective ministers. The perfect peace and harmony subsisting between the two nations do not allow us to doubt but we shall shortly receive intelligence concerning the results of this suspension. It is my duty to inform you of this circumstance, and at the same time to offer you any assistance that you may be in need of at the Walnut Hills, and give you every proof of our disposition to keep up a good understanding and sincere friendship with the United States.

Notwithstanding I have already given the necessary orders to the commandant of that post to prepare convenient accommodations for your troops, I reiterate them by this opportunity; being anxious that you may meet with every possible conveniency at that place.

I am, with consideration, sir, &c.

MANUEL GAYOSO DE LEMOS.

PIERCY S. POPE, Esq.

Commanding Officer of the troops of the United States of America, at the Walnut Hills.

No. 10.

Lieutenant Pope to Captain Burguard, Commanding Officer, Walnut Hills.

WALNUT HILLS, *April* 13, 1797.

SIR:

I have this morning, with attention, perused two letters from Governor Gayoso, mentioning a message from General Wayne to Baron Carondelet, General-in-chief of this province, to know when it would be convenient to him to have the posts evacuated. I could not know or anticipate the answer to General Wayne's message; but on my arrival at Fort Massac, was informed by the commanding officer at that place that the posts were ready to be evacuated. Agreeably to my orders, and in consequence of this information, I am now coming forward with my detachment, for the purpose of taking possession of the lowest post on the Mississippi—the Natchez post.

It is my wish, as well as that of the United States, to promote harmony and a friendly exchange of good offices between the United States and the subjects of His Most Catholic Majesty.

I am, with respect, &c.

PIERCY S. POPE, *Lieut. Artillery,*
Commanding United States' troops, Mississippi.

Capt. BURGUARD, *Commanding Officer, Walnut Hills.*

No. 11.

Lieutenant Piercy S. Pope to Don Manuel Gayoso de Lemos.

WALNUT HILLS, *April* 15, 1797.

SIR:

Your letter of the 25th of March, and the other of the 1st instant, were both delivered me by the commanding officer at Nogales yesterday. I was extremely sorry that my indisposition was such as prevented an answer. I am not unacquainted with the circumstance of General Wayne having sent a message, inquiring when it would be convenient to evacuate the posts. I am unacquainted with the answer to this inquiry, nor did I anticipate the time appointed for their delivery; for the first information received by me on this subject was at Fort Massac, which, together with my orders or instruction, induced me to suppose a delay for receiving the posts would be improper. I have, agreeably to your request, encamped my troops on the east side of the Mississippi, immediately above Nogales. I assure you it is with pleasure I have to acknowledge the polite treatment and attention my troops have received, since their arrival at this place, from the commandant; and rest assured that nothing shall be wanting on my part to cultivate that present interesting harmony which is between the two nations. Nothing will give me more pleasure than to be personally acquainted with you, when convenience will permit.

I am, with the highest respect, &c.

PIERCY S. POPE, *Lieut. Artillery,*
Commanding United States' troops, Mississippi.

No. 12.

Don Manuel Gayoso de Lemos to Lieutenant Piercy S. Pope.

NATCHEZ, *April* 17, 1797.

SIR:

By the commandant of that post I am informed of your arrival there, with the troops under your command; and he has also sent me the letter that you wrote to him, acknowledging the reception of my two.

The particular reasons that, for the present, have suspended the evacuation of the posts, do not affect the treaty in any other respect; and these will soon be settled between His Catholic Majesty and the United States of America, they being of a nature that only wants an explanation: therefore, it has been my most earnest wish to keep the settlements in peace and quiet until that political change takes place.

As I expected you might come down before an information of this incident could reach you, I provided the most convenient barracks that I could for your troops at that post, wishing to show the United States the greatest attention to their troops; and, in consequence of this disposition, having conferred with the Honorable Andrew Ellicott, we have agreed that you should remove to this place, to encamp in its vicinity, where you may be assisted with every thing more conveniently. By this opportunity, I forward the correspondent orders to the commandant of that post, who will do every thing necessary to facilitate and expedite your descent, which I hope will be speedy, as I flatter myself with the prospect of much satisfaction in forming your acquaintance.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

P. S. POPE, Esq.

No. 13.

Don Manuel Gayoso de Lemos to Lieutenant Piercy S. Pope.

NATCHEZ, *May* 1, 1797.

SIR:

I have the honor to acquaint you that the Commander General of this province desires me to inform you that His Majesty's envoy in the United States has given him the intelligence of an attack proposed against our part of the Illinois by the British, from Canada; and as such an expedition cannot take place without passing through the territory of the United States, said envoy did officially communicate what was necessary to the Secretary of State of the United States, requiring that convenient orders should be issued to have their territory respected and provided for their own safety; which we doubt not but the United States will acquiesce to, in consequence of the treaty and the good harmony that subsist between the United States of America and His Majesty.

The said Commander General of this province, in consequence of the foregoing information, finds himself under the necessity of putting in a state of defence several points of this river, and particularly Nogales, to cover Lower Louisiana, and in case the British should succeed in their projects against Illinois; for which purpose a convenient force shall be sent to Nogales to repair and defend that post, which, far from being against the interest of the United States of America, will, in case of being agreed to, leave the military post in that state which it may be found.

As this is a powerful reason, in addition to those that offered before, to suspend the evacuation of these posts, and of running the line, as our attention is entirely drawn towards the defence of the province, the said Commander General orders me to pass you this official communication; and, in consequence of the unavoidable delay, to repeat to you, in his name, the proposal of remaining here, to go down to Lower Louisiana, or as he thinks might be preferable, to remove to Villa Gayoso, where there are sufficient buildings to accommodate both you and your troops; this insinuation being an effect of the desire we have to show every degree of consideration, as a proof of our disposition to improve the friendship between our nations, assuring you that, in any part that you should determine to remove or stay, the Commander General of this province will facilitate every conveniency in his power for your satisfaction.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

Captain P. S. POPE.

No. 14.

Lieutenant Piercy S. Pope to Don Manuel Gayoso de Lemos.

CAMP, *May* 2, 1797.

SIR:

Your letter of yesterday was delivered me by your adjutant, Captain Stephen Minor. The Governor General has, as appears from your letter to me, requested that I should be informed of a proposed attack, on your part of the Illinois country, by the British force of Canada, and that such an expedition cannot take place without passing through the territory of the United States. I have not a doubt but that the United States have made such arrangements as will secure to them the respect due the nation; and that, at the same time, every preparation has been made to carry into effect, with firmness, the late treaty between His Most Catholic Majesty and the United States.

The second part of your letter more particularly concerns me, as a longer delay of the evacuation of the Walnut Hills and Natchez I cannot possibly consider in any other light than an indirect violation of the late treaty.

The landing of any troops for the purpose of fortifying or reinforcing Nogales, or any other post, above a due east and west line, to be drawn 33′ and 46′ south of Mr. Ellicott's present encampment, will be highly improper, and no doubt considered as a direct attack upon the honor of the United States, as well as the liberties of the citizens, and an invasion of a part of our territory; there being no war between the United States and Great Britain, the latter Power would have every reason of complaint, should such a measure be suffered. I now proceed to the third and last part of your letter, and cannot suppose the reasons offered for a longer detention of the posts within the United States, and running the line, sufficient. The fortifying or remaining in force against your enemies within the territory of the United States, when holding the opposite side of the Mississippi, where you may, with equal ease, oppose your enemies, may be productive of disagreeable consequences to both our nations.

I have the honor to return you my sincere thanks for your friendship and polite attention to myself and troops, and at the same time to inform you that my present eligible situation supersedes the necessity of a removal.

I am, with due respect, &c.

PIERCY S. POPE, *Lieut. Artillery,*
Commanding United States' troops, Mississippi.

No. 15.

Don Manuel Gayoso de Lemos to Lieutenant Piercy S. Pope, dated

NATCHEZ, *May* 3, 1797.

SIP:

Yesterday, by Lieutenant John M'Clary, I received your answer to my communication of the day before. I am sorry to find the construction you give to such an official communication, which leaves no room of doubt.

The project of an attack from the British in Canada is positive; and, in consequence thereof, it is the duty of the Commander General of this province to oppose it by every means in his power, though the probability is that they will not be able to carry their plan into execution, as we rely on the friendship of the United States, who certainly will not voluntarily permit such an armed force to pass through their territory, to attack the dominions of His Majesty; but as, when such an expedition was proposed, the British knew very well that to accomplish it they must necessarily pass through the territory of the United States, they certainly have had it in view either to pass the posts by surprise, or some other combination that secured to them the means of reaching Illinois. It is to prevent the effect of such an event that the said Commander General takes every measure to obstruct their success at their first approach, or a continuation of it, if fortune should favor them in Upper Louisiana.

We are far from acting in a manner so as to alter the good understanding that happily subsists between our nations. Political reasons have caused a suspension of the evacuation of these posts—reasons that are to be settled ministerially, and that are out of my line to controvert. My duty is to comply with the superior orders of my General-in-chief, which are positively to keep the best harmony with you, and attend to every other object concerning the safety of this province.

There is no reason to apprehend that the treaty between the United States of America and His Majesty will not take place in every point; the delay, experienced with regard to one part of it, is not a violation of the treaty, and is only referred to the regular ministerial procedure, which, when settled, will be exactly complied with; in the mean while, no alteration can take place, nor can any part of His Majesty's dominions be considered alienated, delivered in a solemn and regular manner; and, until that period, the dominion of His Majesty does not cease.

The communication, that the Commander General of this province has ordered me to impart to you, is a striking proof of the good understanding that he is desirous to cultivate, by informing you of an important circumstance that concerns both our nations, without expecting that you would offer any objections to the indispensable dispositions that he finds necessary for the safety of the province.

As your answer is of a nature that requires the immediate communication of it to my General-in-chief, I request you to inform me further, if you have positive orders to make the objections that you have signified to me, as it must necessarily influence the conduct of the King my master towards the United States of America; and as, likewise, this is a necessary step to justify that I have not been negligent in requiring this important intelligence.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS,
Brigadier General and Governor of Natchez.

Lieut. PIERCY SMITH POPE,
Commander of the troops of the U. S. of America on the Mississippi.

No. 16.

Lieutenant Piercy S. Pope to Don Manuel Gayoso de Lemos, dated

CAMP, *May* 5, 1797.

SIR:

I received your letter by Captain Minor, requesting of me to be informed whether I had positive orders for the objections I made in reply to your letter of the 1st instant. I have no official information from the United States of any pending negotiations that respects the late treaty, and consequently have every reason to suppose that the United States consider the treaty carried into effect, as far as respects the evacuation of the posts on the east side of the Mississippi, above the 31st degree north latitude, and therefore conclude that any reinforcements, or additional works, will have a tendency to disturb that harmony which at present happily prevails between the two nations, and which I am directed to cultivate.

You told me yesterday that you had received information from a gentleman, that I intended to attack the garrison at this place. I now request that you will discover the author, that he may have it in his power to acquit himself of this assertion, or be brought to that just tribunal a crime of so heinous a nature merits as the informer has been guilty of.

I am, &c.

PIERCY S. POPE, *Lieut. Artillery,*
Commanding United States' troops, Mississippi.

No. 17.

Don Manuel Gayoso de Lemos to Lieutenant Piercy S. Pope, dated

NATCHEZ, *May* 6, 1797.

SIR:

I received your letter dated the 5th instant, delivered me by Lieutenant John M'Clary, in reply to mine of the 3d, by which, and by your conferences, I am persuaded of your disposition to cultivate that good harmony that is justly due to our nations. On my part, I pledge my honor to you that I shall invariably continue considering you, not only as I do every individual of your nation, but yet more particularly under the sacred view of its representatives, as likewise every person under your command, and under the direction of the Honorable Andrew Ellicott.

I do assure you, likewise, that my conduct shall be such as not to merit the reflection of your nation, nor expose mine to any contest on account thereof, being answerable by my duty, and by my honor, to act with such propriety as will justify me in my public capacity.

With regard to the person that gave the information that, in my familiar conversation, I communicated to you, he must be despised, and others discountenanced both by you and by me, as our situations are sacred, and only subject to the alterations unanimously agreed upon by our nations.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

No. 18.

COLONEL KING'S IRON WORKS, *April* 21, 1797.

DEAR CAREY:

I wished to have seen you before I returned to Philadelphia, but I am obliged to return to the session of Congress, which commences on the 15th May.

Among other things that I wished to have seen you about, was the business Captain Chisholm mentioned to the British minister last winter, at Philadelphia.

I believe, but am not quite sure, that the plan then talked of will be attempted this fall, and, if it is attempted, it will be in a much larger way than then talked of; and if the Indians act their part, I have no doubt but it will succeed. A man of consequence has gone to England about the business, and if he makes arrangements as he expects, I shall myself have a hand in the business, and probably shall be at the head of the business on the part of the British. You are, however, to understand, that it is yet not quite certain that the plan will be attempted, yet you will do well to keep things in a proper train for action in case it should be attempted, and to do so will require all your management; I say, will require all your management, because you must take care, in whatever you say to Rogers, or any body else, not to let the plan be discovered by Hawkins, Dinsmoor, Byers, or any other person in the interest of the United States or Spain.

If I attempt this plan, I shall expect to have you and all my Indian country and Indian friends with me; but you are now in good business, I hope, and you are not to risk the loss of it by saying any thing that will hurt you until you again hear from me. Where Captain Chisholm is, I do not know; I left him in Philadelphia in March, and he frequently visited the minister, and spoke upon the subject; but I believe he will go into the Creek nation by way of South Carolina or Georgia. He gave out he was going to England, but I did not believe him. Among things that you may safely do, will be to keep up my consequence with Watts, and the Creeks and Cherokees, generally, and you must by no means say any thing in favor of Hawkins, but as often as you can, with safety to yourself, you may teach the Creeks to believe he is no better than he should be. Any power or consequence he gets will be against our plan. Perhaps Rogers, who has no office to lose, is the best man to give out talks against Hawkins. Read the letter to Rogers, and if you think it best to send it to him, put a wafer in it, and forward it to him by a safe hand, or perhaps you had best send for him to come to you, and speak to him yourself respecting the state and prospect of things.

I have advised you, in whatever you do, to take care of yourself; I have now to tell you to take care of me too, for a discovery of the plan would prevent the success, and much injure all the parties concerned. It may be that the commissioners may not run the line as the Indians expect or wish, and, in that case, it is probable the Indians may be taught to blame me for making the treaty.

To such complaints against me, if such there are, it may be said by my friends, at proper times and places, that Doublehead confirmed the treaty with the President, at Philadelphia, and received as much as five thousand dollars a year, to be paid to the nation over and above the first price; indeed, it may with truth be said, that though I made the treaty, that I made it by the instructions of the President; and, in fact, it may with truth be said, that I was by the President instructed to purchase much more land than the Indians would agree to sell. This sort of talk

will be throwing all the blame off me upon the late President, and, as he is now out of office, it will be of no consequence how much the Indians blame him. And, among other things that may be said for me is, that I was not at the running of the line, and that if I had been, it would have been run more to their satisfaction. In short, you understand the subject, and must take care to give out the proper talks to keep up my consequence with the Creeks and Cherokees. Can't Rogers contrive to get the Creeks to desire the President to take Hawkins out of the nation; for if he stays in the Creek nation, and gets the good will of the nation, he can and will do great injury to our plan: when you have read this letter over three times, then burn it. I shall be at Knoxville in July or August, when I will send for Watts, and give him the whiskey I promised him.

I am, &c.

WILLIAM BLOUNT.

5th CONGRESS.] No. 128. [2d SESSION.

COMMERCE OF THE UNITED STATES.

REPORTED DECEMBER 26, 1797.

Mr. SEWALL, from the committee to whom was referred that part of the President's speech which relates to the protection of commerce, and the defence of the country, beg leave to report, in part, of the subjects which, under this authority, require their attention:

That the unauthorized depredations which interrupt the commerce of the United States are rendered more extensively destructive by certain regulations which originated with the act of June the 5th, 1794, made in addition to the act for the punishment of certain crimes against the United States. That act prohibits, among other things, the fitting and arming, within the United States, any ship or vessel with intent to employ the same in the service of any foreign prince or state, for hostile purposes. The instructions immediately afterwards given by the Executive to carry that law into full effect, appears in a letter from the Department of War, circulated to the Governors of the several States, under date of July 21st, 1794, a copy of which is herewith submitted. The committee would more especially refer to that part of the letter which prohibits citizens from arming their vessels, unless in some special cases, reserved for the decision of the President.

The alarming increase of injurious depredations since occurring, gave rise to attempts by our citizens to arm their vessels, and when refused permission, to very earnest claims of their right: and the question was submitted to the Treasury Department, and answered therefrom, by a circular letter to the collectors of the customs, under date of April 8th, 1797; a copy of which is herewith submitted. It is thereby directed, that the sailing of armed vessels, not bona fide destined to the East Indies, be restrained, until otherwise ordained by Congress. It is understood that the exception has been since extended in favor of vessels bound to the coast of Africa. This restraint appears to have originated on the part of the Executive of the United States, solely in the wish to prevent collusions with the Powers at war, contravening the act before mentioned, and not from any doubt of the policy and propriety of permitting our vessels to employ means of defence while engaged in a lawful foreign commerce.

Your committee are of opinion, that legislative provisions ought to be established in lieu of the Executive directions herein referred to. The law before mentioned has not provided for any examination, or directed to any circumstances or stipulations by which the case of the lawful equipment of a vessel of the United States may be distinguished from that of an unlawful arming for hostile purposes. From this defect has arisen the necessity, if there be any, of the existing restraint which has operated to render the vessels of the United States defenceless against every attack, however lawless and unauthorized, and an easy prey to the most inconsiderable force. It is observable, also, that the exceptions from this restraint, admitted in favor of vessels undertaking for a voyage to the East Indies, or to the coast of Africa, are without any guard upon the conduct of those vessels abroad, and that these pretences may be falsely assumed with impunity.

Upon these considerations the committee have prepared a bill, as supplementary to the act of June, 1794, providing against abuses which may be attempted or practised under color of equipping vessels for defence, in case that right should be generally exercised by the citizens of the United States.

All which is submitted, by order of the committee.

WAR DEPARTMENT, *July* 21, 1794.

SIR:

Some doubts having arisen in several of the States as to the circumstances of equipment in any vessel belonging to the belligerent nations, which may be deemed an unlawful increase, or augmentation of force, it has been judged advisable, in order that a uniform principle may prevail upon the subject, to give the following explanations:

The mounting additional guns, or changing or altering the calibre or size of the guns, in any manner whatever; the making of new gun carriages, or the cutting of new port holes in any part of a vessel, are each adjudged to be an unlawful augmentation of force, and therefore to be prevented.

This construction had its full operation upon the British letter of marque, ship Jane, which arrived in the port of Philadelphia in the month of July, 1793. New gun carriages were made, additional guns mounted, which had been brought in the hold of said vessel, and new port holes were cut in her sides and stern. Each and every one of these acts being deemed unlawful, she was obliged to re-land the new gun carriages, dismount the additional guns, and dismantle, and effectually close up the new port holes.

Although this rule has been hitherto considered as applicable to the belligerent Powers only, yet, in order to prevent any abuse or national responsibility from the subjects of other neutral nations, fitting out or equipping vessels in our ports, for the use of one of the warring nations, it is extended to all vessels, belonging even to neutrals.

The United States being also a neutral nation, the vessels of their citizens, in most cases, do not require to be armed; the arming such vessels, therefore, raises a presumption that it is done with a hostile intent, and contrary to the prohibitions of the act of Congress. Some special cases, indeed, may occur, in which arming may be proper and necessary, but these cases ought always to be well examined and ascertained, lest they should cover collusions with some of the belligerent Powers. To guard against such an abuse, no vessel belonging to any citizen of the United States is to be permitted to be armed, and to sail, until all circumstances concerning her shall have been transmitted to the President, and his decision thereon made known.

I have the honor to transmit, herein enclosed, a new rule as to the sailing of vessels of war of the belligerent nations from the United States, and also an act entitled "An act in addition to an act for the punishment of certain crimes against the United States."

I am, sir, your obedient servant,

H. KNOX.

His Excellency the Governor of ———

Circular to the Collectors of the Customs.

TREASURY DEPARTMENT, *April* 8, 1797.

SIR:

The depredations to which the commerce of the United States is at present exposed have given rise to a question, which, being of general concern, is therefore made the subject of a circular communication.

The question is, Whether it be lawful to arm the merchant vessels of the United States for their protection and defence, while engaged in regular commerce?

It is answered—That no doubt is entertained, that defence, by means of military force, against mere pirates and sea rovers, is lawful. The arming of vessels bona fide engaged in trade to the East Indies is, therefore, on account of the danger from pirates, to be permitted, as heretofore; but as the arming of vessels destined for European or West India commerce raises a presumption that it is done with hostile intentions against some one of the belligerent nations, and may cover collusive practices, inconsistent with the act of Congress of June, 1794, unless guarded by provisions more effectual than have been hitherto established, it is directed that the sailing of armed vessels, not bona fide destined to the East Indies, be restrained, until otherwise ordained by Congress.

Information has been received that some vessels are arming by strangers for the purpose of capturing the vessels of the United States. The utmost vigilance on the part of the collectors to prevent the progress of this evil is enjoined; where there is reasonable ground to believe that vessels are equipped for the purpose of being employed against the commerce of this country, they are to be arrested, and the circumstances stated to this Department.

I am, very respectfully, sir, your obedient servant,

OLIVER WOLCOTT.

5th CONGRESS.] No. 129. [2d SESSION.

SPAIN.

COMMUNICATED TO CONGRESS, JANUARY 23, 1798.

UNITED STATES, *January* 23*d*, 1798.

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

At the commencement of this session of Congress, I propose, in the course of it, to communicate to both Houses further information concerning the situation of our affairs in the territories of the United States, situated on the Mississippi river, and its neighborhood; our intercourse with the Indian nations; our relations with the Spanish Government, and the conduct of their officers and agents. This information will be found in a report of the Secretary of State, and the documents attending it, which I now present to the Senate and House of Representatives.

JOHN ADAMS.

REPORT

OF THE SECRETARY OF STATE TO THE PRESIDENT OF THE UNITED STATES.

In observance of your directions I have revised the communications from Mr. Ellicott, the commissioner of the United States at the Natchez, since my report of the 3d of July last, which, with the documents therein referred to, you, on the same day, laid before Congress; and now respectfully submit to you a statement of whatever appears therein to be material.

The last letter from Mr. Ellicott, of which a communication was made to Congress, bore date the 10th of May last. His next, dated the 27th of that month, I received the 24th of August. In this he mentions that reinforcements were sent from New Orleans to the post at Walnut Hills, and that repairs were made on the fort at the Natchez. That he had received very satisfactory accounts from both the Chickasaws and Choctaws that, for more than eight months past, they had been tampered with by the Spanish agents and traders, to prevent the late treaty between His Catholic Majesty and the United States from being carried into effect, though Mr. Ellicott thinks, without success. On the 11th of May, he wrote to Governor Gayoso, desiring a definitive answer as to the time he would be ready to proceed to the determination of the boundaries between the two nations, as specified in the treaty, to which he received an unsatisfactory answer. On the 16th he addressed to Governor Gayoso a retrospective view of their correspondence, and of that with Lieutenant Pope, exhibiting the repeated promises and demonstrations of running the boundary line and evacuating the posts; the non-performance of those promises, and the varied pretences for the delay. To this detail of unfulfilled engagements and contradictory measures, the Governor answered Mr. Ellicott on the 17th, "That he should not trouble him with justifying the motives which had caused *some disagreement* in his (the Governor's) communications;" adding, however, that "they were far from being insincere."

In his next letter, dated the 4th of June, Mr. Ellicott mentions that "the citizens of the United States who are trading on the Mississippi are frequently treated with great insolence at the Spanish posts, and their property taken for the use of His Catholic Majesty, when wanted, and always at a reduced price." He instances the case of a Mr. M'Cluny, from whom a large quantity of flour was thus taken at the Walnut Hills; and of Francis Baily, who was compelled to receive as cash, in payment for goods sold, a species of paper which was passing at a discount of twelve per cent.

With this letter Mr. Ellicott transmitted a copy of a proclamation by the Baron de Carondelet, Governor General of Louisiana, bearing date at New Orleans the 24th of May, and ordered to be published. In order to dissipate reports which had alarmed the inhabitants of the Natchez, the Baron therein declares, "that the suspension of the demarcation of the limits, and the evacuation of the forts, which will be comprehended on the other side of the line, is, at present, only occasioned by the imperious necessity of securing Lower Louisiana from the hostilities of the English, who, (he says) without regard to the inviolability of the territory of the United States, have set on foot an expedition against Upper Louisiana, which they cannot, however, attack, without traversing the aforesaid territory." But he suggests, that, if they made themselves masters of the Illinois country, they would then attack Lower Louisiana. This fabulous expedition of the English from Canada is thus made the pretence for the non-execution of the treaty on the part of Spain. "We have thought proper (says the Baron) to put the post of Walnut Hills in a respectable but provisional state of defence, until the United States, informed of these motives, by the minister plenipotentiary of His Majesty, to whom we have communicated them, provide against these inconveniences; and, by taking the proper steps to cause the territory to be respected, shall put in our power to fulfil, without danger, the articles of the treaty concerning limits."

In this proclamation, the information of the English expedition is represented as having been communicated by the Baron de Carondelet to the Spanish minister in the United States; but, in his next proclamation, one week afterwards, (May 31st) he sets forth that he had received, from that minister, information of the expedition from Canada, and, therefore, "had judged it necessary, for the surety and tranquillity of Lower Louisiana, to suspend the evacuation of the post of Natchez, and of the Walnut Hills." And, as early as the first of May, Governor Gayoso, in a letter to Mr. Ellicott, published with the other documents laid before Congress at the last session, assigns the information, before that day, received by the Baron from the Spanish minister, of the above pretended expedition as the reason for holding the posts, and putting them in a state of defence, particularly the Walnut Hills. In the same proclamation (of which a copy No. 1, is annexed) the Baron affects to consider the march of a detachment of American troops from the Ohio to the State of Tennessee, while it has been intimated, as he says, to the militia of Cumberland, to hold themselves ready to march at the first notice, as an evidence of a hostile attack intended, even by the United States, on Louisiana.

The pretences for holding the posts in question, and delaying to run the boundary line, having varied from time to time, it may be proper to present them in one view.

In the month of March.

1st. That it was uncertain whether the forts, when evacuated, were to be demolished or left standing.

2d. That it was necessary to secure the real property to the inhabitants. And both these points, it was said, must be adjusted by a negotiation between the two Governments of Spain and the United States, prior to the evacuation of the posts.

3d. That they must be retained until the Spanish officers were sure the Indians would be pacific.

On the 24th of May.

4th. The English expedition from Canada, which could not proceed without violating the territory of the United States.

But, in the proclamation of this date, the putting of the principal post, that of the Walnut Hills, in a state of defence was declared to be only provisional, and until the United States should cause their territory to be respected.

5th. On the 31st of May, the Baron's second proclamation repeats the same pretence, the English expedition, and adds a new one, that the United States were marching troops, and preparing the militia to take the Spanish dominions by surprise. Further motives are also assigned—anterior menaces by the commissioner, Mr. Ellicott, and of Lieutenant Pope, and the expected rupture between the United States and France. And new conditions are now mentioned to be performed by the United States, viz: that they should, as a necessary evidence that they have no hostile intentions against the Spanish provinces, either leave the post of the Natchez, or the Walnut Hills, in posession of Spain, as "the only bulwark of Lower Louisiana to stop the course of the British;" or give to the Spaniards "security against the article of the treaty with Great Britain, which exposes Lower Louisiana to be pillaged and destroyed down to the capital. Then (says the Baron) we will deliver up the said posts, and lay down our arms, which they (the United States) have forced us to take up, by arming their militia in time of peace, and sending a considerable body of troops by roundabout ways to surprise us."

Pretences more frivolous, or more unfounded and unwarrantable, were perhaps never urged as reasons to excuse a violation of the faith of treaties. Never, perhaps, was conceived a more absurd idea, than that of marching troops from the Ohio to the State of Tennessee, and thence to the Natchez, in the whole a tedious, difficult, and expensive route of many hundred miles, chiefly through a wilderness; when, if the United States had any hostile views, they had only to collect their troops to the Ohio, and suffer them to be floated down that river and the Mississippi, almost without labor, with great expedition, and at small expense, to the country to be attacked. But the suggestion is as false as it is absurd.

Neither does any article of the treaty between the United States and Great Britain, (the Baron doubtless means the treaty of 1794) nor the explanatory article of 1796, give to Great Britain any new right respecting the navigation of the Mississippi, and consequently do not expose, more than it was before exposed, Lower Louisiana to be pillaged and destroyed by the British. But this question having been fully discussed in my letter of the 17th of May last to the Spanish minister, and his reasoning demonstrated (as I conceive) to be utterly unfounded, it would be a waste of time to add any further observations upon it.

If the posts of the Natchez and Walnut Hills "are the only bulwarks of Lower Louisiana, to stop the course of the British," as the Baron asserts, and if, therefore, Spain is justifiable in holding them, she may retain them, without any limitation of time, for her security in any future war, as well as in that which now exists. But this, like all the other reasons which have been before advanced, is merely ostensible. The true reason is doubtless developed by the Baron in his proclamation of the 31st of May. *The expectation of an "immediate rupture between France, the intimate ally of Spain, and the United States."*

The Spanish minister having resumed this subject in his letter to me of the 11th of July, his own printed translation of it, and my answer of the 8th of August, are hereto annexed, together with his letter of the 19th August, acknowledging the receipt of that answer, and his two subsequent letters of the 9th of October and 21st of November. With the last it seems proper to lay before you a paper signed VERUS, which appeared in the Aurora, printed by Benjamin Franklin Bache, on the morning of the 23d, containing, in substance, his letter of the 22d, which I received the preceding evening, and some additional expressions which the minister himself deemed too gross to be addressed to the Government under his proper signature; but which, under the circumstances here mentioned, must necessarily be ascribed to him.

In his next letter, Mr. Ellicott gives an account of an insurrection of the inhabitants of the Natchez. A minute detail of the circumstances which gradually tended to produce this event, he says, would fill a volume. The following relation is extracted from his letter of June 27th: "The delay (says he) on the part of the Spaniards, to carry the late treaty between His Catholic Majesty and the United States into effect, gave great uneasiness, which was daily increased by the Spaniards reinforcing and repairing the fort at this place and the Walnut Hills. The people considered those preparations as a determination on the part of Spain to retain the country, notwithstanding the late treaty. A disposition was frequently manifested to resist the laws of Spain; but they were, nevertheless, submitted to without a direct opposition, until Friday the 9th instant, when a Mr. Hannan, a preacher among the Baptists, was taken on some trivial pretence, and confined by his legs in a small building within the fort. This was considered as an attack upon the privileges of the citizens of the United States (Mr. Hannan being one) and a determination, at all events, to enforce the laws, civil and religious, of Spain, with rigor. Under this impression the inhabitants flew to arms, and the Governor and the principal officers of Government took refuge in the fort. Thus in less than ten hours, by an unnecessary exertion of power, the authority of the Governor was confined to the small compass of the fort."

Saturday, the 10th, the opposition to the Spanish Government had extended almost over the district. Sunday, the 11th, a number of enterprising opposers of the Spanish Government called upon Lieutenant Pope and myself, and declared their determination of commencing hostilities, in consequence of the imprisonment of Mr. Hannan, and a proclamation of the Baron de Carondelet (that of the 31st of May before mentioned) *which they considered as a declaration of war against the United States:* To oppose them directly would have put an end to our influence in the country; and to encourage them, in my opinion, would have been improper, as the United States had not extended their jurisdiction to this district. I, therefore, on my part, resolved to do neither; but, to divert their attention from immediate acts of hostility, proposed to them, to make a formal declaration of their being, by the late treaty, citizens of the United States, that they might have some claim to protection; but at the same time not to lose sight of their personal safety, and act on the defensive only. This had the effect I expected. On the evening of Monday, the 12th, Mr. Pope and myself received a verbal message from Governor Gayoso, by his adjutant, Major Minor, to the following purport: "Gentlemen, Governor Gayoso requests the favor of an interview with

you, all as private gentlemen: the interview to be without the fort, to see if some plan cannot be devised to quiet the present disturbance in the country." To this message I replied, that "I had no objection to the proposed interview; that I approved of peace, and would join in any measures for that purpose, consistent with the honor and safety of the people, who generally considered themselves citizens of the United States." Mr. Pope's answer was very different, and to the following effect: "You will please to inform Governor Gayoso that I will not agree to the interview, nor have any correspondence with him but what shall be official; and I will repel, by force, any attempts that are made to imprison those who claim the privileges of being citizens of the United States." As the message was jointly to Mr. Pope and myself, and Mr. Pope would not attend, I informed Major Minor that I should not attend alone. All my address was now exerted to avert the storm, and bring it to a favorable issue; and I could see no mode so likely to answer the purpose, as measures apparently decided. Under this impression, about ten o'clock in the evening, after Major Minor had been with us, I entered my approbation to a letter written by Mr. Pope to a large number of the inhabitants of this district, assembled at a Mr. Belt's, about nine miles from this place.* On the morning of the 13th, I received a letter (No. 2) from Governor Gayoso, to which I immediately returned an answer (No. 3.) The ensuing evening, about eleven o'clock, I received a verbal message, by Mr. George Cochran, contractor for the United States at this post, from Governor Gayoso, requesting a private interview with me at the house of Mr. Cochran (which is in the neighborhood of the fort) at nine o'clock the next morning: to this I had no objection, as I supposed the object of the interview was to fall upon some plan of an accommodation. The next morning, being the 14th, I met Governor Gayoso, according to his request. He appeared much agitated at first, but soon became calm, and we entered upon the subject of the tumult in the country: he was desirous to know upon what terms the people would be willing to disperse. I proposed the outlines of an accommodation, to which he acceded. In order to prevail on Mr. Pope to consent to an interview with Governor Gayoso, I spoke to Mr. Cochran and several other of his friends, whose influence prevailed, and the interview took place at the Government house, about five o'clock in the afternoon; when, after some discussion, the Governor proposed the terms (No. 4) on which he was willing to accommodate with the people: Mr. Pope had some objections, but at length withdrew them. On Wednesday morning the Governor published the proclamation, (No. 5) founded in part upon the terms which were agreed upon at our interview. But this proclamation had not the desired effect; in some places it was torn to pieces. The words "candid repentance" rendered the whole obnoxious. The people considered themselves not only citizens of the United States, but supporting a virtuous and honorable cause; and, therefore, in no need of "repentance." As soon as I discovered that the proclamation had no effect, I gave the information to the Governor's adjutant, Major Minor. The business now put on a very serious aspect, and hostilities appeared inevitable. By this time the opposition to the Spanish Government had assumed some form; a number of respectable militia companies had elected their officers, and were ready to take the field. Friday, the 16th, it was agreed that a meeting of the principal inhabitants of the district should be held at Mr. Belt's on Tuesday, the 20th. In the mean time both sides continued their preparation. Companies of militia were forming and organizing in the country; and the Governor exerted himself by strengthening and reinforcing the fort. He called to his aid every person who would join him, either through attachment or fear: he was, nevertheless, too weak to attempt any offensive operations. On Saturday, the 17th, about ten o'clock at night, a Spanish patrole fell in with a patrole from our camp, and fired upon it: the fire was returned, but I believe that there was no damage done. On Sunday evening, the 18th, I received a verbal message from the Governor, by his adjutant, Major Minor, requesting a private interview with me the next morning, at the house of his adjutant; to which I consented without any hesitation. The next morning he left the fort and rode by a circuitous route to the adjutant's place, where I joined him. Our conversation immediately turned upon the state of the country; he assured me that he was very desirous of coming upon some terms of accommodation; and as he understood that I intended to attend the meeting the next day at Mr. Belt's, he requested that I would be so good to use my influence to bring about a compromise. I told him that was my object; and that a plan had already been agreed upon by Colonel Hutchins and myself, to check, and finally put an end to the present disturbance; but no terms could now be expected that were not honorable for the people: they had felt their strength, and would only agree to return home by being admitted to enjoy a state of neutrality, so far as it respected military operations, till the late treaty between His Catholic Majesty and the United States should be carried into effect. To this privilege I thought them entitled; but to go further would be impolitic, and probably attended with ruin to individuals, if not to the district. As the Governor did not appear dissatisfied with my observations, I took it for granted he would agree to a qualified neutrality. On Tuesday, the 20th, I attended the meeting at Mr. Belt's, which was large and respectable.

Here it was concluded that a committee should be appointed to take the situation of the country into consideration, and make arrangements with the Governor for restoring peace and tranquillity; which arrangements should, as a greater security to the people, be ratified by the Governor General, the Baron de Carondelet. Seven gentlemen were accordingly elected as the committee, and Mr. Pope and myself were requested by the same meeting, unanimously, to attend with them. The committee immediately wrote a note to the Governor, informing him of their election; to which the Governor returned a polite reply, expressing his happiness that this salutary measure was adopted: "On Wednesday, the 21st, the committee met and proceeded to business; and after much deliberation, and several interviews with the Governor, the propositions, (No. 6,) on the 22d, were agreed to, and confirmed by the parties. On the same day Mr. Pope and myself presented the Governor our engagement, (No. 7,) to co-operate with the committee, in preserving peace and good order in the country. On the 23d, the Governor's proclamation, (No. 8,) embracing the four propositions, was published, which gave general satisfaction, and once more restored tranquillity to the district. Thus ended this tumult without a single act of violence having been committed during the suspension of the government and laws, for the space of two weeks. From the Baron de Carondelet's proclamation of the 31st of May, it would appear that I had menaced the Spanish Government of Louisiana. This is wholly a misrepresentation, and calculated to answer the worst of purposes. Ever since I came into this country I have been a cultivator of peace and harmony between the Spanish and American Governments, for which I have been frequently censured by many citizens of the United States, who have come on to this place since the ratification of the late treaty between the United States and the King of Spain. But, when the late tumult began, I could not hesitate as to the part I should take; and, in taking the part I did, peace was my main object. If my endeavors have had the least share in bringing about the honorable compromise between the Governor and the people, I shall think myself amply rewarded for the trouble and anxiety I have experienced on that occasion."

* This letter from Lieutenant Pope has since been transmitted by Colonel Anthony Hutchins, of the Natchez, to the Department of State, and is as follows·

"NATCHEZ CAMP, *June* 12, 1797.

"*Fellow-citizens of the district of Natchez:*

"Having received information that a number of you will be collected at my friend Belt's, in conformity to an indirect invitation sent to you for that purpose, I have now positively to make the declaration to you that I have made this evening to Governor Gayoso, that I will at all hazards protect the citizens of the United States from every act of hostility; I mean all such as reside north of the thirty-first degree of north latitude, or within thirty-nine miles due south of the Natchez. I now, therefore, call on you, in the most solemn manner, to come forward, assert your rights, and you may rely on my sincere corroboration to accomplish that desirable object.

"I shall expect your assistance to repel any troops or hostile parties that make an attempt to land for the purpose of reinforcing this garrison, or other purposes detrimental to the inhabitants of this country.

"PIERCY S. POPE, *Commanding U. S. troops, Natchez.*"

From the present alarming situation of this country I fully approve of Captain Pope's letter of this date to his fellow-citizens assembled at Mr. Belt's.

ANDREW ELLICOTT, *Commissioner United States.*

June 12, 1797.

The agreement between the committee and Governor Gayoso was, in due time, ratified by the Governor General, the Baron de Carondelet.

Mr. Ellicott, in his letter of September 12th, (which was received the 16th of November,) mentions that Governor Gayoso had succeeded the Baron de Carondelet as Governor and General-in-chief of Louisiana, and gone to New Orleans, and had committed the government of the Natchez district to Major Stephen Minor.

His communications relative to the Choctaw nations show their friendly disposition towards the United States, and determination to remain at peace. It appears that there is an unhappy dissension among the inhabitants of the Natchez; one party blaming, and the other decidedly justifying, the conduct of Mr. Ellicott, as uniformly calculated to maintain the tranquillity and happiness of the settlement. At the head of the former is Colonel Anthony Hutchins.

Mr. Ellicott pointedly denies the charge of the Spanish minister, that he intended to get possession of the Natchez fort by surprise; of which the minister, said Governor Gayoso, possessed the proofs; and far from evading an inquiry, desires Governor Gayoso to furnish the minister with all the evidences he possesses to substantiate the charge.

In his next letter, dated the 24th of September, Mr. Ellicott encloses a resolution, (No. 9,) of the permanent committee manifesting their confidence in him, and requesting him to represent the present situation of the district to the President of the United States, and also all the measures which, from his knowledge of the circumstances of the country, acquired by his residence there, he shall deem to be conducive to its future welfare, "in the event of the late treaty between His Catholic Majesty and the United States being carried fully into effect."

Mr. Ellicott has accordingly expressed his opinion, founded on very cogent reasons, that the form of government established for the Northwestern Territory will be the most proper for the Natchez district; with the exception respecting *slaves*, which was admitted when the same form of government was given to the territory south of the river Ohio, now the State of Tennessee. His information in this letter respecting the titles to the lands held in that country by the inhabitants will be useful when the introduction of a government there, under the authority of the United States, shall be contemplated.

By the communications in this despatch, it appears that the permanent committee, which are considered as an important part in the present administration of the affairs of the Natchez district, were chosen freely by the inhabitants, assembled with the consent of the Governor, and that they have his approbation for their steady zeal in promoting the peace of the country.

On the 28th of November I received Mr. Ellicott's letter of the 7th of October, at which time no change had taken place in affairs at Natchez.

He encloses the copy of a letter from Governor Gayoso, dated at New Orleans the 14th of September, in answer to one from Mr. Ellicott of the 6th, in which he referred to the representations of the Spanish minister, in his letter to me of the 24th of June last, (which, with other documents, was laid before Congress on the 3d of July) criminating Mr. Ellicott's conduct at the Natchez; particularly that he intended to possess himself of the Natchez fort by surprise; and desired the Governor to furnish the minister with those proofs which the minister had asserted to be in his possession. In the Governor's answer of September 14th, he says to Mr. Ellicott: I am sure the proofs in my possession, that the chevalier de Yrujo refers to, are the remainder of the copies of your letters to me which he then had not, but long before this must have received. You may be assured I never made any other construction upon your expressions than that which may be conceived by every person in the United States."

In the same letter, of September 6th, Mr. Ellicott says: "So far as I can judge at present, all the obstacles which occasioned the delay on your part, in ascertaining the boundary lines between His Catholic Majesty's provinces of East and West Florida, and the territory of the United States, are now removed: I therefore wish to be informed when you can, with convenience, proceed to the running of the lines above mentioned."

The Governor, in his answer of the 14th, says: "Those difficulties which alternatively have caused a suspension in the execution of that part of the treaty between His Majesty and the United States, in which we have the honor to be concerned, subsist yet; and the conduct of the Spanish officers is completely justified to the world by the publication of Mr. Blount's letter, and the correspondence between the Secretary of State and Mr. Liston. Until the King my master has those assurances which are necessary from the United States to secure the safety of this province, you cannot reasonably expect that I should be authorized to act in a different manner than hitherto. As soon as I receive orders, removing the present obstacles, I shall cheerfully proceed to the running of the boundary lines."

To this Mr. Ellicott replied, and recited the obstacles to the execution of the treaty which, at different times, had been presented by the Spanish Governors, and which he conceived to be completely removed by the declaration of the President in his message to Congress on the 12th of June, the uniform conduct of the United States in respect to the Indian nations, and the exhibition of facts respecting the pretended expedition of the English from Canada, and the navigation of the Mississippi.

Mr. Ellicott's next letter is dated at the Natchez the 27th of October, and was received the 5th instant. He says that country "is in great confusion," owing to the intrigues which have produced two parties among the people. He adds: "Congress at their last session, by not coming to any decision relative to this territory, has weakened the interest of the United States among the inhabitants more than you can conceive. It has been artfully propagated, from that circumstance, that the treaty, in all probability, will not be carried into effect, and the country remain, as heretofore, under the jurisdiction of His Catholic Majesty;" which belief is producing its natural consequences.

He represents the permanent committee as unwearied in their endeavors to promote peace and good order, and the characters of its members as among the first in that country for respectability; which is confirmed by the certificate (No. 10,) of the temporary Governor, Major Minor; which also shows that they are acknowledged, as an authorized body, by the Spanish Government.

His next letter is dated at the Natchez, the 14th of November, and was received the 4th instant. He details the different facts and circumstances which have led him to think that designs are carrying on in the district unfavorable to the interests of the United States.

Colonel Anthony Hutchins presented to the temporary Governor an application dated the 9th of August, setting forth that, although the inhabitants, in general, in their present state of neutrality, are well disposed, and submit "to the presiding authority and the prevailing laws that are now executed with mildness;" yet conceiving and firmly believing that the treaty between the United States and Spain will be carried into effect, "and that there is *more than a probability that the United States will avail themselves of the claim of dominion to the 31st degree of North latitude*; under which consideration they conceive it expedient to appoint a man of some abilities, with the appellation of Agent, to address Congress on important occasions, and that there may be also a committee of safety who may correspond with such agent, and, from time to time, communicate to him the sense and will of the people:" he, therefore, "in behalf of a very respectable number of the inhabitants of the Natchez, and, at their request, solicits for permission that elections may be held in the several districts, within that province and in the town of Natchez, to elect such agent and such committee of safety and correspondence, on the second of September," in the manner described by Colonel Hutchins in his application. This required that the alcaldes (or justices) should hold the elections, or, in their default, certain assistants, *whom he names;* and that the alcaldes and assistants should not be eligible; it also proposed to admit as voters all the inhabitants settled and residing in the district who were "not less than *eighteen* years of age."

To this request of Colonel Hutchins, the temporary Governor acceded, as appears by his act (No. 11,) dated the 16th of August.

"Immediately upon this being made public (says Mr. Ellicott) it excited considerable alarm, and was generally considered, by the well disposed inhabitants, as an artful measure, calculated to divide the people between the two committees, which, if effected, would, in all probability, end in a breach of the *neutrality* by one or other of the par-

ties, and thereby produce the re-establishment of the Spanish Government." Under this impression, six of the ten subdivisions of which this district is composed, protested against the election; of course there were but four elections held agreeably to the permission. Among the reasons assigned in the protests against this proposed election, were these: 'Because (say the protesters) we dread the effect of such a precedent, which appears to us to involve the seeds of anarchy, and an open contempt of the authority invested in the committee, our only legal representatives.' 'Because, by the mode of election, not less than thirty of our most intelligent and respectable citizens are rendered incompetent to serve either as the said agent, or in the committee.' 'Because it is calculated to introduce a direct innovation in the principles of election, by admitting to the privilege of voting, persons of the age of eighteen.' And 'because neither the powers of the agent nor committee are properly defined.'

Mr. Ellicott states that the four persons elected in the other four subdivisions, "with Colonel Hutchins at their head," proceeded to business. Afterwards, another member was added by the nomination of ten voices in one subdivision, and a sixth was appointed by the *subscription* of fewer than thirty persons. The committee thus constituted, produced a very long "petition and memorial," addressed to the "House of Representatives of the United States in Congress assembled," of which Mr Ellicott has transmitted a copy, but of which it does not seem necessary to anticipate the presentation to Congress by the agent to whom it may, for that purpose, be committed. One object of the memorial seems to be to criminate the conduct of the American commissioner, Mr. Ellicott, and the commander of the troops, Captain Pope. But proofs accompany Mr. Ellicott's communications, that this part of the long memorial was concealed from many who subscribed it, and other testimonies in vindication of those officers. The exhibition of these documents, I have thought, might also be suspended until the "petition and memorial" were presented to Congress. It may, however, be proper to remark, that the memorial, as well as the proceedings of the regularly appointed permanent committee, view the actual establishment of a government at the Natchez, under the authority of the United States, as to take place only when its present state of neutrality shall cease; that is, when the Spanish jurisdiction shall be withdrawn. But, as this may happen when Congress is not in session, and, if in session, much time must elapse in the ordinary course of doing business, before the form of government proper to be introduced at the Natchez may be agreed on; considering, also, the further lapse of time before it can be organized and put in operation, in a country so remote from the seat of the General Government; it appears highly expedient that the subject should now be taken up, and the necessary arrangements made, to prevent the inconveniences and mischiefs which may result from leaving a population of five thousand persons, for any length of time, without the powers of government.

It remains for me to make a few remarks on the letters of the Spanish minister, of the 9th of October and 21st of November.

The principal object of the former appears to be to introduce some evidence to show that Mr. Ellicott and Lieutenant Pope had conducted, towards the Spanish Government, in a manner irregular, provoking, insulting, and, in some degree, hostile. He adduces, as proofs, the documents enclosed in his letter, and numbered from one to six.

The declaration that Governor Gayoso had positive advice that, in the camp of Lieutenant Pope, *scaling ladders and arms were preparing*, having for their object an assault on the Natchez fort, is perfectly new. I have never received an intimation of it from any other quarter. Besides, this charge rests only on "positive *advice*," not positive *proof*, and is, doubtless, without any proof.

Governor Gayoso, in his letter of the 13th of June to Lieutenant Pope, says he is informed that some of the inhabitants intended to attack the fort, and at his instigation, and asks whether he had stirred up the people to take the fort? or incited them to other hostile acts? To each of which questions Lieutenant Pope positively answers, no. To similar questions, put to Mr. Ellicott, he also peremptorily answers in the negative. The documents which the minister himself has furnished contain these questions and answers, and should have prevented the insinuation here noticed.

The other charge, in the same paragraph, that Mr. Ellicott and Lieutenant Pope, discouraged, by the firmness and vigilance of Governor Gayoso, from attempting to take the forts at the Natchez and Nogales (Walnut Hills) by force or surprise, they availed themselves of some profligate people to excite an insurrection, is alike void of foundation. The rise, progress, and issue of the insurrection is satisfactorily exhibited in Mr. Ellicott's letter of June 27th, from which copious extracts have been hereinbefore given. And, with respect to the fort at Walnut Hills, they could never have entertained the remotest idea of taking it in one way or the other, its situation being about one hundred miles from the Natchez, up the Mississippi, and its garrison composed of a force probably two or three times superior to that under the command of Lieutenant Pope.

The minister considers, as an insult towards the Spanish Government, the following expression of Mr. Ellicott, in his letter of the 13th of June, to Governor Gayoso: "The people cannot with propriety be censured for recurring to that conduct which will ultimately secure their felicity." "This (says he) is clearly an indirect attack upon the Spanish Government, as unjust as improper, on the part of an agent of a friendly nation."

It may be pertinent here to remark, that, when Mr. Ellicott was commissioned as the agent of the United States, nothing less was expected than that he would be obliged to enter upon a tedious controversy with the Spanish officers, on subjects really foreign to the business of his mission—that of running the boundary line between the territories of the two nations. If, after waiting several months to begin that operation; if, after being repeatedly promised that it should very soon be commenced; if, after repeated violations of these promises, and others relative to the evacuation of the forts, and procrastinations resting on a succession of pretences frivolous, unreasonable, and unfounded, Mr. Ellicott should have felt some irritation, and been provoked to some indiscreet acts, it would not be surprising. Whether, however, any part of his conduct merits the character of indiscretion, may be determined by the documents now and formerly exhibited; for he has not sought concealment.

But if the inhabitants thought what Mr. Ellicott expressed, that a change from the jurisdiction of Spain to that of the United States "would ultimately secure their felicity," it may be accounted for by a few facts, which will justify both one and the other.

It is well known that the inhabitants of the Natchez district consist chiefly of persons who were formerly British subjects, and their descendants, and of emigrants from the United States. All these, born and educated under forms of government so essentially different from that of an absolute monarchy, and especially in all criminal and civil causes accustomed to a mode of trial peculiarly dear to the inhabitants of England and of the United States, and which the constitutions of the latter have so formally and scrupulously guarantied—the trial by jury—the inhabitants also being nearly all protestants, and, in the United States, persons of all persuasions enjoying the most perfect religious as well as civil liberty, they could not be indifferent to, it is impossible that they should not prefer, a jurisdiction which would perfectly secure to them both their civil and religious rights. I need not remark, that, under the Spanish Government, trial by jury is unknown, and, at the Natchez, the Governor was the legislator and the judge, and regulated and restrained their civil and religious rights. As an instance, might be cited Governor Gayoso's proclamation of the 29th of March, 1797, numbered 15, in the documents which were laid before Congress on the 12th of June last. By that act he suspends the collection of debts, and restrains, to *private meetings*, the exercise of any other than the Catholic religion. These are his words: "This being the season in which the planters are employed in preparing for an ensuing crop, none shall be disturbed from that important object on account of their depending debts." "Liberty of conscience is hereby positively explained to be, that no individual of this Government shall be molested on account of religious principles, and that they shall not be hindered in their *private meetings*; but no other *public worship* will be allowed but that generally established in all His Majesty's dominions, which is the *Catholic religion*."

The minister also complains that Mr. Ellicott and Mr. Pope interfered in political matters; because they engaged themselves to co-operate with the committee appointed to preserve the peace, and to obtain the due execution of justice, and *approved* of the propositions presented to Governor Gayoso. But a recurrence to the foregoing narrative, extracted from Mr. Ellicott's letter of the 27th of June, and the documents he refers to, will show that both were requested to interfere, and that they were called on by the Governor to be consulted on the means of putting

an end to the insurrection, and that the result of that consultation was a plan of accommodation—a proposal of measures which (as asserted in another document not before quoted*) "through the influence of Mr. Ellicott and Captain Pope, were adopted."

A few words on the Spanish minister's letter, of the 21st of November, will conclude this report.

Referring to his letter of the 6th of May, and to my answer of the 17th, (which are among the documents laid before Congress, on the 17th of May) he says, "His Catholic Majesty has not observed, in the said answer from you, any reason to induce him to change his opinion concerning the injuries resulting to his subjects, from the stipulations of the English treaty, compared with those of the treaty with Spain, as well on the subject of the articles of contraband, as on the principle adopted in ours. "That free ships shall make free goods," &c.

"But what has most astonished His Majesty, and confirmed him in the justice of his pretensions, is what you have said, in your answer, with regard to the navigation of the Mississippi."

It is much to be regretted that difficulties should be raised, and persevered in, on questions so plain and easy to decide. Without entering again into a particular discussion of this subject, a single fact, which, on the 17th of May, I supposed probable, and which I am now authorized to assert, is sufficient to obviate all the objections and arguments which have been adduced by the Spanish Minister. It is this: That when the treaty between the United States and Spain was negotiated by Mr. Pinckney with the Prince of Peace, the latter was furnished with an entire copy of the treaty of amity, commerce, and navigation, between the United States and Great Britain: consequently it is, to the last degree, preposterous for the Spanish Government now to complain that the treaty with Great Britain rejected the principle that "free ships made free goods," or that it extended the list of contraband. With a perfect knowledge of the articles of the British treaty, on these points, if the Spanish Government had any objections to make, that was the time; and to have refused to enter into different stipulations with the United States; but having, notwithstanding, voluntarily entered into them, it cannot now offer and insist on such objections, without a manifest departure from the principles of candor and good faith.

The same observations will apply to the question concerning the navigation of the Mississippi.

In the first place, the Spanish Government, when its treaty of peace with Great Britain was concluded, at Paris, on the 3d of September, 1783, by which West Florida was ceded to Spain, well knew that by the provisional treaty between Great Britain and the United States, concluded at Paris, the 30th of November, 1782, the articles of which constituted the definitive treaty of peace between these two Powers—it was stipulated that "The navigation of the river Mississippi, from its source to the ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States." And yet, even this stipulation, which was inviolably binding on the United States, by the provisional articles before mentioned, nine months before West Florida was ceded to Spain, is now strangely objected to by the Spanish minister, and as a reproach to the United States!

In the next place, when our treaty with Spain was concluded, on the 27th of October, 1795, the Spanish Government possessed the like perfect knowledge, that eleven months preceding, viz: on the 19th of November, 1794, in the treaty of amity, commerce, and navigation, between the United States and Great Britain, the above stipulation of 1782 and 1783 was recognized in these words: "The river Mississippi shall, however, according to the treaty of peace, be entirely open to both parties." And, on this occasion, the Spanish Government did object; it wished the United States to enter into a mutual stipulation with Spain for the purpose of *excluding* Great Britain from the navigation of the Mississippi: but the minister of the United States explicitly refused to do it; and, in writing, assigned the reason: that it would violate the good faith of the United States previously pledged to Great Britain: and the Spanish Government gave up this objection, or the minister of the United States would not have concluded the treaty. How truly astonishing it is, after all this, that the United States should be reproached for the stipulation with Great Britain, respecting the navigation of the Mississippi! And as having thereby *offended* and *insulted* Spain! And how long is our patience to be abused by such unfounded charges?

But although the Chevalier de Yrujo, in his argument, upon this point, refers alike to our treaty of peace with Great Britain, in 1783, to our treaty of amity, commerce, and navigation, in 1794, and to the explanatory article of the latter, concluded on the 4th of May, 1796; yet, in the end, as if conscious that his observations, as applied to the two former, were impertinent, he confines his charge to the latter, and says that, "His Catholic Majesty has just motives for being offended with the *explanatory article*, signed on the 4th of May, 1796." But neither does this explanatory article contain any new stipulation. It recognizes the principle, that a subsequent treaty cannot annul any stipulation of a prior treaty, and declares that the subjects of His Britannic Majesty, and the citizens of the United States, and the Indians, dwelling on either side of the boundary line between the two Powers, "shall remain at full liberty freely to pass and re-pass, by land or inland navigation, into the respective territories and countries of the contracting parties, on either side of the said boundary line; and freely to carry on trade and commerce with each other, *according to the stipulations of the said third article of the treaty of amity, commerce, and navigation:*" Thus recurring to, and resting upon, the treaty of November 19, 1794; which, as above observed, the chevalier himself finally abandoned, as affording no cause of complaint, and without which the explanatory article itself would be a nullity.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *January* 22, 1798.

No. 1.

The Proclamation of the Baron de Carondelet.

NEW ORLEANS, *May* 31, 1797.

The Government being informed, by His Majesty's ambassador to the United States of America, that an expedition assembled on the lakes was intended to attack the Illinois, has judged necessary, for the surety and tranquillity of Lower Louisiana, to suspend the evacuation of the posts of Natchez and the Walnut Hills, being the only posts that cover it; the possession of which will put the English in a situation to disturb and ravage the country, in case they render themselves masters of Upper Louisiana, with so much more facility, as by an article of the treaty, concluded posteriorly with Great Britain, the United States acknowledge that the English may freely navigate and frequent the posts, belonging to the said States, situated on the rivers in general, lakes, &c.; being a manifest contradiction with the treaty concluded with Spain, which it appears to annul; because, by this, the United States acknowledge that no other nation can navigate upon the Mississippi without the consent of Spain.

Notwithstanding the legitimacy of these motives, the suspension has been represented to the Congress of the United States, with all the necessary veracity, and intimated by our orders to the commissary of limits, as well as to the commandant of the detachment of American troops, now at Natchez. We are now informed that a detachment of the army of the United States, cantoned on the Ohio, are on their way by Holstein towards Natchez, while the militia of Cumberland are intimated to hold themselves ready to march at the first notice.

These hostile dispositions can naturally only concern these provinces, because the United States are in peace with all the savages. The anterior menaces of the commissary of limits and the commandant of the detachment of Americans now at Natchez; the immediate rupture (and if the American gazettes are to be believed) already effected between France, our intimate ally, and the United States, engage us to be on our guard to defend our property with that valor and energy which the inhabitants of these provinces have manifested on all occasions, with the advantage and superiority which a knowledge of our local situation will procure, and with that confidence which right and justice inspires. If the Congress of the United States had no hostile intention against these provinces, they will either leave the post of Natchez, or the Walnut Hills, the only bulwarks of Lower Louisiana to stop the course of the British, or if that they give us security against the article of the treaty with Great Britain, which exposes Lower Louisiana to be pillaged and destroyed down to the capital, we will then deliver up the said posts, and

* Letter from George Cochran to the Permanent Committee, in October.

lay down our arms, which they have forced us to take up, by arming their militia in time of peace, and sending a considerable body of troops by round-about ways to surprise us.

No 2.

Governor Gayoso de Lemos to Andrew Ellicott, Esquire.

NATCHEZ, *June* 13, 1797.

SIR:

By repeated informations, and by every appearance, it seems past a doubt that a number of the inhabitants of this Government, subjects of His Majesty, are at present in a state of rebellion, with the hostile design of attacking this fort.

I am informed that yesterday several of the said insurgents were riding through the country soliciting subscribers to a list that already contained the names of several persons who declared themselves citizens of the United States of America, though they are actually under oath of allegiance to His Majesty, and under whose dominion and protection they have lived and enjoyed the benefits thereof, and the bearers of this list declare themselves commissioned by you for that purpose.

I cannot prevail upon myself to believe that you have either authorized or encouraged such proceedings, as a conduct of that nature would unavoidably produce the most disagreeable and fatal misunderstanding between our nations, and the total destruction of this district.

Therefore I request you to give me such a positive answer as will enable me to inform the Commander General of this province for the intelligence of His Majesty, of the part you take in these transactions. And should you take such an active part as it is represented you do, from this moment I protest, in the name of the said Commander General, against such conduct, and make you answerable for the fatal consequences that may ensue. I repeat the request of a positive answer on this subject.

I have the honor to be, &c.

MANUEL GAYOSO DE LEMOS.

Hon. ANDREW ELLICOTT.

No. 3.

Andrew Ellicott, Esquire, to Governor Gayoso de Lemos.

NATCHEZ, *June* 13, 1797.

SIR:

In order to answer your letter of this day, that (from the spirit of it) denies the existence of that principle which has been the object of a long train of discussion between us, I must refer to your letter dated the 12th of March last. In that letter you admit not only that Daniel Clarke's will be about the point of demarcation, but that the commissioner of His Catholic Majesty would, in all probability, meet me at that place. As the treaty itself was a fact notorious, so likewise ought to be all the transactions attending it either in direct performance or open violation. The people, therefore, became acquainted with those circumstances that were the result either of my observations, or the acquiescence of the Spanish Government. They were matters that involved their felicity, and could not from duty or decency be withheld. If on the present occasion, the people have thought proper to act in conformity to the intelligence received, which intelligence had the combined sanctions of the agents of both Governments for its support, is my agency to be ascribed, or my conduct to be called to account with regard to the effects? A little inquiry into the human heart would have enabled you, sir, to have discovered a more powerful cause than any operation of mine on the present occasion. The people considered themselves citizens of the United States; they had a right to consider themselves so; and they have lately come forward individually to express their wishes and intentions.

After this short detail of what is the real cause of the present disturbance, I might flatter myself with a complete acquittal on your part, did not the first paragraph of your last letter compel me to form a different conclusion. On what principle do you still retain the idea, that the citizens of this country are subjects of His Catholic Majesty? Is there not a compact deliberately entered into by the two nations to the contrary of your opinion? Have not you acknowledged me to be the agent of the United States to carry that compact into effect? And have you not repeatedly pledged your word to co-operate with me in that desirable object? Here I might with propriety ask, What human assurances could have gone further than those that have been made on your part? Do all solemn obligations between nations depend upon chance, or caprice? Or is there such a principle universally acknowledged among different nations as the law of nature and nations? If your excellency admits that there is such a principle as national law, I assert that the inhabitants of this country cannot be considered as any wise subjects of the Spanish monarchy. If you deny the existence of the principle, I have only to observe that the people cannot, with propriety, be censured for recurring to that conduct which will ultimately secure their felicity.

I have thus far proceeded by way of argument in answer to your communication, from the whole of which you will readily infer a very natural conclusion, that the delay on your part in carrying the late treaty into effect, added to the invariable nature of the human heart, have produced the evils of which you complain.

But since you demand a positive reply to the general question, whether I am concerned in measures destructive of His Catholic Majesty's interest, or in an attempt to attack the fort, I give you my honor that I am not. You have assisted me in confirming the sentiment that this territory belongs to the United States; and I do now, therefore, on the part of the said United States, as their agent, most solemnly and pointedly protest against the landing of any troops, or the reparation of any fortifications in this territory above the 31st degree of north latitude, as I shall consider all such conduct as a violation of the treaty, and an immediate attack upon the honor and dignity of my country.

I shall now finally observe that, from your verbal message by your adjutant, Major Minor, I expected that your excellency would have proposed some scheme of accommodation that would have been consistent with the justice and sentiment of the countries we have the honor to serve.

Should you have any proposals to make for an accommodation, I assure you that I feel every wish to enter into a discussion for that purpose. I am, &

A. ELLICOTT.

No. 4.

Statement of the principles on which I find myself disposed, according to my duty, to put in practice for the tranquillity of the country.

1st. That all the people in general now collected or are collecting in bodies, shall disperse and return to their farms, and continue peaceably their domestic business.

2d. That, by so doing, it is warranted to them that they shall not be prosecuted for the present disturbance.

3d. That, as an explanation, to banish some doubtful apprehensions that perhaps has given rise to the present disturbance, I assure the public there are no preparations against them; that the detachment of troops coming up the river is not intended for this place, and are to proceed to their destination; nor have I ordered any troops from Nogales to reinforce me.

4th. That no Indians have been called, that no roads have been or shall be stopped.

5th. That there is no war declared between His Catholic Majesty and the United States; on the contrary it is

the intention of His Majesty to continue the best harmony between the two nations, in consequence thereof I have not the least idea of acting in a hostile manner against any force or persons belonging to the United States; and whilst this good intelligence subsists between the two nations, no alteration shall be made on these principles; on the contrary, I shall employ my greatest exertions to make every resident of this Government as happy as possible; further I declare that they shall not be embodied as militia, but against an invasion of this country; and if military bodies shall be wanted out of this district, they shall only be formed by volunteers.

MANUEL GAYOSO DE LEMOS.

NATCHEZ, *June* 14, 1797.

No. 5.

Don Manuel Gayoso de Lemos, Brigadier in the Royal Armies, Governor Military and Political of Natchez and its Dependencies, &c. &c. &c.

NATCHEZ, *June* 14, 1797.

Whereas the confusion in which the country is at present involved threatens the entire destruction of its inhabitants; it is our duty to employ every means to save them from certain ruin, which will be inevitable if they do not listen to the salutary advice which the voice of humanity dictates to our constant attention to the welfare of every individual of this Government; lenity in its greatest extent accompanies the obedience that is required, and general forgiveness will be the fruit of a candid repentance, and the exact compliance with the following conditions.

From the day after the publication of the present proclamation, all persons collected in bodies, or are collecting for any purpose not sanctioned by us, will immediately disperse, and every individual retire to the place of his residence, attend to his farm, or other occupation, in a peaceable manner, and consider himself in the same light as before the present disturbance, never to assemble again upon the same principles as the present, nor consider themselves as bound to do it, when called upon similar purposes, whilst under the Government and laws of His Majesty.

Any persons who from attachment to the Government and laws of His Majesty, and with a view to prevent the impending calamity, should have assembled in bodies, are likewise to disperse.

No person shall ever be upbraided on account of his differing in opinion with any other, which, when not carried to excess, is allowed to every man, when it is not injurious to the Government, and consequently to the community in general.

By so complying a general forgiveness is warranted to every person who has been concerned in the present disturbance, and no inquiry shall be made for their names.

It has been represented to us that the present commotion has partly arisen from the following apprehensions:

That a war might be actually declared between His Majesty and the United States of America.

That forces were accumulating here to treat with rigor those inhabitants who have manifested a partiality for the Government of the United States, and that Indians had been called upon for their assistance.

That the roads and water communications were stopped; and that the inhabitants were to be compelled to embody into military corps.

To banish these unfounded apprehensions, and finally tranquillize the minds of the people, we do hereby assure them that no war exists between His Majesty and the United States; but on the contrary the most friendly intercourse is recommended to both nations. No forces are accumulating here, and those for Nogales* are for the sole purpose of opposing an actual enemy. No Indians have been called. No interruptions have or shall be put to land or water communications; and under the present situation of this country, no corps of militia shall be formed; but if any should be wanted, out of the district, volunteers only shall be called for, except in case of an invasion, either by water or by land within the extent of this Government; in which case natural defence and general safety admits of no exceptions.

The alcaldes in each district, or persons commissioned for the purpose of promulging this proclamation are hereby ordered to make it public with all possible expedition, that it may produce the desirable good effect.

Given under my hand and the seal of my arms, and countersigned by the Secretary of this Government.

MANUEL GAYOSO DE LEMOS.

J. VIDAL.

No. 6.

Don Manuel Gayoso De Lemos, Brigadier General in the Royal Armies, Governor Military and Political of Natchez and its Dependencies, &c.

NATCHEZ, *June* 22, 1797.

SIR:

The following propositions being unanimously agreed to by us the underwritten (being a committee appointed by a very numerous and respectable meeting of the inhabitants of this district) and A. Ellicott, a citizen and commissioner of the United States, and P. S. Pope, commanding the United States' troops on the Mississippi, are submitted to your excellency, with a request that you may accede to and transmit a copy of the same to the Baron de Carondelet, and obtain his concurrence, in order to restore tranquillity to this district.

1st. The inhabitants of the district of Natchez, who, under the belief and persuasion that they were citizens of the United States, agreeably to the late treaty, have assembled and embodied themselves, are not to be prosecuted or injured for their conduct on that account, but to stand exonerated and acquitted.

2d. The inhabitants of the Government aforesaid above the 31st degree of north latitude, are not to be embodied as militia, or called upon to aid in any military operation, except in case of an Indian invasion, or for the suppression of riots during the present state of uncertainty, owing to the late treaty between the United States and His Catholic Majesty not being fully carried into effect.

3d. The laws of Spain, in the above district, shall be continued, and, on all occasions, be executed with mildness and moderation, nor shall any of the inhabitants be transported as prisoners, out of this Government, on any pretext whatever; and, notwithstanding the operation of the law aforesaid, is hereby admitted, yet the inhabitants shall he considered to be in an actual state of neutrality during the continuance of their uncertainty, as mentioned in the second proposition.

4th. The committee aforesaid do engage to recommend it to our constituents, and to the utmost of our power endeavor to preserve the peace and promote the due execution of justice.

We are your most obedient and humble servants,

A. HUTCHINS,
BERNARD LINTOT.
ISAAC GUILLARD,
CATO WEST,
WILLIAM RATLIFF,
GABRIEL BONOIST,
JOSEPH BERNARD.

* The Walnut Hills.

Don Manuel Gayoso de Lemos, Brigadier General in the Royal Armies of Spain, Governor Military and Political of Natchez and its Dependencies, &c.

I do hereby accede to the foregoing propositions established and agreed upon for the purpose of re-establishing the peace and tranquillity of this country; and that it may be constant and notorious, I sign the present, under the seal of my arms, and countersigned by the secretary of this Government.

At Government House, Natchez, June 22, 1797.

MANUEL GAYOSO DE LEMOS.

By his excellency's command.

JH. VIDAL.

A true copy from the original.

D. GILLESPIE, *Secretary.*

No. 7.

We the under written do engage to co-operate with the committee appointed by a numerous and respectable meeting of the inhabitants of the district of Natchez, to preserve the peace and to obtain the due execution of justice, and do hereby approve of the propositions presented Governor Gayoso by the said committee, and acceded to by him.

A. ELLICOTT,
Citizen and Commissioner of the United States.
P. S. POPE,
Commanding the United States' troops on the Mississippi.

June 22, 1797.

No. 8.

Don Manuel Gayoso de Lemos, Brigadier General in the Royal Armies, Governor Military and Political of Natchez and its Dependencies, &c. &c. &c.

NATCHEZ, *June* 22, 1797.

Whereas the threatening calamities to which the inhabitants of this district have been lately exposed, did awake the zeal of every individual, and rouse them to seek the most efficacious means of re-establishing good order and that tranquillity which, for many days, was lost; the good sense of a number of the inhabitants dictated to them the necessity of a convention, in which they chose persons of the most notorious probity and intelligence as a committee to co-operate with us towards the re-establishment of the public peace and tranquillity; and the members of the said committee having met at Natchez, after due deliberations and consultations, stated and presented us the following propositions, in the terms and form here expressed, to wit. [Then follow the propositions No. 6.]

Being always desirous of promoting the public good, we do join in the same sentiment with the committee, by acceding to their propositions in the manner following. [See the propositions No. 6.]

MANUEL GAYOSO DE LEMOS.
JOSEPH VIDAL, *Secretary.*

No. 9.

SIR:

The many proofs that the committee has of your desire to contribute to the welfare of this country, encourage it to request of you the service mentioned in our first resolve of yesterday, of which it encloses you a copy.

I have the honor to be, sir, &c.

JOSEPH BERNARD, *Chairman.*

COMMITTEE ROOM, *September* 14, 1797.

The Hon. ANDREW ELLICOTT, Esq.
Commissioner of the U. S. for running the boundary line, &c.

Resolved, 1. That the 5th resolve of the 29th ultimo be rescinded, and that Mr. Ellicott, whose inclination for the interest and happiness of this country we have a convincing proof of, in his former communications to the General Government, published since, and now in our hands, and who, from his residence for several months amongst us, is well acquainted with the circumstances of this country, be requested to represent our present situation to his excellency the President of the United States, and likewise all the measures which he shall deem to be conducive to the future welfare of this country, in the event of the late treaty between His Catholic Majesty and the United States being carried fully into effect.

True copy.

G. BENOIST, *Secretary.*

No. 10.

Don Stephen Minor, Captain in the Royal Armies, Aid, Major, and Governor pro tem. of the Natchez and its Dependencies, &c.

I do certify that Colonel Peter Bryan Bruin, Daniel Clark, Joseph Bernard, Frederick Kimball, Gabriel Benoist, Isaac Gaillard, Philander Smith, Roger Dixon, and William Ratliff, Esquires, members of the permanent committee, duly elected by the people at large, under the sanction of Government, are the true and sole representatives of the inhabitants of this Government, and that faith is due to their proceedings as such, as also to the representations they may make in behalf of the public in all cases.

In testimony whereof I have hereunto set my hand and affixed my seal, at Government House, Natchez, [L. S.] this sixteenth day of September, one thousand seven hundred and ninety-seven.

STEPHEN MINOR.

I do certify that the above is a true copy of a certificate obtained from Governor Minor, by the committee, and lodged among their files.

D. GILLESPIE,
Secretary to the American Commissioner and Permanent Committee.

No. 11.

Stephen Minor, Esq. Captain in the Royal Armies, and Governor of the Natchez for the time being.

AUGUST 16, 1797.

It being the undeniable and unalienable right of freemen, to assemble in an orderly and peaceable manner for the purpose of consulting and deliberating on their mutual interest, no opposition shall be made by the officers of

his Catholic Majesty to any assembly, whether partial or general, of the inhabitants residing in this district, if conducted upon the principles of good order and decorum.

I do therefore hereby grant permission for the assemblies or meetings required in this address, to take place on the day appointed and in manner recommended.

STEPHEN MINOR.

No. 12.

The Chevalier de Yrujo, Minister Plenipotentiary of His Catholic Majesty, &c. &c. to Timothy Pickering, Esq. Secretary of State.

SIR:

Your additional report to the President of the United States of the proceedings of the officers of the King of Spain, in relation to the post and the running of the boundary line, which I find published in all the newspapers, obliges me to trouble you with this letter. If your discussion of facts had been as correct and impartial as there was reason to expect, I should not have been under the necessity of undertaking this task; but the construction which you are pleased to put upon every act of the Spanish officers in general, and especially upon those in which I am personally concerned, compels me to observe upon several expressions, which I have noticed in your said report.

You begin, sir, with saying, "that although I had declared I had just reasons for suspecting an expedition from Canada was preparing by the British against the upper parts of Louisiana, yet I never had mentioned a single fact or reason on which my suspicion was founded." In my letter of the 2d of March, I pointed out to you the probable route which the expedition would take, and in our conference of the 27th of February, I gave you information that a corps of three hundred and fifty men had been raised at Montreal, and marched towards the lakes, where, after the evacuation of the American forts, there was no ostensible object for them. I also told you that I knew that the British agents had treated with some of the Indian nations in that country, concerning the intended expedition, and I added, that I had received those advices from a person who might be depended on, who had seen those new levies passing through Johnstown, on their way to the westward. But, even supposing that I had not entered into any particulars, even supposing that my information at that period was not complete, yet did not the interest and dignity of this Government, did not its friendly connexion with Spain, require that it should have taken every proper means to prevent the attempt we were threatened with, by giving suitable orders to General Wilkinson, or to the commanding officers of the military force on those frontiers? The absolute silence in this particular of the documents which accompany the report of the Secretary of War, your never having communicated to me any *determinate* disposition on this point, as you do in your answer to my letter, which in the publication is marked No. 7. afford me sufficient grounds to fear that these precautions were omitted. You add, sir, with a degree of candor difficult to be conceived, that from my not having given to you detailed information respecting the expedition, and from the answer which you received on the 19th ultimo, from the *British minister*, you believed my suspicions to be groundless. Is it possible, that any one will candidly imagine, that if the English intended to violate the territory of the United States, in order to effect a *coup de main*, they would be as ingenuous in answering, as you were in asking their minister the question?

I shall not enter into all the observations which suggest themselves to my mind from your having communicated to Mr. Liston the contents of my letters. I expected that the American Government would have watched his motions, and taken the means which I have already mentioned to prevent the success of a similar enterprise; but I never could have imagined that you would have given to the British minister a piece of advice, which might enable him to alter his plan, by letting him know that the former one was discovered. By the line of conduct which you have pursued in this business, I am convinced, that had I communicated to you more particular details respecting this transaction, you would, with the same good natured frankness, have given information of them to Mr. Liston.

But, if you did believe that asking this question of the British envoy was the most efficacious means to prevent the violation of the neutrality of the United States, and the invasion of the Spanish territory, let me ask why you was so remiss in this measure, that, although I had communicated this project to you verbally, on the 27th of February, and on the 2d of March, in writing, yet, in a manner obviously so urgent, you only wrote to the British envoy on the 28th of April, that is, *two months* afterwards?

I shall not quit this subject, without taking the liberty of making to you one observation which is intimately connected with it. By the date of the letter I have just mentioned, it evidently appears that I gave you advice of this intended expedition *on the second of March*, and that *three days before*, I had given you the same information verbally. I imagined from your known attention to business, and the importance of the subject, that you would have submitted it immediately to the consideration of the President of the United States. On the 9th of March, I had the honor of speaking to Mr. Adams, at his lodgings at Francis's hotel, and mentioned this subject as a matter that I supposed him already fully informed of; and, it was with no small surprise I heard him say, that *he knew nothing about it*. I produced the map, which I had in my pocket-book, and he listened with great attention to all that I had to say to him. It was no doubt, to this conference with Mr. Adams, that I was indebted to your answer of the 11th of the same month. I shall entirely abstain from putting any construction upon the reasons which induced you to omit making this communication to the President; but they must have been very *powerful* motives which could oblige you to remain so long silent on a matter of such importance.

You say, in the third paragraph of your report, that on your asking me what measures Spain had taken in order to carry into execution that part of the treaty which relates to the withdrawing the *garrisons*, I answered you on the 17th of April, that I had been for some months without receiving letters from the Baron, and consequently "was entirely ignorant of the steps which had been taken for the execution of the treaty." From this expression, which, in order to draw attention, you place between inverted commas, you insinuate an inference which, in my opinion, is very far from being true, when you add, immediately afterwards: "*Nevertheless, he had previously informed the Baron of his suspicions of a projected expedition.*" What is this to prove, sir? That the Baron indeed had received my letters, but not that I had received his. The irregularity and uncertainty of navigation easily shows that your logic on this point is extremely false.

In the fifth paragraph, after giving an account of my letter of the 24th ultimo, and of its object, you observe that I have omitted to mention, among the other complaints of the Baron, that of Mr. Ellicott's not having given him notice of his arrival at Natchez. Permit me, sir, to represent to you, that you have entirely mistaken what I had the honor of telling you on that occasion, for I simply mentioned, not as a *complaint*, but as a mere *observation*, that the Baron, *in the rigor*, might not have considered Mr. Ellicott as an American commissioner, for not having given him, on his arrival, *official notice* of his appointment, having merely informed him of it in the way of a confidential communication. You cannot be ignorant, sir, that there are certain requisite formalities when nations treat with one another of their mutual concerns, which are not required between individuals. The Baron, when he speaks in this manner, clearly points out his meaning, that, besides the confidential letter, the communication of which *you consider as so important*, no doubt he expected another *official* one, including his commission, authority, or some other document, to ascertain the identity of the person, and the object of his mission. When, on my arrival in this country, I had not yet presented my credentials to the President, although I had delivered to you a copy of them, you might, in the rigor, not have recognized me as the envoy extraordinary of the King my master, for want of having complied with that necessary requisite of the established etiquette. I do not mean to say that in the present case it was absolutely necessary to go through a similar formality; nor did the Baron mention this but as a mere *matter of observation*, which was not to affect the object in question, although you, thinking that it affords you a victorious argument, are pleased to give to this circumstance an importance which it does not deserve. Besides, sir, I might observe to you, that when, after a mixed and desultory conversation upon various subjects, I had collected and methodized my ideas, and committed them to writing, your answer and observations ought to have been confined

to the written communication, clothed with all the necessary formalities; but neither do I wish to make of this an object of discussion.

The proof which you give in the sixth paragraph of your report, to show that it is not certain that Mr. Ellicott intended to get possession of Natchez by surprise, and that, for that purpose, he had endeavored to gain over the inhabitants, is merely negative. From your examination of the two persons you mention, you had very little to expect: the circumstance alone of their being the bearers of Mr. Ellicott's despatches, points out that they were both in his confidence; and it may be presumed, without temerity, that being his friends, or employed under his orders, they would hardly make a denunciation that might be prejudicial to him. Governor Gayoso declares that he has proofs of the fact in his power. I shall not fail to apply to him for them, and perhaps I may one day speak to you more positively on this business.

After having discussed the history of these transactions with all the force and accuracy which result from these observations, you assure, with a very ill grounded confidence, that upon a view of the whole it appears that His Majesty's governors on the Mississippi have, on various pretences, postponed the running of the boundary line and the evacuation of the posts. But I appeal to that candor which you have so generously shown to the British minister, that you may tell me, whether it can be called a *pretence*, that the Baron de Carondelet, who was intrusted with the safety of Louisiana, refused to carry into execution a pretension *that was not stipulated for by the treaty?* By the second article, it is only agreed that the *garrisons* shall be withdrawn; and as I had the honor of representing to you in my letter of the 24th ultimo, it is not to be presumed that it could ever have been the intention of His Catholic Majesty to deliver up fortifications, which, besides that they have cost him considerable sums of money, may, by the effect of political vicissitudes, be one day prejudicial to his subjects. If not to do *what was not stipulated for*, and the execution of which would be contrary to the interests of Spain, is a *pretence*, we must confess that it is a very plausible one.

With respect to the line of demarcation, it appears by the correspondence and letters of the Baron de Carondelet, which are in my possession, that although he entertained the same doubts which were suggested by Governor Gayoso respecting the posts, yet he was consenting that the astronomical observations should be begun upon, for which purpose the engineer Mr. de Guillemard had already arrived at Natchez, with all the instruments and apparatus. Such was the situation of things when my communications respecting the intended expedition got to hand; and from that moment imperious necessity, and the great principle of self defence, made His Catholic Majesty's officers turn their thoughts to objects of a more urgent nature. Mr. Blount's letter, and the late detected conspiracy, evince how far their conduct in this respect was necessary; and you, sir, possessed as you were, of all the facts, when you laid the facts before the President, ought to have been one of the last to have stigmatized the motives with the epithet of *pretexts*. So palpable an attempt to make groundless and unfair impressions on the public mind is well calculated to defeat its own ends, and appears still more extraordinary when we consider that the American Government is in every way anxious, by its own confession, to maintain peace and harmony with Spain.

Nor do your ill-founded insinuations stop here; sentiments and expressions still more violent flow from that same hasty pen. You say, in another part, that there is but too much reason to believe Mr. Ellicott's suspicions well founded, that an undue influence has been exercised over the Indians by the officers of His Catholic Majesty, to prepare them for a rupture with the United States. Fortunately, sir, you have told us the source whence you derived all those dreadful conjectures of yours; otherwise, perhaps, the weight and authority which your high official character stamps upon whatever you write or say, might make an undue impression on the public. You acknowledge, sir, it was a private letter of Mr. Sargent's (Secretary of the Northwestern territory) that gave rise to your surmises: we shall now see what the letter says.

Extract of a letter from Winthrop Sargent, Esq. Secretary of the Northwestern Territory, to the Secretary of State, dated

"CINCINNATI, *June* 3, 1797.

"General Wilkinson sending off an express, I seize the occasion to transcribe for you some paragraphs from a western letter.

"The Spaniards are reinforcing their upper posts on the Mississippi considerably. General Howard, an Irishman, in quality of Commander-in-chief, with upwards of three hundred men, is arrived at St. Louis, and employed in erecting very formidable works. It likewise appears, through various channels, that they are inviting a great number of Indians of the territory to cross the Mississippi; and, for this express purpose, Mr. Lorromie, an officer in the pay of the Crown, made a tour through all this country last fall, since which time several Indians have been sent on the same errand, and generally furnished with plenty of cash to defray their expenses.

"A large party of Delawares passed down on White river about the 6th of May, on their way to the Spanish side, bearing the national flag of Spain, some of them from Saint Louis.

"They (the Spaniards) have above the mouth of the Ohio, on the Mississippi, several row galleys with cannon."

Now, sir, what inference can be drawn from that letter? Why, that the Spaniards have fortified San Luis, and availed themselves of every means of defence that the country afforded. But let me ask you, sir, against whom it is that they were thus preparing to defend themselves? Surely the documents which you have laid before the President, and the momentous business which now engages the attention of Congress, and agitates the public at large, afford a complete and satisfactory answer.

I mentioned to you, in my letter of 2d March, that the object of the British was to attack Upper Louisiana, and take San Luis and New Madrid by surprise. It will not be questioned but that prudence required of us, at that juncture, to fortify the threatened points. This, sir, was all we did; and this, sir, you knew many months past: yet Mr. Sargent's letter, which in substance says no more, fills you all at once with fears and self-created apprehensions, and makes you declare, in the face of the American people, "that the Spanish officers are exciting the Indians to a rupture with us." No one will say, that preparations for our self-defence were not necessary on our part. The assurance given you by the British minister, with all the appearance of a confidential communication, *but without any signature*, did not inspire the servants of His Catholic Majesty with the same blind confidence which it produced in you. We know from daily experience, how religiously the British nation observes the rights of neutrality. Witness the American sailors! Witness the republic of Genoa, in whose port they attacked and made prize of the French frigate La Modeste, as she lay at anchor there. Witness the inhabitants of Trinidad, when the British, though then in amity with them, entered their capital, with drums beating and colors flying, in pursuit of a few French who had taken refuge there. These, and other instances of the sort, too numerous to be recapitulated, make us less credulous on the score of Great Britain's respect for the rights of neutrality than you appear to have been.

As to those tender considerations which actuated the British minister to reject the plan, on account of the inhumanity of calling in the aid of the Indians, I did expect that such vague, unauthenticated declarations would have been appreciated as they deserved by you, sir, who fought in the glorious cause of American independence, who witnessed the humanity of their conduct in the course of that war, and who cannot be ignorant of what has happened since.

Your ascribing hostile views to the preparations for our self-defence cannot, sir, have been matter of much surprise to me, after having heard a certain member of Congress, who is known to be the organ of the will of administration, declare, in that House, that he ascribed to the same motives the preparations we were making for the defence of Florida, though probably he was not ignorant, at that very time, of their real object. Thus, then, sir, according to your mode of reasoning, and that of the gentleman I have just alluded to, though we were certain of being attacked, and though we were not certain that the American Government had taken the proper measures for protecting its neutrality, yet we were to adopt no measures for our defence, but tamely suffer His Majesty's forts and possessions to be taken, and all this for fear of creating ill-founded suspicions in your minds!

If you have not been very successful, sir, in the solidity of your reasonings, you appear not to be more so in the method of following them. After having denounced us to the whole American nation as stirring up the Indians against the United States, and preparing them for a rupture, you fall into the most glaring inconsistency in the following paragraph: Whether this plan of exciting the Indians to direct hostilities against the United States has been contemplated and promoted by any of our own citizens, it may be difficult to say; but that one or more of those citizens have proposed and taken measures to detach the Southern Indians from the interests of the United States, and to destroy the influence of the public agents over those nations, and thus to defeat the great objects of their appointment, the chief of which is to preserve peace, is certain.

I again appeal here, sir, to your generous candor: how is it possible to reconcile such evident contradictions? On the one hand, the Spanish officers are those who excite the Southern Indians against the United States, and, on the other, you quickly follow, presuming, with sufficient foundation, in my opinion, that it may be some citizens of the United States. But, although you might entertain any doubts yourself on the subject, which I am sure no person in America will, after reading Mr. Blount's letter, did not this very same doubtful case and uncertainty require, in your situation, more circumspect language? And, if even in this case you appear to have gone beyond what sound policy, the tranquillity and interest of the United States required, how much more unjust are your insinuations against Spain, when the public possess, in Mr. Blount's letter, a document by which they can see that, if the manœuvres with the Indians were not favorable to the United States, they were precisely combined to attack the Spaniards? From this method of reasoning of yours, it appears as if the Spaniards were, jointly with Mr. Blount, stirring up the Indians to attack themselves.

Respecting the last article of your report I have only to observe, that, although you have constantly assured me that Government had not the least information respecting the subject of my representations, and although the letter of Mr. Jackson, of Georgia, appears to coincide with your ideas, nevertheless, time has shown that I have complied with my duty, by not reposing on such assurances. The plot is discovered, and nobody any longer doubts that the expedition was to have taken place.

After having followed you step by step through the various points of your report to the President, I shall make a short compendium of such as arise from this letter; from which it results—

1. That, on the 27th of February, I gave you sufficient particulars respecting the intended expedition, to have attracted the attention of this Government.

2. That, although to this verbal communication I added another in writing on the 2d of March, the President had not the least knowledge of it on the ninth of the same month; and that, without doubt, you must have had very powerful motives to prevent you from communicating it to him.

3. That it does not appear, by the documents presented by the Secretary of War, that Government had given orders to the military commanders to cause the territory and neutrality of the United States to be respected.

4. That you made to the English minister a communication, which, in my opinion, you ought not; and that, even if you thought it necessary, you delayed doing it for two months, that is, from the 27th of February to the 28th of April, although it respected a most urgent and important object.

5. That the Baron de Carondelet could very well have received my letters, without its necessarily following that his had come to hand.

6. That the Baron did not represent Mr. Ellicott's not writing to him officially as a *complaint*, but as an *observation*; and that, in fact, he never has done it in those terms.

7. That the proofs you allege to exculpate Mr. Ellicott, respecting his intentions of taking the fort of Natchez by surprise, are purely negative.

8. That it is not merely *pretences*, but very powerful reasons, which have impeded the evacuation of the posts, and the running of the boundary line.

9. That the insinuations with which you are willing to persuade the American people that our arming is directed against them are unjust, as well as unfounded; as by Mr. Blount's letter it is clearly demonstrated to be a precaution for the mere purpose of defence.

10. That you evidently contradict yourself, when, on one hand, you are pleased to attribute to us the movements of the Indians, and in the very next paragraph you show it might proceed from American citizens, as it actually does, according to Mr. Blount's letter; and that he acted with the knowledge and intelligence of the very same British minister, in whose private notes, *without signature, and perhaps not of his own hand writing*, you place such implicit confidence.

11. That, although in all your official communications, you have always manifested to me that the American Government knew of nothing which indicated any foundation for my suspicions, Mr. Blount's letter clearly proves that I was perfectly in the right.

I have thus fulfilled a very disagreeable duty. Always desirous to contribute to strengthen the bands of friendship which unite Spain and America, and to which their situation, their wants, and resources invite them, I have seen, with the most profound grief, that the language and tenor of your communication to the President is not, in my opinion, calculated to promote so desirable an object to us all. For my part, although I shall leave nothing undone to cement the union and harmony with a nation which I respect, neither shall I ever suffer the interests of the King, my master, in any case whatever, to be sacrificed to an unjust partiality. I pray God to preserve you many years.

Your most obedient, humble servant,

CARLOS MARTINEZ DE YRUJO.

PHILADELPHIA, *July* 11, 1797.

No. 13.

Mr. Pickering, Secretary of State, to the Chevalier de Yrujo, Envoy Extraordinary and Minister Plenipotentiary of His Catholic Majesty to the United States of America.

DEPARTMENT OF STATE, PHILADELPHIA, *August* 8, 1797.

SIR:

I duly received your letter of the 11th of the last month, to which my other engagements have till this time prevented an answer.

My additional report to the President of the United States, on the 3d of July, in relation to Spanish affairs, has offended you, and is mentioned as the cause of your writing to me on the 11th. If, sir, I were now to make the just remarks and recriminations which your letter obviously suggests, I am afraid you would be still more offended. I am not sure, indeed, that I can possibly frame an answer that will escape your displeasure; but I shall endeavor that it be expressed not in a style indecorous, unusual, and unbecoming a diplomatic correspondence, while it contains a fair exposition of facts and arguments, in opposition to errors and actual misrepresentations.

In respect to your suspicions of an expedition preparing on the lakes by the British, for an attack upon Upper Louisiana, I have said that you never mentioned a single fact or reason on which your suspicions were founded. In contradiction to this assertion, you say that "in our conference on the 27th of February, you gave me information that a corps of three hundred and fifty men had been raised at Montreal, and marched towards the lakes, where, after the evacuation of the American posts, there was no ostensible object for them;"—"that you *knew* that the British agents had treated with some of the Indian nations in that country concerning the intended expedition; and that you added that you had received those advices from a person who might be depended on, who had seen these new levies passing through Johnstown, on their way to the westward." To this, sir, I answer, that I have not the slightest recollection that you mentioned either of these circumstances; that the Secretary of War happened to come into my office while we were conversing, at which you expressed your satisfaction, and repeated your suspicions: and

he says you then mentioned no fact or reason as the ground thereof; and that, when I mentioned the subject to the President, (certainly within ten or twelve days after this conference) I perfectly remember making to him this remark: That in your letter of March 2, you said you had three days before declared to me the *just reasons* you had for suspecting that the English were preparing the expedition in question; whereas, you had offered me no reason at all. Hence, I am obliged to conclude that you might have held such a conversation with some other person, and by mistake have applied it to me. The English raising three hundred and fifty men, marching them through Johnstown, and tampering with the Indians to promote the expedition, were circumstances which appeared perfectly new to me when I received your letter of the 11th instant. I remember, also, that the conference ended by your saying *you would write to me on the subject;* which evidently implied that your written representation was to be the basis of any act of mine or of the Government. In that letter, sir, if you possessed any grounds for your suspicions, you ought to have stated them; for, contrary to the opinion you have now expressed, I have no hesitation in saying that the Government of the United States was not bound to take notice of the vague and unsupported suspicions of any minister; at least, not to incur expense by its military arrangements, to prevent an imaginary expedition, such as was the object of yours. When you made a formal statement of your suspicions, but without any fact to show that they were founded; when the Government of the United States possessed no other information, nor the knowledge of any circumstances indicative of the expedition; and when, in itself, it appeared destitute of even the shadow of probability; it was an act of complaisance to assure you that it "would be anxious to maintain the rights of their neutral situation, and on all occasions adopt and pursue those measures which should appear proper and expedient for that end." What these measures should be, and when to be taken, the Government itself would judge.

It was an act of greater complaisance, when, on the 21st of April, you renewed the declaration of your suspicions, *but still without assigning any reasons*, for the Government to resolve on, and to communicate to you, what you are pleased to allow to be a "determinate disposition on this point."

In the next sentence, as in many others, you misrepresent my expressions, and misunderstand my meaning. I do not say that "from your not having given me detailed information respecting the expedition, and from the answer which I received from the British minister on the 19th of June, I believed the expedition to be groundless:" but, after remarking that you never mentioned a single fact or reason to support your suspicions, I say, "From *all the existing circumstances*, I ever believed the suspicion to be groundless." If proofs had existed, you would have produced them; for, although intrigues and conspiracies for the purpose of a military expedition may long be concealed, yet the *preparations* for an expedition (and such, you suggested, were making) must be visible to many, especially "on the lakes," where every movement for such a design would be unusual, and, therefore, attract the more attention; and satisfactory proofs of such preparations would have been attainable: but you produced none.

Another material circumstance I must notice. That troops of the United States were stationed at Niagara, on the Miami, at Detroit, and Michilimackinack; and consequently, in situations well calculated to protect our territory, as well as to discover, or get information of, any warlike preparations so considerable as such an expedition would require: and the officers commanding on those stations could not have failed to communicate such discoveries or information to the Department of War; yet no such communications were made.

But it was also well known that they had not on the lakes a force adequate to the enterprise in question. I considered also the great difficulties that would attend the transportation of troops, equipage, provisions, cannon, and stores, by either of the routes suggested; if either could have been taken without violating the territory of the United States.

These were circumstances abundantly sufficient to discredit *naked suspicions;* and the declaration of Mr. Liston, in his note of the 19th of June, was mentioned only as confirming the justness of the opinion which I had at first formed in March, and which I continued to entertain, of your suspicions. I might add that, at that early period, Mr. Liston assured me that he had no knowledge of such an expedition; and his inquiries of the Governor General of Canada, of the British Secretary of State, have enabled him positively to assert, in the above note, that no such expedition was ever intended. And this fact repels your suggestions that I had been "remiss" in not doing, for two months, what, on my own principles, was proper to have been done. But you think I ought not to have communicated your suspicions of this expedition to the British minister, although "his motions were to be watched." You think, on the contrary, that the President should "have given suitable orders to General Wilkinson, or to the commanding officer of the military force on those frontiers," but have kept a perfect silence towards the British—have let them complete their preparations, (if any had been making) and collect their army on the lakes—have let them move forward, until they should enter upon the territory of the United States; and, seeing the President could not know beforehand whether they would prosecute their march by "*Fox River* and *Ouisconsin*, or the *Illinois*," we may suppose your ideas of the "suitable orders" to the military to be, that, at a great expense, the troops of the United States should be drawn into that country and divided into corps, to be posted on those rivers, to have fought the British army, and thus have defeated the enterprise. Sir, this is not the only instance in which, after having desired the American Government to do some act interesting to your own, you have then presumed to dictate how it should be done.

"But (you say) you never could have imagined that I would have given to the British minister a piece of advice which might enable him to alter his plan, by letting him know that the former one was discovered." And what, sir, was the plan of the British, to defeat which you desired the American Government to interfere? Why, according to your suspicions, it was *to march an army through the territory of the United States against Upper Louisiana.* If, then, the communication of your suspicions to Mr. Liston would induce him to "alter his plan," it would, by a *word* or a *letter*, instead of an *army*, defeat the expedition: for it was not possible it should go forward *except through the territory of the United States;* and, consequently, the communication, instead of disappointing, would have perfectly accomplished what you requested.

In your 5th paragraph, you are pleased to mention what you consider as another omission of duty, that, although, on the 2d of March, you *wrote* your suspicions, and, *three days before*, you mentioned them verbally, yet, on the 9th, I had not laid the matter before the President. I will take the trouble to show with how little reason you have made this remark. The 2d of March was the day next preceding the dissolution of Congress; and, at the close of a session, the President is overwhelmed with business that cannot be postponed. On the 3d, the then President's term of office expired. On the 4th, the inauguration of the succeeding President was celebrated. The 5th of March was Sunday. The five following days were not unoccupied; and, on the 11th of March, the answer to your letter of the 2d was given. And, although you attach much importance to your suspicions, the details I have given prove that they were then destitute of probability; that they were, in fact, unfounded, and consequently of no importance: that as such I then justly considered them; and, therefore, needed no "very powerful" motives to remain silent *five days.*

I cannot but regret that my reasoning is so often not understood. When reciting my inquiry, whether the posts occupied by the troops of Spain within the territory of the United States had been evacuated, and your answer that, not having for some months heard from the Baron de Carondelet, you "were deprived of any information touching the steps taken for the execution of the treaty:" I put these last words between inverted commas not, as you say, "in order to draw attention," but because they were an exact quotation from the translation of your letter. And when I added, in my report, "nevertheless he (the minister of His Catholic Majesty) had previously informed the Baron de Carondelet of his suspicions of a projected expedition from Canada;" it was not to prove either that the Baron had received your letters, or that you had received his; but, as that very information was assigned by the Baron as a reason for still retaining and reinforcing the posts, the obvious conclusion was, that you wrote and transmitted to him the information with that view; and hence, that, instead of disclaiming all knowledge on the subject, candor should havei nduced you to answer me, that, although you had not received any late letters from the Baron, and therefore you could not say what steps had actually been taken for the evacuation of the posts, yet that, on account of the suspected expedition from the lakes, of which you have informed the Baron, you presumed (or you advised, and probably you did advise) that he would still hold possession of them, "to cover Louisiana." This "logic," sir, I hope, is intelligible, and, at any rate, not "extremely false."

I cannot omit noticing your observations on the 5th paragraph of my report. If, as you were obliging enough to promise, you had favored me with *copies* of the Baron de Carondelet's two letters, (of which you undertook to give me an oral but literal translation) instead of their "substance," I might have been more correct in reciting his assertion, that Mr. Ellicott had not given him notice of his arrival at the Natchez, as the commissioner of the United States for running the boundary line. Whether this was a *complaint*,, or an "*observation*," as you choose to call it, every reader of your letter will see to be of no consequence. But whether the assertion was *founded* or *unfounded* was material; seeing, in the same letter, Mr. Ellicott is charged with having "carried his zeal so far as to attempt to get possession of the fort of the Natchez by surprise;" and an assertion follows that "Governor Gayoso says he has in his power documents which prove evidently the intention of this attempt." This accusation against Mr. Ellicott I considered as injurious, not to him only, but to the Government; for which, in the character of commissioner, he was appointed to act. If other circumstances induced me to doubt its correctness, the other complaint or "observation," which I knew to be unfounded, could not but increase my doubts. It was important, therefore, and my duty, to present them together to the President's notice. I have not "entirely mistaken" this matter. In my report to the President, I did not undertake to recite what you "mentioned," but what you *translated* from the Baron de Carondelet's letters: you *repeated* the charge in question; and it was not till then that I handed you the copies of the Baron's and Mr. Ellicott's correspondence, showing the repugnance of fact to assertion, and it was then that you blushed; as I had before been astonished. And your remark, afterwards, was what I have stated in my report, "that you supposed the Baron did not consider Mr. Ellicott's letter as official." You then made no distinction between a *complaint* and an "*observation*," nor used the phrase "in the rigor," nor any other qualifying words, except those which are stated in my report.

Besides, the Baron had no right to expect any other evidence of Mr. Ellicott's appointment than his letter, until they should meet for the purpose of commencing the business of their appointments; when, of course, they would mutually exhibit their commissions. And, from the Baron's answer, of the 1st of March, it is plain that he expected no other notice: for he therein recognizes Mr. Ellicott as the commissioner of the United States.

In the last sentence of your paragraph on this subject, you say "that when, after a mixed and desultory conversation upon various subjects, you had collected and methodized your ideas, and committed them to writing, my answer and observations ought to have been confined to the written communication." This observation, sir, is inaccurate. It may, however, be applied to a former part of your letter.

You say that, in our conference on the 27th of February, you mentioned to me the raising of three hundred and fifty men at Montreal; that your informer saw them pass through Johnstown; and that you knew the British agents had treated with some of the Indian nations concerning an expedition preparing on the lakes. But, in your letter of the 2d of March, in which you were "to collect and methodize your ideas" on the subject of your suspicions, you do not introduce one of those suspicions; of course, on your own principles, I ought, if they ever had been mentioned, to have considered them as nullities.

In the eighth paragraph of your letter you observe, that my proof obtained from Mr. Ellicott's messengers, that he did not attempt to get possession of the Natchez fort by surprise, is merely negative. I offered it only as such. But the negative testimony of two men of good characters against a fact which they were likely to be acquainted with, if it existed, and whose existence other circumstances rendered improbable, and the assertion of which is mingled with assertions, by the same person, of other facts, of which some, or even one, is known to be unfounded, merits consideration. There is, however, further evidence applicable to this case. In the letter dated at the Natchez, the 5th of May, from Lieutenant Pope to Governor Gayoso, you will see that the Governor had made the like accusation against the lieutenant. "A gentleman had informed him (the Governor) that the lieutenant intended to attack the garrison at that place." Lieutenant Pope, justly hurt by the groundless assertion, desires the informer may be named, and required to acquit himself of his assertion, or be punished as a false accuser. The Governor answers the next day, speaks of the information as communicated to Lieutenant Pope in *familiar conversation;* and adds, that the informer was to be *despised.* Yet, from the pointed manner in which Lieutenant Pope made the demand, it is evident that the information was presented to him as a serious accusation. After this detail, will it not be conjectured that the Governor's "documents" respecting Mr. Ellicott's "attempt" are of a piece with his "familiar conversation" with Lieutenant Pope concerning his "intended attack?"

In the ninth paragraph of your letter you say that, "after having discussed the history of these transactions, with all the force and accuracy which result from these observations, I assure, with a very ill-grounded confidence, that, upon a view of the whole, it appears that His Majesty's governors on the Mississippi have, on various *pretences*, postponed the running of the boundary line, and the evacuation of the posts." I must here also complain of misrepresentation. I did not, in my report, draw my conclusions from the history of *these* transactions, that is, of the transactions which you have *previously* mentioned in your letter, and which I have already noticed in this answer, but "upon a view of the whole correspondence then and before submitted to the President." This correspondence I will now examine, to see whether the causes assigned by the Spanish Governors, for postponing the running of the boundary line and evacuating the posts, merit the name of *reasons*, or of *pretences*.

Governor Gayoso being informed of Mr. Ellicott's descending the Mississippi, wrote to him on the 17th of February, desiring him to leave his escort at *Bayou Pierre*, sixty miles above the Natchez. Yet the treaty prescribed a military escort on each side to attend the commissioners in running the boundary line; and the *Natchez* as the place of their first meeting. The chief reason offered for this request was, that, if the troops of the two nations were *brought together*, "misunderstandings" might arise between them. Yet the treaty required their *coming together* to attend the commissioners when they were jointly running the boundary line. And the only reason the governor assigned for not evacuating the posts was, "the want of vessels," but which he expected would soon arrive.

On the 25th of February Governor Gayoso and Mr. Ellicott fixed on the 19th of March to proceed down the river to Clarkesville, near which it was supposed the boundary line would commence.

On the 9th of March, Governor Gayoso informed Mr. Ellicott that the Baron de Carondelet could not attend the running of the line, in person, and that the whole business had devolved on him, the Governor; but he feared he should not be ready by the 19th. And then he endeavored to draw Mr. Ellicott from his proper station at the Natchez, by proposing a visit to the Baron at New Orleans.

March 12th, the Governor again endeavored to draw Mr. Ellicott from the Natchez, and recommended Loftus' Cliffs, near Clarkesville, as the point of re-uniting; and by way of inducement, said the geometer and other officers, to be employed on the boundary line, would stop at Clarkesville.

On the 15th of March the principal part of the artillery was taken out of the fort, and every appearance made of a speedy evacuation; but on the 22d they were carried back to the fort, and immediately remounted. A similar movement took place at the latter end of April, after the arrival of Lietenant Pope and his troops at the Natchez. "The evacuation (says he) appeared to be going on with great life; when, all at once, the military stores were ordered back, their troops busily engaged all night taking back and remounting the cannon." Here he very naturally expresses his surprise: "This kind of conduct (says he) appeared and still appears strange."

March 23d, the Governor mentions that orders had been given by the General-in-chief of the province to demolish the post at the Walnut Hills; *because their treaty with the Indians required it*; but as he (Gayoso) had since been informed of their unsettled dispositions, he had sent counter orders to prevent the fortifications being injured; suggesting, at the same time, that the moving of the stores, &c. was suspended only until the arrival of the American troops to take possession of the post.

In this letter the Governor informs Mr. Ellicott that Lieutenant Colonel Guillemard was far on his way up; and, on his arrival, the running of the boundary line should begin. The Governor adds this assurance, "that there is nothing that can prevent the religious compliance with the treaty."

On the 28th and 29th of March Governor Gayoso issued two proclamations, both bearing date the 29th, taking new ground for retaining the post, viz: until the right of the inhabitants to the real property is ascertained. The Governor is pleased to say that a negotiation was then carrying on between the King of Spain and the United States to secure to the inhabitants of the Natchez the right to their real property; that that right could not be secured but

by an additional article to the late treaty; and that he should keep possession of the country until that article should be officially communicated to him; *and until they were sure that the Indians would be pacific.* This last reason particularly warrants my assertion, that the Governors meant for an indefinite period to avoid an evacuation of the posts: for, while a tribe of Indians existed in that quarter, the Governors could not be *sure* that they would be pacific. And, as to their real property, seeing the great body of the inhabitants appear not to desire the patronage of the Spanish Government to secure it; as the Government of the United States must be at least as anxious as that of Spain to protect the inhabitants in their rights, when become citizens of the United States; I believe there can be no difficulty in deciding whether this is a reason or a pretence. Besides, the negotiation mentioned by the Governor, *about the real property of the inhabitants*, has never existed; nor even been proposed or hinted, either to or by the Government of the United States. I hope, therefore, it will not be deemed harsh, or unbecoming, in a letter of this kind, to say that this motive for suspending the evacuation of the posts—that a negotiation was then on foot to secure the real property of the inhabitants—does not merit the title even of a *pretence.*

So soon as the Governor discovered that his proclamations, instead of quieting the minds of its inhabitants, produced a contrary effect, he sent two gentlemen of the settlement to inform Mr. Ellicott that he, the Governor, had received directions from the Baron de Carondelet to have the artillery and military stores expeditiously removed from the forts, which were to be given up to the troops of the United States immediately on their arrival. As this information did not remove suspicions, Mr. Ellicott wrote the Governor on the 31st of March, stating divers circumstances which still kept those suspicions alive. The Governor answered, on the same day, in direct contradiction to the information given by the gentlemen, his agents, to Mr. Ellicott, and confirming the declarations made in his proclamations. He added also a new motive for retaining the posts, viz: that the treaty left it doubtful whether, when the posts should be evacuated, the works were to be left standing, or to be demolished; concerning which the Governor-general found himself obliged to consult His Catholic Majesty; and had given the Governor positive orders to suspend the evacuations of the posts until the matter should be amicably settled between the two Governments.

On the 1st of May another motive is assigned for retaining the posts. The envoy of His Catholic Majesty in the United States had informed the Governor-general of an attack proposed against the Spanish part of Illinois (the upper part of Louisiana) by the British from Canada, and, therefore, the posts at the Walnut Hills and the Natchez must be kept for the defence of Lower Louisiana.

This last motive is also offered as a reason why the running of the boundary line is postponed; as all their attention was drawn towards the defence of the province, against an invasion which, as I have already shown, was never contemplated.

To all these facts, I have to add the declaration of General Wilkinson, in his letter of June 2d, to the Secretary of War: "I have, (says he) information through a confidential channel, that it was determined, as early as September last, not to give up the posts on the Mississippi." If this information be correct, no other proof is necessary to show, that all the reasons, from time to time suggested, for not evacuating the posts, were mere pretences.

I have here brought into one view the most material facts relating to the question between us, which are scattered throughout the reports made by me to the President of the United States, on the 10th of June and 3d of July, and by the Secretary of War on the 30th of June, and the documents accompanying them, as they have been published. And, from this brief recital, it evidently appears, as I have said in my report, "That the Governors of His Catholic Majesty, on the Mississippi, have, on various pretences, postponed the running of the boundary line, and the withdrawing of his troops from the posts they occupied within the territory of the United States; and that, after repeated overtures, promises, and appearances of commencing the execution of the treaty between the two nations, in both these respects, their conduct demonstrates that, for an indefinite period, they meant to avoid doing either."

You controvert this conclusion only on one ground. You say that the treaty stipulated merely that the Spanish garrisons should be withdrawn, not that fortifications which might one day be prejudicial to the King's subjects, should be delivered up: and hence you infer that the necessity, urged by the two Governors, of delaying to withdraw the garrisons until this question is decided between the two Governments, is not a *pretence*, but a substantial reason. Here I must observe, that the Governors had already demolished the post at the Chickasaw bluff: and it appears in the foregoing recital, that they were going to demolish the post at the Walnut Hills: and the reason assigned is, that the treaties with the Indians required the demolition: and the Governor Gayoso assigns but one motive for suspending that operation—that he had been informed of the unsettled disposition of the Indians; yet, afterward, this reason (that their treaties with the Indians required the demolition of the posts) is forgotten, and their destruction, or their delivery, with all the fortifications and other works standing, is, by the governors, made to depend entirely on the issue of a negotiation between the governments of Spain and the United States! Can any further proof be wanting to justify me in calling this a pretence? But you seem to rely on this your construction of the treaty relative to the posts: you have urged it in your letter to me of the 24th of June, and, therefore, I will consider it.

The second article of the treaty having described the boundaries between the territories of the United States and Spain, thus proceeds, "And it is agreed, that if there should be any troops, garrisons, or settlements of either party, in the territory of the other, according to the above mentioned boundaries, they shall be withdrawn from the said territories within the term of six months after the ratification of this treaty, or sooner, if it be possible; and that they shall be permitted to take with them all the goods and effects which they possess." But to justify your retention of the posts, you say that the demarcation of the boundary line should precede the withdrawing of the garrisons: yet you suppose it probable, and His Catholic Majesty's Governors well know, that the Chickasaw bluff, the Walnut Hills, and the Natchez, are within the territory of the United States.

Governor Gayoso speaks of the boundary line as being near Clarkesville, a place many miles below the Natchez; and he also knew the result of Mr. Ellicott's astronomical observations on the spot, which ascertained the Natchez to be about thirty-nine miles north of the south boundary of the United States.

There being, then, not a shadow of doubt with respect to the position of these posts, that they are all within the territory of the United States, there was no necessity previously to run and mark the boundary line: which, besides, if set about in good earnest, it would take at least a year to accomplish, through a wilderness of many hundred miles in extent; and, therefore, it never could have been contemplated as necessary, to precede the evacuation of the posts, which was to be effected in six months, or sooner, if possible. Yet fifteen months have elapsed, and you still keep possession.

But you suggest that it is at least doubtful, whether by the treaty it was intended to leave the fortifications standing when the garrison should be withdrawn. You say, "It is not to be presumed that it could ever have been the intention of His Catholic Majesty to deliver up fortifications, which, besides, that they had cost him considerable sums of money, may, by the effect of political vicissitudes, be one day prejudicial to his subjects." I feel much reluctance to attempt the refutation of a construction so obviously erroneous. It is probably the first time that, to "withdraw," or retire from a place, has been imagined to intend its destruction. If, at the formation of the treaty, the demolition of the posts had been intended, it would assuredly have been expressed. But, doubtless, the idea never occurred, until it was found convenient to make it a pretence for holding the posts. The phrases "to withdraw a garrison," *to evacuate a post or country*, have as determinate a meaning as any in the English language; and their meaning is ascertained by frequent use in treaties; and to destroy a country, or a fortified place, from which it was stipulated to "withdrew" an army or a garrison, would be such an act of barbarism as ought never to take place among civilized nations. One of the latest treaties made by the United States (that with Great Britain) has the same phrase. "His Majesty will *withdraw* all his troops and garrisons from all posts and places within the boundary lines assigned, by the treaty of peace, to the United States. This *evacuation* shall take place on or before the first day of June, 1796." And these expressions are used in the same treaty as equivalent to "the delivery of the said posts." The British treaty was, in this manner, accordingly carried into effect—the British troops were *withdrawn*, and the works *left standing*. The British officers were even careful not to expose the works to accidental destruction: for, as the Ame-

rican troops did not reach the posts by the first of June, small British guards were left to preserve the works from injury until the American troops arrived.

By the treaty concluded at Versailles the 3d of September, 1783, between Great Britain and Spain, it was agreed, "That the king of Great Britain should cause East Florida *to be evacuated* three months after the ratification of that treaty, or sooner, if it could be done." The evacuation took place, but no demolition of fortifications.

In the preliminary articles of peace between England, France, and Spain, signed the 3d of November, 1762, it was stipulated, "that as soon as possible after the ratification of these preliminaries? France should *evacuate* Cleves, Wesel, and Guelders, and generally all the countries belonging to the King of Prussia." Were *those places demolished*, or the *country laid waste*, when the troops withdrew? Or were there any subsequent negotiations to remove any doubts on the subject?

But I have dwelt too long on a point which really required no elucidation.

On this, as well as on another occasion, you have thought fit to upbraid me with showing to the British minister a degree of candor and confidence which you insinuate he does not deserve, and which you seem to think I have withheld from you. Yet, sir, all the declarations made to me by that minister, verbally, and in writing, touching the points in controversy between you and me, have been verified. As I have already said, you declared to me that you had just reasons for suspecting that an expedition was preparing on the lakes by the English, in order to attack Upper Louisiana. The British minister, in the first instance, assured me that he had no knowledge of it; and his subsequent inquiries enabled him further to assure me, that no such expedition had been, or was, intended by the British Government. And I have, in another place, offered other reasons which confirm the truth of these assurances. Yet you tell me, that the assurance given me by the British minister, *but without any signature*, did not inspire the servants of His Catholic Majesty with the same *blind confidence* which it produced in me. I shall take no other notice of this remark, than to put you right in point of fact. The note of the British minister, containing the assurance to which you refer, is *not* "without a signature:" This (like other official notes from that minister) has his signature—*his name written with his own hand*—at the head of it.

You declared to me "that you knew to a certainty that the English had made propositions to General Clarke, of Georgia, in order to avail themselves of his influence in that State, together with some other persons, for making a diversion, or serious attack against Florida." The British minister informed me, that although he knew nothing of General Clarke, or his expedition from Georgia, a proposition had been made to him (the British minister) for an expedition against the Floridas; but that he told the projector that he had no power to authorize it; and besides, that there were, among other objections to the plan, two of great weight—one that the Indians were to be employed, the other, that it would violate the neutral rights of the United States. The British minister has since shown me an original letter from Lord Grenville, dated the 8th of last April, in which he informs the minister, that if there were no other objections to the plan, the two mentioned by him, viz. that it could not be executed without employing the Indians, and without violating the rights of the United States, would be sufficient to induce the British Government to reject it. This proves, sir, that Mr. Liston's declarations on this point, were not "vague and unauthentic," as you pronounce them, but in strict conformity with truth.

As to General Clarke, of Georgia, the British minister declared he had never even heard of him; and the extract of the letter from Mr. Jackson, the district attorney of Georgia, respecting General Clarke, and any expedition forming there, in behalf of the *English* against the Floridas, will incline every candid inquirer at least to doubt whether such a project has ever been proposed to him. We shall afterwards see that Mr. Blount's plot does not appear to have any connexion with an expedition under General Clarke.

Thus, you see, sir, that I have not *blindly* placed a confidence in the British minister: for aught that has yet appeared, he was entitled to the credit he has received.

I return to your letter. You mention your communications to the Baron de Carondelet respecting the intended expedition from Canada; from that moment, you say, imperious necessity, and the great principle of self defence, made His Catholic Majesty's officers turn their thoughts to objects of a more urgent nature than running the boundary line. And here you introduce "Mr. Blount's letter, and the late detected conspiracy, as evincing how far their conduct in this respect was necessary." It is wonderful, sir, that you should attempt to make it be believed that Mr. Blount's letter and the late detected conspiracy had any connexion with the expedition which you suggested was preparing on the lakes of Canada, against Upper Louisiana. All that is yet discovered of Mr. Blount's project or conspiracy, proves that it was to have been formed in one of the States *south of the river Ohio;* and that it was destined against the Floridas, and perhaps Lower Louisiana. I therefore feel myself, for this and the other reasons before exhibited, still warranted in considering the suspected Canada expedition among the *pretexts* for delaying to evacuate the posts, and to run the boundary line; and, consequently, that your charge, that I have in this instance "palpably attempted to make groundless and unfair impressions on the public mind," is alike unfounded and unbecoming your public character to suggest.

In your next paragraph, you thus address me: "Nor do your ill founded insinuations stop here; sentiments and expressions still more violent flow from that same hasty pen." This passage is in perfect correspondence with the general strain of your letter. Whether your charge is correctly made is now to be examined.

I am ready to confess that my report, thus stigmatized, was, from the pressure of business, written in haste; but a revision of it satisfies me, nevertheless, that it is not inaccurate in its statements.

You quote the passage in my report which has called forth this reproach; it is in these words: "That there is but too much reason to believe Mr. Ellicott's suspicions well founded; that an undue influence has been exercised over the Indians by the officers of His Catholic Majesty, to prepare them for a rupture with the United States." And then you say, that I mention the source of these "dreadful conjectures," to be a private letter from Mr. Sargent, Secretary of the Northwestern Territory. Here you are extremely incorrect, as usual, when you undertake to recite my conclusions, and the facts and circumstances upon which they are formed. It is from "a view of the whole correspondence" referred to in my reports of the 10th of June and 3d of July—on the intelligence received by the Secretary of War, and the private letter from Colonel Sargent, that I drew the conclusion you have quoted.

Mr. Ellicott formed his suspicions on the spot, from what was passing before him; and he is not a careless or undiscerning observer.

General Wilkinson says, "letters from all quarters announce the discontents and menacing aspect of the savages; two white men have been recently murdered on the Ohio, below the Cumberland; and the savages beyond the Mississippi, and those who pass Massac, make no hesitation to avow their purpose for war." And then he refers to a letter from Colonel Hamtramck, who commands the United States troops at Detroit, in which the colonel says: "I am pretty sure that both the French and Spaniards have emissaries among the Indians. I have it from *indubitable authority*, that a large *belt* [by which is meant a speech] from the *Spaniards* is now travelling through the different nations;" meaning the nations within the territories of the United States.

Colonel Sargent writes, it is true, a *private letter*, but it is to a public officer; and his situation as secretary, and governor for the time, of the Northwestern Territory, would render it his duty to be vigilant for its safety; and his character vouches for the accuracy of his information; and you do not question the truth of any part of his statement.

After mentioning that the Spaniards were reinforcing their upper posts on the Mississippi, that upwards of three hundred men had arrived at St. Louis, and were erecting formidable works, he adds, "it likewise appears, through various channels, that they are inviting a great number of Indians of the territory (meaning of the United States northwest of the Ohio) to cross the Mississippi: and for this express purpose, Mr. Loramie, an officer in the pay of the crown, made a tour through all this country last Fall; since which time, several Indians have been sent on the same errand, and generally furnished with plenty of cash to defray their expenses." "A large party of the Delawares passed down White River about the 6th of May, on their way to the Spanish side, *bearing the national flag of Spain, sent them from St. Louis.*"

Lieutenant Pope, in his letter of May 9th, to the Secretary of War, says: "There have been several attempts made to draw on the Indians upon my troops. I have fully ascertained this fact, and demanded of the Governor to

have a principal actor immediately brought to punishment, or sent out of the country. He has been sent for, and is now on board of one of the galleys which is now about descending the river." And, sir, if you inquire, you will find that this "principal actor" (Rapelje, by name) was one of Governor Gayoso's agents.

These, sir, are the grounds on which I expressed the opinion, that there was but too much reason to believe Mr. Ellicott's suspicions well founded—that the officers of Spain had exercised an undue influence over the Indians, to prepare them for a rupture with the United States.

This detail, sir, strikingly shows how little you have understood, and how entirely you have misrepresented my reasoning on this subject. I leave you to reconcile your reflections on the British minister and his nation, for their inhumanity in employing the Indians in the American war, with your justification of the Spanish officers at this time, in securing the aid of the Indians in your war with the British. "The Spaniards (you say) have fortified St. Louis, *and availed themselves of* EVERY MEANS OF DEFENCE *which the country afforded*;" meaning by the ingenious expression *every means of defence which the country afforded*, the employing of the Indians.

You are pleased next to charge me, in your customary style, with "falling into the most *glaring inconsistency*," because I remark, that, although "it may be difficult to say, whether this plan of exciting the Indians to direct hostilities against the United States has been contemplated and promoted by any of our own citizens, yet it is certain, that one or more of those citizens have proposed and taken measures to detach the Southern Indians from the interests of the United States, and to destroy the influence of the public agents over those nations, and thus to defeat the great objects of their appointment, the chief of which is to preserve peace."

Having quoted this passage from my report, you ask, "how is it possible to reconcile such evident contradictions? On the one hand, the Spanish officers are those who excite the Southern Indians against the United States, and on the other, you quickly follow presuming, with sufficient foundation, in my opinion, that it may be some citizens of the United States." Allow me, sir, to ask in my turn, how it was possible for you not to see that here there is no contradiction? Is it not very possible that the Spanish officers might be courting the Chickasaws, who live above the Natchez, with large presents, and be preparing the Choctaws, who dwell along the Natchez district, and the Delawares, Shawanese, Miamies, and other tribes dwelling in the territory northwest of the Ohio, for war against the United States, while Mr. Blount and his agents were detaching the Southern tribes of Cherokees and Creeks from the interests of the United States, and eventually to aid the British in an enterprise against the Floridas? The Cherokees and Creeks, you might have seen, were the only Indian nations mentioned in Governor Blount's letter. And is it not very possible, if these two nations should thus be led to war against the Spanish possessions, that they might *not* be excited to *direct* hostilities against the United States? And, therefore, that although Mr. Blount might contemplate the former, he might abstain from the latter? And is not, then, my cautious manner of speaking of this latter perfectly correct?

I am happy to arrive at your last observation. And I wish it was not, like the rest, exceptionable and incorrect. These are your words: "Respecting the last article of your report, I have only to observe that, although you have constantly assured me that Government had not the least information respecting the subject of my representations, and, although the letter of Mr. Jackson, of Georgia, appears to coincide with your ideas, nevertheless time has shown that I have complied with my duty by not reposing on such assurances. The plot is discovered, and nobody any longer doubts the expedition was to have taken place."

The expression that "you complied with your duty in not reposing on such assurances" may mean that you thought the assurances *deceitful*, and, therefore, not meriting belief. Perhaps you did not intend this. Perhaps you meant no more than that the Government had been "remiss" in its duty in not pursuing, with eagerness, the trains of your various suspicions. But I must show you that here, as in all other instances, your criminations are void of foundation in either point of view.

The last article of the report respects General Clarke, of Georgia, to whom you said "you knew of a certainty that the English had made propositions, in order to avail themselves of his influence in that State, with some other persons, for making a diversion or serious attack against Florida;" and you add that "you do not doubt that, in consequence of your information, the Executive Government will take the proper steps that *Georgia* also should not infringe the laws of neutrality." Here you confine your requests to *Georgia*, that she might not infringe the laws of neutrality; and my letter to Charles Jackson, Esq., the district attorney of that State, shows that the Government took prompt measures to defeat the project of General Clarke and his associates, if such a project existed. I suppose none did exist. You acknowledge that the letter from Mr. Jackson coincides with my ideas. Your "certain knowledge" of an intended expedition in favor of the English from Georgia against Florida, under General Clarke, you have never supported by a shadow of evidence. If you possessed any evidence of the fact, it would be easy to produce it. What you call your "certain knowledge" could rest only on information, or the testimony of others, which might be as false, or as vague, and inconclusive, as the information about the Canada expedition, which I hope I have proved, to your conviction, never to have existed, even in idea. Yet you declared to me that you had "*just reasons* for suspecting that expedition was preparing on the lakes;" and, hence, how can I avoid concluding that your "certain knowledge" in one case, like your "just reasons" in the other, were without a sufficient foundation.

But you say "the plot is discovered, and nobody any longer doubts that the expedition was to have taken place." Strange remark! Just the reverse of it should have been made: for, although there is a discovery of Mr. Blount's plot, its extent is by no means ascertained; and, far from nobody doubting, probably every body doubts whether the projected expedition was to have taken place. It was not to be undertaken but in conjunction with a British force; and, on the proposal of the expedition to the British Government, it was totally rejected. Even Mr. Blount, who, if the project was adopted, *expected to be at the head of it*, ventures no further than to say *he believed* that the plan would be *attempted, but, if* attempted, that it would not be till the "fall;" and, consequently, your zeal in March and April, for which, at the expense of decency towards the American Government, you take to yourself so much credit, had then no just object. This zeal of yours is displayed in the information you gave to the Baron de Carondelet, in March or April, of the expedition supposed to be preparing in Canada against Upper Louisiana: yet, you would now attempt to justify this zeal by the plot of Mr. Blount, although this plot and the Canada expedition were wholly distinct and unconnected.

I shall conclude this long letter with your eleven positions, which you state with as much serious formality as if they were all of them important, and all of them supported by facts or just reasoning; but the details I have given demonstrate that these positions are either unfounded, or simple propositions of not the smallest consequence.

These are your positions addressed to me in your own words—

"1st. That, on the 27th of February, I gave you sufficient particulars, respecting the intended expedition, to have attracted the attention of this Government."

Answer. I have offered reasons to prove that you gave me *no particulars*, but only mentioned your *suspicions*, and that you promised to give me your representations in writing: for which, of course, it was proper for me to wait.

"2. That, although to this verbal communication I added another in writing on the 2d of March, the President had not the least knowledge of it on the 9th of the same month; and that, without doubt, you must have had very powerful motives to prevent you from communicating it to him."

Answer. I have accounted for the delay in a satisfactory manner. I have shown that I had abundant reason to conclude your suspicions to be wholly unfounded, and for attaching no sort of consequence to them. The event demonstrates that I was right; and that, instead of *very powerful* motives, none were needed for a delay of only four or five days, or for a much longer period; and that to notice your naked suspicions at all was not an act of necessity, but of complaisance. I might, with justice, complain of *your* delay to answer my letter of the 16th of March, on a subject of very high importance to the United States—I mean the evacuation of the posts. I will not say that you were negligent, or "remiss;" but I will say that, for a whole month, you omitted to give me your short

and unsatisfactory answer. The indisposition which you assign as the cause of the delay did not prevent you from writing on other subjects, nor long from going abroad.

"3. That it does not appear, by the documents presented by the Secretary of War, that Government had given orders to the military commanders to cause the territory and neutrality of the United States to be respected."

Answer. I have shown that none were necessary to be given.

"4. That you made to the English minister a communication which, in my opinion, you ought not; and that, even if you thought it necessary, you delayed doing it for two months—that is, from the 27th of February to the 28th of April, although it respected a most urgent and important object."

Answer. On the 28th of April I informed you, by letter, that I had communicated to the British minister your suspicions of an expedition preparing by the English against Upper Louisiana; and as, for upwards of two months, you expressed no dissatisfaction on account of this communication, I might well conclude you did not think it improper: nay, in your letter of July 11, which I am now answering, you refer, with apparent approbation, to this very communication, connected with the declaration which accompanied it to the British minister, that the President could not consent to the march of any troops, either British or Spanish, through the territory of the United States; and you consider it as a "determinate disposition" of the American Government on this point. I have also shown that, admitting this communication to Mr. Liston to be proper, I did not delay doing it for two months, nor two weeks, although it respected at best but an *imaginary* project.

"5. That the Baron de Carondelet could very well have received my letters, without its necessarily following that his had come to hand."

Answer. I have shown that you did not understand my reasoning on this point; which went to prove that your answer of the 17th of April to my letter of the 16th of March, about the evacuation of the posts, was wanting in candor.

"6. That the Baron did not represent Mr. Ellicott's not writing to him officially as a *complaint*, but as an *observation*, and that in fact he never has done it in those terms."

Answer. I have shown that whether the Baron's assertion should have been called a *complaint* or an *observation* as perfectly immaterial; I meant to show it was *unfounded*, and this you yourself admit.

"7. That the proofs you allege to exculpate Mr. Ellicott respecting his intentions of taking the fort of Natchez by surprise are purely negative."

Answer. I offered them only as negative proofs. Yet when one complaint or assertion against Mr. Ellicott was known and acknowledged not to be true, the *negative* testimony of gentlemen likely to be well informed, would be deemed sufficient to bring another, and in its nature very improbable, complaint or assertion of the same person into discredit.

"8. That it is not merely *pretences*, but very powerful reasons which have impeded the evacuation of the posts, and the running of the boundary line."

Answer. The point of view in which I have now exhibited the conduct of the Spanish Governors relative to the evacuation of the posts, and the running of the boundary line, I should suppose might convince you that the causes which they have offered for the delay are mere *pretences:* the American citizens, to whom you have appealed, have been convinced only by reading the printed documents, without any comments.

"9. That the insinuations with which you are willing to persuade the American people that our arming is directed against them, are unjust as well as unfounded, as by Mr. Blount's letter it is clearly demonstrated to be a precaution for the mere purpose of defence."

Answer. The grounds of my suggestions, which you call "insinuations" are detailed in this letter, and embrace too many facts and circumstances to be abridged: permit me to desire you to review them. I shall only repeat, that nothing is more certain than that Mr. Blount's letter has not the remotest reference to the suspected Canada expedition, which is your only pretence for reinforcing the posts in upper Louisiana; for calling the Indians to your aid; for holding the posts at the Natchez and Walnut Hills; and for delaying to run the boundary line.

"10. That you evidently contradict yourself, when on one hand you are pleased to attribute to us the movements of the Indians, and in the very next paragraph you show it might proceed from American citizens, as it actually does, according to Mr. Blount's letter; and that he acted with the knowledge and intelligence of the very same British minister, in whose private notes *without signature, and perhaps not of his own hand writing*, you place such implicit confidence."

Answer. I have shown that there is not a shadow of contradiction in my observations on this subject; and your assertions to the contrary must proceed only from your not understanding them. You say that Mr. Blount acted in this matter with the knowledge and intelligence of the British minister. This is not likely to be true. It is in proof, by other evidence than the British minister's notes, that he did not and could not authorize the projected expedition against the Floridas; and particularly that one of his strong objections against it was, that it contemplated the employing of the Indians; although he thought it proper to submit the project to the consideration and decision of his Government. Nobody, therefore, will believe that he authorized Mr. Blount, or was even privy to his measures, for preparing the Indians for war. Besides, Doctor Romayne, who may be presumed to be well acquainted with Mr. Blount's plot, suggests that it is not the project offered to Mr. Liston by Chisholm. These are his words: "Mr. Blount is totally unknown to Mr. Liston, *and so are all his views.*" And there is a passage in Mr. Blount's letter which countenances the doctor's assertion, and indicates, that although Chisholm and Blount had some communications with each other, yet that their views were not precisely the same. Mr. Blount, in his letter to Carey, says, "Where Captain Chisholm is, I do not know. I left him in Philadelphia, in March, and he frequently visited the minister and spoke upon the subject; but I believe he will go into the Creek nation, by way of of South Carolina or Georgia. He gave out he was going to England; *but I did not believe him.*" These last words afford a pretty strong proof that they were not acting wholly in concert. Probably Mr. Blount endeavoured to persuade Chisholm that he would co-operate in the prosecution of *his* scheme; while at the same time he might have another of his own, or in concert with Doctor Romayne, and stand ready, in the event of things, to make his advantage of either—whichever should offer the best prospect of success. Doctor Romayne, you see, says that Mr. Blount is totally unknown to Mr. Liston. But it is well known that Mr. Blount was your frequent guest, and intimate companion; and that he was on this intimate footing with you during the whole time that you were representing to the Government your suspicions of British expeditions. Yet after the discovery of the conspiracy was made public, you formally requested the American Government to punish him for so scandalous a crime. But seeing that Mr. Blount was a citizen of the United States, and not a subject of Spain, it would have been decent in you to have left him with his own Government without interposing your advice. But especially when you knew that the President had laid his letter before Congress; and the two Houses were deliberating on the modes of punishing him; when the investigation had proceeded so far that a committee of the Senate had reported a resolution to expel Mr. Blount from the Senate; and a committee of the House had reported a resolution that he should be impeached for high crimes and misdemeanors: for you then to interfere was singularly improper; and it was such an ostentatious display of zeal as, under all the known circumstances, suggests more than one interpretation.

"11. That although, in all your official communications, you have always manifested to me that the American Government knew of nothing which indicated any foundation for my suspicions, Mr. Blount's letter clearly proves that I was perfectly in the right."

Answer. This remark is perfectly inconsequential; for your communications exhibited your suspicions of projected expeditions only from Canada and Georgia: and I have shown that Mr. Blount's letter has no relation to either.

I thought I had reached the end of your criminations: but in your concluding paragraph you accuse me of an "unjust partiality;" meaning, no doubt, towards the British minister and his nation. The details I have given in this letter, I trust will abundantly prove that this charge is as unfounded as it is indecent. Those details verify the representations of the conduct of certain Spanish officers which are given in my report of the 3d of July to the President. If the truth has excited any unpleasant sensations, those only are to blame whose injurious acts obliged me plainly to declare it. Instead of this task, I should have been happy to execute the grateful office of stating to the President the good faith and amicable manner in which the officers of His Catholic Majesty had executed the treaty of friendship, limits, and navigation between our two nations.

You think, also, that my report to the President is not calculated to strengthen the bonds of friendship which unite Spain and America. Friendship, sir, cannot subsist without mutual confidence; and confidence springs from sincerity. But the proceedings of the Spanish officers, which are the subject of this correspondence, have shaken the confidence of the Government and of the citizens of the United States; and my report to the President only exhibits a summary of those proceedings; or rather the plain and obvious conclusions from the authentic facts and circumstances detailed in the documents, then and before presented to his view. And I dare venture to say, that every independent American has from the same premises drawn the same conclusions.

Nothing, sir, will give truer satisfaction to the Government and citizens of the United States than to see such a change in the proceedings of the Spanish officers as will restore confidence. The change would be easy and the effect certain. Let them withdraw their troops and garrisons from the territories of the United States. Let them commence and prosecute the running of the boundary line. Let them cease to stop, control, or regulate the passage of our citizens on the Mississippi, seeing these have a rightto navigate it with perfect freedom. And let them cease to send agents or emissaries among the Indians residing within the territories of the United States. When they shall do these things (and the good faith of His Catholic Majesty pledged in the treaty renders their doing them an indispensable duty) then we shall forget what is past; our confidence will return; and with it that beneficial intercourse and those friendly acts by which neighbors may promote each other's interests, welfare, and happiness. And for such a state of things, whatever you may have imagined to the contrary, no one more ardently wishes, and, on its arrival, no one will more sincerely rejoice, than

Your obedient servant,

TIMOTHY PICKERING.

No. 14.

NEW YORK, 19*th August*, 1797.

SIR:

The day before yesterday, the 17th, your letter of the 8th instant was received at my house at Philadelphia, and yesterday, the 18th, it came to my hands at this city. I avail myself of the first opportunity to acknowledge the receipt of this your answer to my letter of the 11th of July last, and as the examination of its contents would lead us to an endless discussion, I confine myself to mention to you, that when I had the honor of giving you the first notice relative to the projected expedition against Louisiana, with all the particulars referred to in my said letter, you were *alone* in your cabinet: that two days after I went to speak to you on another subject, and having there met the Secretary of War, Mr. M'Henry, I embraced the opportunity of speaking anew concerning it; and if then I spoke in general terms, it was doubtless to avoid the repetition of what I had communicated so shortly before. As it appears that you have forgotten this circumstance, it is not extraordinary that it should have escaped your memory in like manner with all the particulars of my first conference, mentioned in my above cited letter.

I offer myself to your disposition, and hope that God will preserve you many years.

Your most obedient servant,

CARLOS MARTINEL DE YRUJO.

TIMOTHY PICKERING, Esq. *Secretary of State.*

No. 15.

PHILADELPHIA, 9*th October*, 1797.

SIR:

When the King my master appointed me his envoy extraordinary to the United States of America, immediately after having made with them a treaty the most liberal and generous,* I flattered myself that the principal exercise of my functions would be to give and receive repeated proofs of the union and friendship so intimate by the bands of that treaty. Instead of those flattering expectations, judge of my feelings on seeing them entirely vanished, and finding in that convention, which I trusted would forever have united us, the origin of disagreement and contention, unfortunately too well founded on our part.

I have before made known to you the just motives which determined the Spanish commandants of Louisiana to suspend in part the entire execution of the treaty, as no injury to the United States would flow from a short delay; and it might occasion great injury to the security of the possessions of the King to abandon certain posts, which, under present circumstances, would leave Louisiana open to the attacks of the English, and exposed to the effects of the evil intention of some citizens of the United States. I have also heretofore shown to you that the American agents at the Natchez, far from contributing to preserve that union and harmony which is so suitable to the two nations, conducted themselves in a manner highly imprudent; and even that I had reason to believe that they intended to obtain possession of the fort by surprise. The last advices which I have received from those parts, and the documents I herewith transmit to you, appear to me to prove it in such manner, that I cannot but consider those suspicions as being very well founded.

For some time past the conduct, in this respect, of the commandant of the American troops, Mr. Piercy Smith Pope, and at first of Mr. Andrew Ellicott, has been irregular, provoking, and, in some degree, hostile. The commandant, Don Manuel Gayoso, had positive advice that, in the camp of said Pope, a great number of ladders were making, and that arms (armas blancas) were preparing, evincing by these preparations their determination to assault the fort. The firmness and vigilance of the Governor, Don Manuel Gayoso, appears to have induced them to alter their intentions, and being well persuaded that the forts of *Nogales* and the Natchez could not be taken, either by force or surprise, they availed themselves of some profligate people to foment an insurrection, which it appears was to have taken effect on the 12th June, and which the prudence and preponderance of the wealthy inhabitants were alone capable effectually to stop.

The official letters of Mr. Piercy Smith Pope and Mr. Andrew Ellicott, numbered 3 and 4, and the documents 5 and 6, evidently show the part which both of them took in that popular commotion, however they may pretend to deny it; since, assuredly, nothing of this kind would have happened if they had not assumed, without any authority whatever, to treat of, and determine, some points and discussions of a political nature, foreign to their commission, with a publicity and arrogance calculated to compromit the two powers, explaining themselves without candor, and with intent to lead astray the populace on the principal point of the difficulty which had occasioned a wish on both sides for an explanation of the doubts which arose respecting the treaty.

* Although you only characterise as *just*, the stipulations of the treaty with Spain, I will take the liberty of observing, that, abstractedly from all the points which I touched in my letter of the 6th May, the Spanish sovereignty over the Natchez being in right of conquest at the period of the peace of 1783, if the United States obtained this possession by a voluntary convention, they owe it only to the *generosity* of Spain.

If their conduct has been provoking and insulting, their language towards the Spanish Government has not been less so. Mr. Andrew Ellicott, in his letter of the 13th of June, to Don Manuel Gayoso, says: "to embrace the means which will finally assure to them their happiness, cannot be censured;" (alluding to the change of the people of the Natchez from the dominion of the King my master to that of the United States) this is clearly an indirect attack upon the Spanish Government, as unjust as improper on the part of an agent of a friendly nation.

The document number 5, signed by Mr. Ellicott and Piercy Smith Pope, dated the 13th June, evidences, by the manner in which it is written, their intentions to deceive the public. At that time, and even since, they neither had, nor could have, just ground for officially speaking of an approaching rupture between the United States and Spain; yet you will see, that they speak of it as a thing at hand, and almost inevitable, relying only on the preparations for self-defence made in some forts on the banks of the Mississippi, and which they knew to be in consequence of the intended expedition of the English.

The whole tenor of their correspondence, and particularly the document number 6, leaves no doubt that these agents have interfered in political matters utterly foreign to their commission, engaging themselves to co-operate with the committee appointed to obtain the due execution of justice, and *approving* of the propositions presented to Governor Gayoso.

The repeated declarations you have made to me, that the intention and desire of the United States are to preserve peace and a good understanding with Spain, leave me no room to doubt that the scandalous and insulting conduct of Mr. Ellicott at first, and finally of Captain Piercy Smith Pope, is purely arbitrary, without any other guide than their passions and individual interests; and, at the same time, I can do no less than apply to you in the name of the King my master, in order that, for such repeated insults, there may be given to us due satisfaction, as necessary to Spain as becoming for the United States. God preserve you many years.

Your most obedient and humble servant,

CARLOS MARTINEZ DE YRUJO.

TIMOTHY PICKERING, Esq. *Secretary of State.*

The documents referred to in the preceding letter, are,

No. 1. Governor Gayoso's letter of June 13, to Mr. Ellicott. This is the same with the document No. 2, before inserted. See page 84.

No. 2. A. Governor Gayoso's letter to Lieutenant P. Pope, of June 13.

No. 3. A. Lieutenant Pope's answer of the same date.

No. 4. Mr. Ellicott's answer to Governor Gayoso, of June 13. This is the same as the document No. 3, before inserted. See page 84.

No. 5. A. Advice from Mr. Ellicott and Lieutenant Pope, to the people, to remain quiet.

No. 6. Their approbation of the articles of pacification between Governor Gayoso and the inhabitants. This is the same as the preceding document No. 7. See page 86.

No. 2. A.

Governor Gayoso to Captain Pope.

SIR:

From repeated information of which I am possessed, it appears certain (and the conduct of some of the inhabitants of this Government equally manifest it) that a number of the subjects of His Majesty meditate and intend to rise and hostilely attack the fort, unmindful of the oath of fidelity which they have taken, and of the benign protection which the Government has dispensed to them for many years, and declaring themselves, as it is said, citizens of the United States of America. It is also further asserted, that they do it by your instigation, and that they have in their possession a paper in which you give authority to them in their rebellious designs, and by which you promise them your protection, and to furnish them the means of putting them into execution.

I cannot persuade myself that you would act in so unlawful a manner, as to be the promoter and an active party in an insurrection which will inevitably terminate in a rupture between the two nations, and the total ruin of this district and its inhabitants: wherefore, I pray you to inform me positively whether such is, or is not, your intention, in order that I may notify it to the Commandant General of this province, that it may be communicated to His Majesty. And if you persist in the same opinion, from this moment I protest solemnly, in the name of my said Commandant General, against a conduct so irregular, making you responsible for the fatal consequences which may flow from it.

I repeat the request to you to give me a categorical answer on this subject, and I have the honor to be, with consideration, sir, your most obedient servant,

MANUEL GAYOSO DE LEMOS.

NATCHEZ, *June* 13, 1797.

No. 3. A.

Lieutenant Pope to Governor Gayoso.

CAMP AT THE NATCHEZ, *June* 13, 1797.

SIR:

I have received your letter of this date, in answer to which I must avail myself of anterior occurrences. Did you not, shortly after my arrival here, positively give it to be understood that you intended to evacuate this post, as being within the territory of the United States? In attending to your first correspondence, I presume you cannot impute to me the charge of inconsistency and impropriety. If your Government feels the necessity of breaking its engagements, and if, on this very account, the people become irritated against it, as I have not been the first promoter of the deceit, so I am as little responsible for the event. I consider myself as the person appointed by my Government to take possession of the post of the Natchez: you admitted it in the beginning, and I, consequently, have a right to sustain it. It is not surprising that the citizens of the United States have chosen me to defend their right. After reflecting maturely on every part of the question, it is surprising that you should yet consider the people of the Natchez as subjects of His Catholic Majesty. But you appear to me to request that I should give you positive answers to general questions.

Have you endeavored to instigate the people of this country to act hostilely against the interests of His Catholic Majesty? Have you stirred up the people to take the fort? or, have you moved or incited them to other hostile objects?

To each of these questions I answer positively, no; but as commandant of the troops of the United States at the lower posts, I must assure you, that the landing of any troops, or the repairing of the fortifications of the territory in question, will be considered as an attack upon the dignity and the honor of my country, and I shall conceive myself bound by duty to act conformably to my present sentiments. I cannot, nevertheless, as far as respects myself, omit informing you, that any agreement upon just principles will meet my approbation.

PIERCY SMITH POPE,

Commandant of the troops of the United States on the Mississippi.

Senor DON MANUEL GAYOSO DE LEMOS.

No. 5. A.

Copy of a paper which was circulated.

We, the subscribers, have no knowledge of our country being now at war; but from the hostile preparations which the officers of His Catholic Majesty are making in these parts, we are induced to believe that war is not very distant, and until the commencement of hostilities against the United States, those who consider themselves citizens thereof will respect all descriptions of persons and things.

ANDREW ELLICOTT, *Commissoner of the U. S.*
PIERCY SMITH POPE,
Commandant of the United States troops on the Mississippi.

NATCHEZ, 13*th June*, 1797.

No. 16.

The Chevalier de Yrujo to the Secretary of State.

PHILADELPHIA, *November* 21, 1797.

SIR:

Although the answer which you gave to the letter I had the honor of writing to you on the 6th of May last, excited in me all the observations which I shall now present to you in this, wishing, upon the whole, that the interests of America would induce its administration to adopt the conciliatory mode which I proposed to you, that of giving to the American plenipotentiaries going to Paris the necessary instructions for adjusting the differences with Spain, I at that time abstained from entering into a reply; which, although well founded, might not perhaps contribute so much to the good intelligence between Spain and the United States as the idea which I then suggested to you, and have just now mentioned. The lively desire which I have had, and still have, not to see interrupted the harmony between these two nations, has caused me to view with regret, after several weeks silence, your disappointment in supposing that the reasons upon which your answer is founded were sufficient to convince His Catholic Majesty of the impartiality and good faith of the United States on this point. My suspicions have been verified, and your expectations are entirely frustrated by the late order that I have just received from the King my master.

His Catholic Majesty has not observed in the said answer from you, any reason to induce him to change his opinion concerning the injuries resulting to his subjects from the stipulations of the English treaty, compared with those of the treaty with Spain, as well on the subject of the articles of contraband, as on the principle adopted in ours, "that free ships should make free goods," &c.

But what has most astonished His Majesty, and confirmed him in the justice of his pretensions, is what you have said in your answer with regard to the navigation of the Mississippi. I am ordered, therefore, on a review of the whole, to make to this Government, through you, the following observations:

When the Secretary of State, Mr. Jefferson, on the 15th of May, 1793, wrote to Mr. Ternant, then the minister plenipotentiary of France, reclaiming the English ship Grange, captured at the mouth of the river Delaware by the frigate L'Ambuscade, belonging to the republic, he accompanied his letter with the opinion of Mr. Randolph, Attorney General of the United States, in which the right of reclamation was, among other reasons, founded on the following:

"That the whole of its descent to the Atlantic ocean is covered on each side by the territory of the United Sates: that from tide water to the distance of about sixty miles from the Atlantic ocean, it is called the river Delaware.

"That its mouth is formed by the capes Henlopen and May; the former belonging to the State of Delaware in property and jurisdiction; the latter to the State of New Jersey.

"That the Delaware does not lead from the sea to the dominions of any foreign nation.

"The corner stone of our claim is, that the United States are proprietors of the lands on both sides of the Delaware, from its head to its entrance into the sea.

"A river, considered merely as such, is the property of the people through whose lands it flows, or of him under whose jurisdiction that people is." Grot. b. 2. c. 2. § 12.

"Rivers might be held in property, though neither where they rise, nor where they discharge themselves, be within our territory, but they join both, or the sea. It is sufficient for us that the larger part of water, that is, the sides, is shut up in our banks, and that the river, in respect of our land, is itself small and insignificant." Grot. b. 2. c. 3. § 7. And Barbegroe* in his note subjoins that neither of those is necessary.

"Rivers may be the property of whole States." Puff. b. 2. c. 3. § 4. "To render a thing capable of being appropriated, it is not strictly necessary that we should enclose, or be able to enclose it within artificial bounds, or such as are different from its own substance; it is sufficient if the compass and extent of it can be any way determined. And therefore Grotius hath given himself a needless trouble when, to prove rivers capable of property, he useth this argument, that although they are bounded by the land at neither end, but united to the other rivers or the sea, yet it is enough that the greater part of them, that is, their sides, are enclosed." Puff. b. 4. c. 5. § 3.

"When a nation takes possession of a country, in order to settle there, it possesses every thing included in it, as lands, lakes, and rivers." Vattel, b. 1. c. 22. § 266.

"*Congress, too, have acted on these ideas*, when, in their collection of laws, they ascribe to a State the rivers wholly within that State.

"The gulfs and channels, or arms of the sea, are, according to the regular course, supposed to belong to the people with whose lands they are encompassed." Puff. b. 4. c. 5. § 8.

"These remarks may be enforced by asking, What nation can be injured in its rights by the Delaware being appropriated to the United States? And to what degree may not the United States be injured on the contrary ground? It communicates with no foreign dominion."

What a multitude of consequences may be drawn from the application of these principles, established by the American administration four years ago, with regard to the navigation of the Mississippi! The powerful arms held therein by Spain for obstructing this navigation, her not having made use of them, and her having insisted in a manner so explicit and positive that the *citizens of the United States alone* should have a right to the advantages of this river, are a convincing and incontestable proof of the good faith and upright intentions of Spain. But the privilege of the citizens of the United States to navigate the said river to the ocean not being now doubted, let us quit this point, in order to treat alone of that which regards the right acknowledged to England by the American administration for the enjoyment of its advantages.

What does Spain wish or desire? That the *American citizens alone*, of all the foreign nations, should enjoy the privilege of this navigation. What does the American administration wish or desire? *That it should not be the American citizens alone*, who should reap the advantages of it. From this difference of pretensions, it would appear that Spain defends the interests of America more than the administration itself.

You say in your answer to me of the 17th of May, "But I might deny that the United States *ever* granted the right of navigating the Mississippi to Great Britain. A recurrence to the treaties to which you refer, will prove that she possessed that right by the peace of 1763; and that she has never *formally* relinquished it." In another paragraph of the same letter you add, "By the definitive treaty of peace concluded the 3d of September, 1783, the latter ceded to Spain East Florida, as also West Florida; but the river Mississippi, as you observe, is not even mentioned in the treaty. What is the just inference from this circumstance the United States need not decide. Doubtless Great Britain conceived it important to hold a right to the navigation of it, and all parties at that time certainly supposed that parts of her territories joined its eastern side, and probably no one can now say they do not."

* Meaning Barbeyrac.

If it be certain that the United States never have granted to England the right of navigating the Mississippi to the ocean, it is notwithstanding very evident that *they have acknowledged it with every solemnity*, as appears by the treaty of 1783, by that of commerce, and lastly by the explanatory article signed on the 4th of May, 1796. How then could you say to me, "What is the just inference from this circumstance, the United States need not decide?" Have they not decided as positively, as favourably for England, by acknowledging the claim to an unjust right? Which of the principles established by the officers of the administration, in relation to the Delaware, in the case of the ship Grange, will apply to England in relation to the Mississippi? For instance, is its source in the British dominions? Does it run through their provinces or discharge itself in their possessions? But you say that when, by the treaty of 1783, England ceded to Spain East and West Florida, she did not make mention of the Mississippi; but the Attorney General of the United States established, in the case of the Grange, the principle of Vattel, that "when a nation takes possession of a country, in order to settle there, it possesses every thing included in it, as lands, lakes, rivers;" of course when Great Britain ceded East and West Florida, she likewise ceded the *lands, lakes, and rivers*, the right of which she might have held in the said possessions. By the principle established by you that *she had not expressly renounced it*, having made no mention of the rivers Apalachicola, Mobile, or Alabama, and others, the United States might believe themselves in like manner authorized to recognize the navigation in favor of England, because they are not mentioned in the treaty. France also might claim the navigation of the Mississippi, since in the act of session to Spain of New Orleans, she did not *expressly* renounce the navigation of this river. By this same principle, the United States might suppose themselves authorized to recognize to France the right of navigating the river St. Lawrence. The case is absolutely similar. France does not hold an inch of land on its borders: England does not possess a thumb's breadth on those of the Mississippi. The river St. Lawrence neither has its source, runs through, nor empties in, the possessions of France. The Mississippi neither has its origin, runs through, nor empties in the dominions of England. France once had the right of navigating the river St. Lawrence, because she had possessions on its borders. England also once enjoyed the right to the navigation of the Mississippi, because she had possessions on its margins. In the cession of Canada, no mention is made of the river St. Lawrence, although it speaks of islands. Nor is the Mississippi named in the cession of the Floridas. The case then is absolutely similar. If the United States, although they did not grant, should *acknowledge* to France the right of navigating the river of St. Lawrence, would not England, with infinite reason, consider herself as justly offended? Why, therefore, when the United States acknowledge to England a right as unjust, with regard to Spain, as prejudicial to the American citizens, should not Spain look upon herself as offended and insulted? I repeat the text of Vattel, "When a nation takes possession of a country, in order to settle there, it possesses every thing included in it, as lands, lakes, rivers."

Afterwards, touching the subject whether the possessions border on the Mississippi or not, you add, "and probably no one can now say they do not." I can assure you they do not. The late discoveries of M'Kenzie, and the best map that has hitherto been published of North America, in London, about eighteen months ago, by A. Arrowsmith, evideuce that the true origin of the Mississippi is in White Bear lake, and that from that point its waters do not touch any English territory. If other testimony were necessary, I should not seek it abroad. At Milford, in Connecticut, there now lives Mr. Peter Pond, who has been employed seventeen years in the service of the Hudson Bay Company; has passed over and examined all those regions; has been at the same origin of the Mississippi, that is, at White Bear Lake, and has formed a valuable map, which he now preserves in manuscript, and which *confirms* that the English have not a foot of land on the borders of the Mississippi.

Having, therefore, in my opinion, completely confuted the most essential part of the answer which you gave to my said letter of the 6th May, and having proved to demonstration the just motives which His Catholic Majesty has for being offended with the *explanatory article* signed by you and Mr. Bond, on the 4th of May, 1796, it only remains for me to ask you, in the name of the King my master, whether the United States contemplate, or not, the performance of the above mentioned treaty in this particular.

I tender you my services, and hope that the Lord may preserve you many years.

Your most obedient servant,

CARLOS MARTINEZ DE YRUJO.

TIMOTHY PICKERING, Esq. *Secretary of State.*

No. 17.

[FOR THE AURORA.]

To the Native American:

The punctuality with which I have answered the letters you addressed to the Chevalier de Yrujo, and the defence you have taken on yourself, as well of Mr. Pickering as of the interests of Great Britain, authorize me in directing this letter to you, and imposes on you the obligation of answering it. Previous to my entering on the principal object of it, permit me, sir, to make a few observations.

Since our correspondence has ceased, the King of Great Britain and his council have declared *that they should not consider in England, as American citizens, those who have been naturalized since the acknowledgment of our independence.* This tyrannical declaration, contrary to all the principles of natural right, acknowledged by the first publicists, which, as it injures a great number of individuals in this country, and wounds, at the same time, the sacred right of its sovereignty, I expected would have excited in you, sir, that fervent zeal with which you have appeared to defend the interest of the United States in the dispute respecting the delivery of the posts and the line of demarcation with the Spaniards. From whence, then, arises this silence? Are you ignorant of the effects of this determination which extends the oppression of Great Britain to the very wilds of America? Can you be ignorant that the three-fifths of that active and valuable class of citizens which export the products of the country, equip the ships which carry the American flag to the extremities of the earth, and which supports our fisheries, in the perfect confidence and security of being protected by that Government to whom they have sworn allegiance, are thereby entirely thrown on the mercy of England? And do you not foresee that its immediate consequence is authorizing the British ships of war hereafter to seize the crews of our vessels under the appearance of a right? Where then is this zeal of yours which resounded in every gazette, when the subject in question was merely a momentary suspension of a *part* of the treaty with Spain, although this nation had the most powerful motives for so doing? What is become of the phalanx of scribblers, at whose head you appeared, with Fenno and the mighty Porcupine, to defend vigorously the rights of America? Surely, neither you nor any other person whatever will pretend to deny, or even express a doubt, that the above mentioned declaration of the British monarch does not violate them in a most unjust and hostile manner? From whence, then, so much noise and clamor when treating of the affairs in dispute with Spain? And from whence arises that servile silence in a *Native American*, when the question is to defend his country against the tyranny of England? This difference of conduct confirms my suspicions of your being a mere British hireling, who has assumed a respectable title in order the more easily to deceive the good faith and candor of your readers; but fortunately you have completely unmasked yourself, and the public may now judge the degree of faith and confidence to be placed in your productions. But to return to the affairs of Spain.

In my former letters I think I evidently proved the injustice of your attacks against Spain and its ministers. I think I have sufficiently shown that the projects of Blount, and the intended expedition of the English against the possessions of His Catholic Majesty, have justified the retention of the posts, as the most imminent danger might have arisen by their delivery. I shall now endeavor to give fresh proofs of our administration's not acting towards Spain with that equity, justice, and honor which a sound policy requires, and which certainly appertains to a nation that calls itself neutral, and affects to be strictly so.

Ever since exterior commerce and navigation, which is its consequence, have influenced in politics, mercantile connexions have been considered the links which unite most one nation with another. These mercantile relations

consist in mutual wants and reciprocal means of satisfying them. From such evident principles, it results that there exists few nations which would and ought to establish a more intimate connexion than the United States and Spain. Our flour, plank, timber, pitch, and the articles of salt provisions, can always find a sure and advantageous market in His Catholic Majesty's dominions, both in Europe and America: on the other hand, the wines, brandies, oil, and fruits of Spain, the coffee and sugar of her colonies, are articles we are in want of. Behold here the basis of a perfect union and friendship, which would open an extensive field for speculation with mutual advantage. His Catholic Majesty made the first step towards this union, by concluding with the United States a very liberal treaty, established on the principles of sound policy; and when we ought to have expected that our administration would endeavor to tighten the bands of friendship with a nation from whom so many advantages would have accrued, it signed on the 4th of May, 1796, *only a few months* after concluding a treaty with Spain, an *explanatory article* to that part of the English treaty which regards the navigation of the Mississippi, acknowledging to the English a right to the said navigation. In order to convince every impartial American of the injustice of this proceeding, I shall not seek in any foreign text for arguments on which to ground mine. The principles established by the officers of the United States three or four years ago will be the basis of my observations.

When the Secretary of State, Mr. Jefferson, wrote on the 15th of May, 1793, to M. de Ternant, then minister plenipotentiary of France, claiming the British ship Grange, taken at the entrance of the Delaware by the French frigate l'Ambuscade, he communicated to him the opinion of the Attorney General of the United States, in which, among others, he founded his claim on the following reasons:

"That the whole of its descent (the river Delaware) to the Atlantic Ocean is covered on each side by territory of the United States.

"That from tide-water to the distance of about sixty miles from the Atlantic Ocean, it is called the *river* Delaware.

"That its mouth is formed by the Capes Henlopen and May; the former belonging to the State of Delaware, in property and jurisdiction: the latter to the State of New Jersey.

"That the Delaware does not lead from the sea to the dominions of any foreign nation.

"The corner stone of our claim is, that the United States are proprietors of the land on both sides of the Delaware, from its head, to its entrance into the sea.

"A river, considered merely as such, is the property of the people through whose land it flows, or of him under whose jurisdiction that people is." Grot. b. 2. c. 2. § 12.

"Rivers might be held in property, though neither where they rise nor where they discharge themselves be within our territory, but they join to both, or the sea. It is sufficient for us that the larger part of water (that is, the sides) is shut up in our banks, and that the river, in respect of our land, is itself small and insignificant." Grot. b. 2. c. 3. § 7; and Barbegroe, in his note, subjoins that neither of those is necessary.

"Rivers may be the property of whole States." Puff. b. 3. c. 3. § 4.

"To render a thing capable of being appropriated, it is not strictly necessary that we should enclose it, or be able to enclose within artificial bounds, or such as are different from its own substance; it is sufficient if the compass and extent of it can be any way determined: and, therefore, Grotius has given himself a needless trouble when, to prove rivers capable of property, he useth this argument—that, although they are bounded by the land at neither end, but united to the other rivers, or the sea, yet it is enough that the greater part of them (that is, their sides) are enclosed." Puff. b. 4. c. 5. § 3.

"When a nation takes possession of a country, in order to settle there, it possesses every thing included in it, as lands, lakes, rivers." Vattel, b. 1. c. 22. § 266.

"Congress, too, have acted on these ideas, when, in their collection of laws, they ascribe to a State the rivers wholly within that State.

"The gulfs and channels, or arms of the sea, are, according to the regular course, supposed to belong to the people with whose lands they are encompassed." Puff. b. 4. c. 5. § 8.

"These remarks may be enforced by asking, what nation can be injured in its rights by the Delaware being appropriated to the United States? And to what degree may not the United States be injured on the contrary ground? It communicates with no foreign dominion."

Now, Mr. *Native American*, what a multitude of consequences could we not draw by an application of these principles (established by our administration four years ago) to the subject respecting the navigation of the Mississippi! What powerful arms was it not in the hands of Spain to have refused us this navigation! Not to have made use of them, and her insisting, in an explicit and positive manner, *that the citizens alone of the United States* should have a right to the advantages of this river, evidently proves her good faith and sound intentions. But, as the right which the Americans have to navigate this river to the very ocean is no longer doubtful, let us quit this topic, and treat only of that with respect to the right acknowledged by our administration in favor of England to these advantages.

What does Spain wish for, or desire? That, *of all foreign nations, the Americans alone* should enjoy the privilege of this navigation. And what is the wish and desire of our administration? That the citizens of America *should not be the only people* to enjoy its advantages. From this it evidently results that the King of Spain is the defender of the interests of America, and that our administration, instead of promoting it, has meanly sacrificed it to England. Impartial Americans, who love your country with more sincerity than the *native American*, to whom I address this letter, let your attention rest awhile on the present subject, and you will evidently see I do not exaggerate, when I tell you that, in this respect, our administration has basely sacrificed our advantages by their unjust partiality to Great Britain. In order to make this more evident, examine the answer given by Mr. Pickering on the 17th of May to the Chevalier de Yrujo's letter of the 6th of the same month; in it you will see that the Secretary of State of a neutral nation, precisely in a moment when his administration is taxed of being unjustly partial to England, instead of effacing this impression by a line of conduct strictly neutral, takes upon himself to defend the cause and interests of Great Britain. Mr. Pickering, attacked by the strength of the Chevalier de Yrujo's arguments, says, "But I might deny that the United States *ever* granted the right of navigating the Mississippi to Great Britain; a recurrence to the treaties to which you refer will prove that she possessed that right by the peace of 1763, and that she has never *formally relinquished it*." In another paragraph of the same letter, he says, "By the definitive treaty of peace between Spain and Great Britain, in 1783, the latter ceded to Spain East Florida, as also West Florida; but the river Mississippi, as you observe, is not even mentioned in the treaty. What is the just inference from this circumstance, the United States need not decide. Doubtless, Great Britain conceives it important to hold a right to the navigation of it; and all parties at that time certainly supposed that parts of her territories joined its eastern side, and probably no one can now say they do not." Mr. *Native American*, if it be true that the United States *never* granted the right of navigating the Mississippi as far as the ocean to Great Britain, can you, or any other person who knows how to read, pretend to deny that, if they did not *grant* it, they *solemnly acknowledged* it, as appears by the treaty of 1783, the unfortunate treaty of commerce, and lastly by the explanatory article, signed the 4th of May, 1796? How, then, can Mr. Pickering presume to say, "what is the just inference from this circumstance, the United States need not decide." Has it not been positively decided in favor of Great Britain, by acknowledging and confirming an unjust right thereto? Which of the principles established by the officers of Government, respecting the Delaware, in the affair of the Grange, can be applied to England, with respect to the Mississippi? Does it take its rise in her dominions? Does it run through the territories, or does it empty itself in her possessions? However, Mr. Pickering says that, when by the definitive treaty of peace of 1783, England ceded East and West Florida, no mention was made of the Mississippi. Mr. *Native American*, the Attorney General of the United States has established the principle of Vattel, that, *when a nation takes possession of a country, in order to settle there, it possesses every thing included in it, as lands, lakes, and rivers.* Of course, when Great Britain ceded East and West Florida, it equally ceded the *lands, lakes, and rivers*, to which it had a right in the said provinces. By this same principle of Mr. Pickering, as no mention was made of the rivers Apalachicola, Mobile, or Alabama, and others, the United States might, with as much propriety, suppose themselves authorized to recognize

a right to their navigation in favor of Great Britain. France might equally claim a right to the navigation of the Mississippi, as, in the act of ceding New Orleans to Spain, she does not expressly renounce the navigation of said river. On the very same principle, the United States might suppose themselves authorized to recognize a right to France to the navigation of the river St. Lawrence: the case is identically the same. France has not an inch of land on its banks; England has not a spot on those of the Mississippi. The river St. Lawrence neither takes its rise, nor runs, nor empties itself in the possessions of France; the Mississippi neither rises, nor runs, nor empties itself in the dominions of Great Britain. France *had once* a right to the navigation of the river St. Lawrence, because she had possessions on its banks; England, likewise, *had once* a right to the navigation of the Mississippi, because she had possessions on its borders. In the cession of Canada, no mention is made of the river St. Lawrence, although mention is made of its islands: in the cession of the Floridas, no mention is likewise made of the Mississippi. Thus, then, I repeat, the case is identically the same. Now, Mr. *Native American*, if the United States were to *require or acknowledge*, although they did not *grant*, to France a right to navigate the river St. Lawrence, would not England, with great reason, be highly offended? Would she not look upon this act of the United States as an outrage? If so, why should not Spain look upon herself as grossly injured by the acknowledgment of a right as injurious to the subjects of Spain as it is to the citizens of America? I again repeat the quotation of Vattel: "When a nation takes possession of a country, in order to settle there, it possesses every thing included in it, as lands, lakes, rivers." Mr. Pickering continuing in the language and style of an advocate for Great Britain, instead of using that which becomes the Secretary of State of a nation which calls itself neutral, speaking whether the English possessions touch on the Mississippi or not, adds, "and probably no one can now say they do not." I, Mr. *Native American*, can assure you *they do not;* and if Mr. Pickering had been attentive to the progress of geography, and was even acquainted, as it is his duty, at least with that of his own country, he would know, as well as I, *that they do not*. The last discoveries of M'Kenzie, and the map published in London eighteen months ago by Mr. A. Arrowsmith, fully prove the origin of the Mississippi to be in the *White Bear Lake;* and that, from this point, its course does not run through any British possession. If it were necessary to produce any new testimony in addition to the foregoing, I would not seek it among foreigners. At Milford, in Connecticut, there actually lives a Mr. Peter Pond, who was employed seventeen years in the service of the Hudson Bay Company: he has gone over and examined particularly all those regions. He has been at the very source of the Mississippi, namely, the *White Bear Lake*, and has made out a valuable map, which he yet preserves in manuscript, and which confirms that the English have not a foot of land on the Mississippi. With these proofs, Mr. *Native American*, (notwithstanding Mr. Pickering's doubts, which are, perhaps, voluntary) I think I can safely assure you *they do not.*

Mr. *Native American*, the prosperity of the United States depends on peace, and peace on a strict neutrality; let us be just, and we shall be respected. *Honesty is the best policy*, and surely the contents of my former letter, as well as those of the present one, evidently prove that our administration has neither acted with justice or honesty towards Spain. The clamors respecting the momentary suspension of the least essential part of the treaty have been incessant, when, in reality, at the very moment Spain held out a friendly and liberal hand to us, we have repaid this act of generosity with ingratitude, *recognizing to her enemy a claim to a pretended and unjust right.* The friendship of Spain ought to be dear to us, as from a good understanding with her may result a commercial treaty, which would, at the same time, vivify and supply her colonies, and open an extensive field for the prosperity of our navigation and commerce. The unjust proceeding of the administration is not surely the method of obtaining an object we ought all anxiously to wish for. If the administration acts with justice and equity, it is the duty of every good American to support it; but I observe, with much regret, that many of my fellow-citizens daily confound the *ministers*, or the *administration* with *Government*, and think they support the latter, when in fact they support the administration. If ministers, animated either by the spirit of party, or by other views, proceed in their measures with injustice, it is necessary to attack the *administration*, in order to support the *Government:* for the administration can, in many instances, be as much the enemy of the Government as merchants are often the greatest enemies of commerce.

I hope, Mr. *Native American*, you will be pleased to favor me with an answer on the different points contained in this letter, as I shall look on your silence to be an implicit confession of the impossibility you find therein. Although the various subjects contained herein are susceptible of greater elucidation, I have adhered solely to the most prominent points, in order to facilitate your answer, and that the public may thoroughly investigate the subject.

VERUS.

No. 18.

The Secretary of State to the Chevalier de Yrujo.

DEPARTMENT OF STATE, PHILADELPHIA, *January* 20, 1798.

SIR:

As your letters of the 9th of October and 21st of November last contained no new matter of any consequence, and a fresh discussion of the points in dispute would require, on my part, only a recurrence to arguments formerly and conclusively urged, the general impression on my mind was, that it would not be necessary to give them a formal reply, whatever notice it might be proper to take of them in a report to the President of the United States. Nevertheless, I will now trouble you with a few observations.

A consideration of the papers heretofore laid before Congress, relative to the affairs on the Mississippi, of others since received from thence, in conjunction with your letter of the 9th of October, and its enclosures, convinces me that the conduct of Mr. Ellicott and Lieutenant Pope has been neither "scandalous" nor "insulting" towards the Spanish officers in that country; and that if any undue zeal or intemperance has been manifested by either, in maintaining the just rights of the United States, the measures adopted by those officers to evade the execution of the treaty between the United States and Spain have been the cause. It is by this course of conduct in the Spanish officers that the King their master has been dishonored, and not by the actions of the officers of the United States. I may, doubtless, be justified in saying, that their detention of the posts, and delays to run the boundary lines, have been unauthorized by the King. It is certain that neither of those Spanish officers has ever intimated an order from their Government as a warrant or an apology for their proceedings.

In your letter of the 21st of November, you recur to the several topics of your letter of the 6th of May, 1797, but exhibit no new argument on the points really in dispute. You barely mention the subject of the articles contraband of war, and the principle that free ships make free goods. The stipulations of the United States on these points, in their treaty of 1794, with Great Britain, were fully justified in my answer of the 17th of May, to your letter of the 6th. If any thing further were necessary, I would say (what I then mentioned as not to be doubted) that the Spanish Government voluntarily entered into the different stipulations with the United States when it possessed full knowledge of our stipulations in the commercial treaty with Great Britain, having in its hands the treaty itself; and having also ratified its treaty with the United States six months afterwards, which the Spanish Government would have been justified in refusing had there been any deception—any want of good faith on these points, on the part of the United States; but of which not a shadow of proof can be adduced.

The same observations apply to the other subject of your letter—the navigation of the river Mississippi—but with greater force: for, as I showed in my letter of the 17th of May, when the Prince of Peace proposed a mutual stipulation to exclude the British from the navigation of the Mississippi, Mr. Pinckney rejected it, and explicitly, because it would violate the faith of the United States, previously pledged to Great Britain; and the projected article of the Prince of Peace was altered accordingly. Yet, you now introduce those previous stipulations as subjects of complaint against the United States! It is true you also mention the subsequent explanatory article of the 4th of May, 1796, which is added to the treaty of amity, commerce, and navigation, of 1794, with Great Britain; but it is equally true that this contains no new stipulation, that it recognizes the principle that no subsequent treaty

can make void prior engagements, (and, therefore, that this explanatory article of 1796 cannot, in the smallest degree, affect the prior treaty of 1795 with Spain) and that British subjects, the citizens of the United States, and the native Indians, shall enjoy full liberty of passage, intercourse, and commerce, with each other, "*according to the stipulations of the third article of the treaty of amity, commerce, and navigation.*" So that this explanatory article goes not beyond, but is positively confined within, the limits of the third article of the treaty of 1794; which, preceding, in order of time, the treaty with Spain by more than eleven months, and being, also, at the conclusion of the Spanish treaty perfectly well known to its Government, it cannot, consequently, afford to Spain the slightest ground of complaint.

I pass unnoticed your lengthy quotation from the opinion of Mr. Randolph, attorney general of the United States in 1793, and your observations upon it; because neither one nor the other touch the essential point in dispute between us.

As to the question in the last paragraph of your letter, I am authorized to say, that the United States are not concerned to vindicate the claim of Great Britain to the navigation of the river Mississippi. What was said on this subject of my letter of the 17th of May, was in consequence of your having entered into an examination of the British title to this navigation; and I said expressly, that I did not conceive it essential to the subject we were then discussing: I merely followed you. Our stipulation amounts only to this, that the United States shall not obstruct the navigation of the river by British subjects. If Great Britain demands and obtains it, or if Spain admits her claim, as she has reserved the right to do, in the 4th article of her treaty with the United States, the latter cannot oppose it: and if the British vessels and boats do navigate the Mississippi, we are bound to admit them into our ports on the eastern bank of that river. Whether this admission would be advantageous or injurious to the United States, it belonged to them only to judge; they have not asked, nor will they have occasion to ask Spain to be the guardian of their rights and interests on the Mississippi: they only desire, in this respect, that she would faithfully perform her own engagements sanctioned by a solemn treaty.

I am, sir, &c.

TIMOTHY PICKERING.

THE CHEVALIER DE YRUJO, *Envoy Extraordinary, &c. &c. from His Catholic Majesty to the United States of America.*

No. 19.

Extract of a letter from Mr. Pickering, Secretary of State, to Mr. Ellicott, dated

DEPARTMENT OF STATE, *July* 14, 1797.

"On the 8th of June I received by Mr. Knox your despatches dated the 14th of April, which were laid before Congress on the 12th of June, and on the 29th of June, I received by Captain Hunter, your despatches dated the 10th of May, which on the 3d of July were also laid before Congress, together with the despatches from Captain Pope to the Secretary of War. These communications to Congress appear in the enclosed pamphlets.

"With respect to the important business with which you are charged, the repeated promises, followed by as often repeated failures to enter upon it, by the Spanish Governors, with other circumstances, afford too much reason to believe that there is an intention to postpone it. Nevertheless, the President is of opinion, and directs that you should remain at the Natchez, and always hold yourself in readiness to commence the running of the boundary line between the territories of the United States and of His Catholic Majesty. You will endeavor, in concert with Governor Gayoso, or other proper officer of His Catholic Majesty, to fix a time when this work of ascertaining the boundary line shall commence. This endeavor may be renewed as often as you shall think fit. Great care should be used to give no just cause of offence to the Spanish Government. What will be the final result of its measures is uncertain; but if war should follow, it will be of the last importance that the United States should not be the aggressors. The President, therefore, desires that your conduct should be perfectly guarded, moderate, and prudent."

No. 20.

Extract of a letter from Mr. Pickering, Secretary of State, to Mr. Ellicott, dated

DEPARTMENT OF STATE, PHILADELPHIA, *August* 30, 1797.

Your expresses, Mr. Bean and Mr. Robins, arrived here on the 24th instant, and delivered me your two letters of June 27th. The same day I received your letters of May 27th and June 4th and 5th.

The Baron de Carondelet's proclamation of the 24th of May, enclosed in your letter of June 4th, abandons almost all the former pretences for retaining the posts, which he says "is ocsasioned only by the imperious necessity of securing Lower Louisiana from the hostilities of the English, who have set on foot (without regard to the inviolability of the territory of the United States) an expedition against Upper Louisiana." By my former despatches covering the printed reports and documents, you will have seen that this expedition had never any existence. This is more fully shown in my letter of the 8th instant to the Chevalier de Yrujo, now enclosed. And my answer to him about the navigation of the Mississippi, and the articles of our treaties with Great Britain concerning it, also among the printed documents, demonstrates that in those stipulations we have not departed from the strictest line of good faith towards Spain; that we have granted nothing in respect to the navigation of the Mississippi, to Great Britain; and that the ideas the United States entertained on that subject, were perfectly known and understood by the Government of Spain, when our treaty with Spain was concluded; and that there is nothing contradictory between the two treaties, the British and Spanish.

As, therefore, the Baron de Carondelet has not a shadow of foundation to suspect an expedition by the British against Upper Louisiana; as the American Government has formally declared to the British Minister, for the information of his Government, that we will suffer the march of neither British nor Spanish troops through our territory, for the purpose of hostility of one against the other; as, finally, the British themselves (as you will see in Mr. Liston's letter among the printed documents) declare they had never formed such a plan of an expedition, and acknowledged that its execution would violate our territorial rights, for these reasons: on the principles of his proclamation the Baron ought immediately to evacuate the posts and territory of the United States.

These observations will also apply to the Baron's proclamation of the 31st of May, in which, however, he takes somewhat new ground. What "security" can the United States give, or rather what will the Baron deem a "security" against a descent of the English by the Mississippi?

If the facts and assurances already stated and given, on the part of the United States, do not satisfy, nothing can.

With respect to any hostile intentions of the United States towards Spain, as intimated by the Baron in this last proclamation, nothing is more unfounded. The march of the troops to Tennessee, from the Ohio, is for the sole purpose of establishing a force in that country, to restrain the inhabitants, or other citizens, from aggressions against the Cherokees, and especially to prevent a forced settlement, which was threatened, on the Indian lands; and any orders to the Cumberland militia to hold themselves in readiness, can be only for the object of preventing encroachments on the Indian lands, and to preserve peace. If we meditated an attack against the Spaniards on the Mississippi, we should certainly contemplate an easier route than by a wilderness of many hundred miles in extent, through which the transportation of stores and provisions would be impracticable; or of such extreme difficulty and boundless expense, as folly alone would attempt.

I have now only to notice the general commotion at the Natchez, among the inhabitants, against the Spanish Government, which seems to have been quieted very much by your prudent management. This line of conduct, caution, prudence, moderation, so as by all means to avoid the possibility of a charge of aggression against the United

States, you will see, in my letter of the 14th of July, was specially enjoined by the President. And a perseverance in the same course, I trust, will eventually issue in a peaceable adjustment of the disputes now subsisting, respecting the posts, the country where they are situated, and the navigation of the Mississippi. The pacific views of the United States, and their good faith, are not to be doubted; and it is clear as demonstration can make it, that the Baron has nothing to apprehend from the British from Canada: and, consequently, that he has now no cause or pretence for retaining the posts, or for delaying to run the boundary line."

5th CONGRESS.] No. 130. [2d SESSION.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, FEBRUARY 3, 1798.

UNITED STATES, *February* 2, 1798.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

I have received from our minister at London, two acts of the Parliament of Great Britain; one passed on the 4th of July, 1797, entitled "An act for carrying into execution the treaty of amity, commerce, and navigation, concluded between His Majesty and the United States of America," the other passed on the 19th day of July, 1797, entitled "An act for regulating the trade to be carried on with the British possessions in India, by the ships of nations in amity with His Majesty." These acts have such connexions with the commercial and political interests of the United States, that it is proper they should be communicated to Congress. I have accordingly transmitted copies of them with this message.

JOHN ADAMS.

ANNO TRICESIMO SEPTIMO GEORGII III. REGIS.

An act for regulating the trade to be carried on with the British possessions in India, by the ships of nations in amity with His Majesty. [19th July, 1797.]

Whereas by an act passed in the twelfth year of the reign of His late Majesty King Charles the Second, entitled an act for the encouraging and increasing of shipping and navigation, it was enacted that, from and after the first day of December, one thousand six hundred and sixty, and from thenceforward, no goods or commodities shall be imported into or exported out of any lands, islands, plantations, or territories to His Majesty belonging, or in his possession, or which may hereafter belong unto or be in the possession of His Majesty, his heirs and successors, in Asia, Africa, and America, in any other ship or ships, vessel or vessels, than such as do truly and without fraud belong unto the people of England or Ireland, dominion of Wales, or the town of Berwick upon Tweed, or are the built of, and belonging to, any of the said lands, islands, plantations, or territories, as the proprietors and right owners thereof, and whereof the master and three-fourths of the mariners, at least, are English, under certain penalties and forfeitures therein mentioned: and whereas it is expedient that the ships and vessels of countries and States in amity with His Majesty, should be allowed to import goods and commodities unto and to export the same from the British territories in India, subject to certain restrictions and regulations:

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That, from and after the passing of this act, and during the continuance of the exclusive trade of the United Company of merchants of England, trading to the East Indies, and during the term for which the possessions of the British territories in India is secured to the said United Company, it shall and may be lawful for the ships and vessels of countries and States in amity with His Majesty, to import into and export from the British possessions in India, such goods and commodities as they shall be permitted to import into and export from the said possessions by the directors of the said company, who are hereby directed to frame such regulations for carrying on the trade to and from the said possessions and the countries and States in amity with His Majesty, as shall seem to them most conducive to the interest and prosperity of the said British possessions in India, and of the British empire; and no ship or vessel belonging to any of the subjects of States or countries in amity with His Majesty shall be liable to seizure, confiscation, or forfeiture, or other penalty, for exporting from or importing into the said British possessions in India, any goods or commodities, the importation or exportation of which, respectively, shall be permitted by the said regulation, any thing in the said hereinbefore recited act of the twelfth year of the reign of King Charles the Second, to the contrary notwithstanding: *Provided always*, That it shall not be lawful for the directors of the said United Company to frame any regulations for the conduct of the said trade, which shall be inconsistent with any treaty or treaties which shall have been or may be entered into by His Majesty, his heirs and successors, and any country or State at amity with His Majesty, or which may be inconsistent with any act or acts of Parliament which have been passed for the regulation of the trade and commerce of the said British territories in India.

II. *And be it further enacted*, That all such regulations as shall be framed by the said court of directors for carrying on the trade to and from the British possessions in India and the countries and States in amity with His Majesty, shall be, and they are hereby, directed to be subject to the superintendence, direction, and control of the board of commissioners for the affairs of India, in the same manner as all acts, operations, and concerns, which anywise relate to or concern the civil and military governments and revenues of the British territories and acquisitions in the East Indies now are.

III. *And be it further enacted*, That it shall not be lawful for any general court of proprietors to alter or change, or to direct, or order, or authorize the altering or changing any resolution of the court of directors, or to rescind, revoke, suspend, or vary the same, in so far as the same relates to the intercourse of foreign nations in amity with His Majesty and the British territories in India.

An act for carrying into execution the treaty of amity, commerce, and navigation, concluded between His Majesty and the United States of America. [4th July, 1797.]

Whereas a treaty of amity, commerce, and navigation has been concluded between His Majesty and the United States of America: and whereas, by the eleventh article of the said treaty, it is agreed between His Majesty and the United States of America, that there should be a reciprocal and entirely perfect liberty of navigation and com-

merce between their respective people, in the manner, under the limitations, and on the conditions specified in the following articles of the said treaty: and whereas by the fifteenth article of the said treaty, it is further agreed, that no other or higher duties shall be paid by the ships or merchandise of the one party, in the ports of the other, than such as are paid by the like vessels or merchandise of all other nations; nor shall any other or higher duty be imposed in one country on the importation of any articles the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles, being of the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles, being of the growth, produce, or manufacture of any other foreign country; nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties, respectively, which shall not equally extend to all other nations:

Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in his present Parliament assembled, and by the authority of the same, That it shall and may be lawful to import into this kingdom, directly from any of the territories of the United States of America, in British built ships or vessels, owned, navigated, and registered according to law, or in ships built in the countries belonging to the United States of America, or any of them, or in ships taken by any of the ships or vessels of war belonging to the Government or any of the inhabitants of the said United States, having commissions or letters of marque and reprisal from the Government of the said United States, and condemned as lawful prize in any court of admiralty of the said United States, of which condemnation proof shall be given to the satisfaction of the commissioners of His Majesty's customs, or any four or more of them, in that part of Great Britain called England, and any three or more of them, in that part of Great Britain called Scotland, and owned by the subjects of the said United States, or any of them, and whereof the master and three-fourths of the mariners, at least, are subjects of the said United States, any goods, wares, or merchandise, the growth, production, or manufacture of the said United States, which are not prohibited by law to be imported from foreign countries, and to enter and land such goods, wares, and merchandise, upon payment of the duties, and subject to the conditions and regulations hereinafter mentioned; any law, custom, or usage, to the contrary in any wise notwithstanding.

II. *And be it further enacted*, That all such goods, wares, and merchandise, imported into Great Britain, either in such ships, or in British built ships, owned, navigated, and registered according to law, (except such goods, wares, and merchandise as are hereinafter particularly enumerated or described) shall, and may be entered and landed, upon payment of such duties of customs and excise, and no higher, as are payable on goods, wares, and merchandise of the like denomination or description, upon their importation into this Kingdom, in British built ships, from any other foreign country; and in cases where different duties are imposed upon goods, wares, and merchandise of the like denomination or description, imported from different foreign countries, then upon payment of the lowest duties which by law are required to be paid on the importation, in British built ships, of any such goods, wares, or merchandise, from any foreign country, according to the schedule and tables marked A. D. and F. annexed to an act, passed in the twenty-seventh year of his present Majesty's reign, entitled "An act for repealing the several duties of customs and excise, and granting other duties in lieu thereof, and for applying the said duties, together with the other duties composing the public revenue; for permitting the importation of certain goods, wares, and merchandise, the produce or manufacture of the European dominions of the French King, into this kingdom; and for applying certain unclaimed moneys, remaining in the exchequer for the payment of annuities on lives, to the reduction of the national debt;" or by any other laws in force, passed subsequent to the said act, touching the duties contained in the said schedule and tables marked A. D. and F., subject also, when imported in American ships, to the countervailing duties imposed by this act.

III. And, in order to encourage and promote the trade from the United States to this kingdom, *Be it further enacted*, That any pig iron, bar iron, pitch, tar, turpentine, rosin, pot ash, pearl ash, mahogany, masts, yards, and bowsprits, being the growth, production, or manufacture of the said United States, and all staves, and unmanufactured goods and merchandise, whatsoever, which are not prohibited by law to be imported from any foreign country, being the growth or production of the said United States, shall, or may be imported in British or American ships, owned and navigated as herein before required, upon payment of such duties of customs and excise, as are payable on the like goods, wares, and merchandise, when accompanied with the certificates required by law upon their importation into this kingdom, in British built ships, from any British island or plantation in America, notwithstanding such goods, wares, or merchandise may not be accompanied with the certificates heretofore required by law, subject also, when imported in American ships, to the countervailing duties imposed by this act.

IV. *Provided always, and be it further enacted*, That upon the importation into Great Britain from the said United States of America, of wheat, wheat meal or flour, rye, barley, beer or bigg, oats, oatmeal, peas, beans, Indian corn, and maize, the duties to be paid thereon respectively shall be regulated and ascertained according to the prices of wheat, rye, barley, beer or bigg, peas, beans, oats, and oatmeal, in the manner set forth and specified in the table marked D, in an act passed in the thirty-first year of his Majesty's reign, entitled "An act for regulating the importation and exportation of corn, and the payment of the duty on foreign corn imported, and of the bounty on British corn exported;" any thing contained in this act to the contrary notwithstanding.

V. *And be it further enacted*, That all oil made from fish, or creatures living in the sea, and blubber, whale fins, and spermaceti, being the produce of the fisheries carried on by the people of the said United States of America, may be imported from the countries of the said United States into this kingdom, in British or American ships, owned and navigated as herein before required, upon payment of such duties of customs as are payable on the like goods and merchandise, upon their importation into this kingdom, in British built ships, from countries not under the dominion of his Majesty, subject also, when imported in American ships, to the countervailing duties imposed by this act.

VI. *And be it further enacted*, That any tobacco, being the growth or production of any of the territories of the said United States of America, may be imported in British or American ships, owned and navigated as herein before required, upon payment of the same duties of customs and excise, as tobacco imported by British subjects, from any British colony or plantation in America, is, or may hereafter be subject to; and that any snuff, being the production and manufacture of any of the said territories, may be imported, in manner before mentioned, upon payment of such duties of customs and excise, as snuff, being the production or manufacture of Europe, imported from Europe is, or hereafter may be subject to, and may be warehoused and again exported; such tobacco and snuff to be subject respectively nevertheless, to all and singular, the regulations, restrictions, penalties, and forfeitures, relating to the importation and exportation thereof, or in any other respect relating thereto, of an act, made and passed in the twenty-ninth year of the reign of his present Majesty, entitled, "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" and another act, passed in the thirtieth year of his present Majesty's reign, entitled "An act to explain and amend an act, made in the last session of Parliament, entitled "An act for repealing the duties on tobacco and snuff, and for granting new duties in lieu thereof;" or of any other act since made relating thereto, subject also, when imported in American ships, to the countervailing duties imposed by this act: *Provided always*, that such tobacco shall be accompanied with a manifest, as by law required.

VII. *And be it further enacted*, That any rice, being the growth or production of any of the territories of the United States of America, which shall be imported directly from thence into any of the ports of Great Britain, in manner before mentioned, may, upon the importer paying down, in ready money, the duty of eight pence the hundred weight, being part of the duties now payable on the importation of rice, be landed and warehoused, except as herein-after provided, under the joint locks of His Majesty and the importer, in such warehouses as shall be approved of for that purpose by the commissioners of His Majesty's customs, or any four or more of them, in that part of Great Britain called England, or any three or more of them, in that part of Great Britain called Scotland, or by the collector and comptroller of His Majesty's customs of the respective ports into which such rice shall be imported, upon the importer's own bond for payment of the remainder of the duties due and payable for such rice, within eighteen months, according to the net weight and quantity of such rice at the time it shall be so landed: *Provided always*, that upon the importation of any such rice into the ports of London, Bristol, Portsmouth, Cowes, Liverpool, Lancaster, Falmouth, Poole, Whitehaven, Hull, Greenock, and Port Glasgow, or either of them, in the manner

herein before expressed, the importer shall be at liberty to enter and land the same, without payment of any duty whatever, upon condition that such rice shall be warehoused under the joint locks of His Majesty and the importers, in such warehouse or warehouses as shall be approved of for that purpose by the commissioners of His Majesty's customs, or any four or more of them, in that part of Great Britain called England, or any three or more of them, in that part of Great Britain called Scotland, or by the collector and comptroller of His Majesty's customs of the respective ports where such rice shall be imported: And that every expense attending such warehousing shall be borne by the said importers; and that such importer or importers, or his or their known servant, shall, from time to time, at all seasonable hours, as occasion may require, have free access to such warehouses, in the presence of some proper officer of the customs, for the purpose of skreening and shifting the rice, to prevent it receiving damage; and that if any rice, which shall be so imported from the territories of the said United States into any of the ports above mentioned respectively, and warehoused as aforesaid, shall be taken out of the warehouses, wherein the same shall be secured under the joint locks of His Majesty and the importers as aforesaid, for home consumption, the full duties due and payable by law, upon the importation of such rice into this kingdom for home consumption, and also, when imported in American ships, the countervailing duty imposed by this act shall, previously to its being taken out of such warehouses, be paid to the collector of His Majesty's customs at the port where such rice shall be so warehoused; but that such importer, if he intends to export such rice, shall have liberty to export the same from such warehouses respectively, under the same regulations under which such rice might be exported by law immediately before the passing of this act, without payment of any duty whatever: Provided that the exportation of any such rice, hereafter to be warehoused under the authority of this act, be made within the said space of eighteen months; but if not exported within that period, that the full duties payable by law and also when imported in American ships, the countervailing duty imposed by this act shall be paid for the same, and not be afterwards drawn back; and that if any rice, which shall have been imported into any port of this kingdom, not herein before specially named, and shall have been warehoused upon the importer's bond, in manner aforesaid, shall within the time herein before mentioned, be taken out of the warehouse wherein it shall have been so secured, to be exported directly from thence, the bond entered into for the payment of the said duties thereon shall be discharged and cancelled by debenture or debentures, made out and passed in the usual manner, for the quantity or quantities of rice duly exported; and if any rice imported into any port of this kingdom, not herein before specially named and warehoused in manner aforesaid, shall be taken out of any such warehouse for home consumption, the remainder of the duties due and payable by law, and also, when imported in American ships, the countervailing duty by this act imposed, shall, previously to its being taken out of such warehouse, be paid to the collector of His Majesty's customs at the port where such rice shall be so warehoused. Provided, that if any rice warehoused under the authority of this act shall remain in such warehouse beyond the period of eighteen months, upon which the full duties due and payable by law shall not have been paid, then in such case the same shall and may be sold for the duties, in like manner, and under the same rules, regulations, and restrictions, as any other goods are now directed by law to be sold for the duties, and the produce applied in like manner as is directed by an act, passed in the twelfth year of the reign of her late Majesty Queen Anne, entitled "An act for encouraging the tobacco trade."

VIII. *Provided always, and be it further enacted*, That nothing herein contained shall be construed to prevent the importation of rice and other articles, without payment of any duty whatever, by virtue of an act passed in the present session of Parliament, entitled "An act to prohibit the exportation of corn, meal, flour, and potatoes, and to permit the importation of corn and other articles of provision, for a limited time, in any ships whatever, without payment of duty," and in the manner in the said act mentioned, during the continuance thereof.

IX. *And be it further enacted*, That all goods, wares, and merchandise, so imported from the United States of America, shall, upon the exportation thereof to any foreign country, be entitled to the same drawbacks as are or may hereafter be by law allowed upon the exportation of goods, wares, and merchandise, of the like denomination and description, when exported to any foreign country; and that there shall be allowed and paid the same drawbacks and bounties on goods, wares, and merchandise, exported from this kingdom to the territories of the said United States, or any of them, as are or may hereafter be allowed by law upon the exportation of goods, wares, or merchandise, of the like denomination or description, to any of the islands, plantations, or colonies, belonging to the crown of Great Britain in America.

X. *And be it further enacted*, That there shall be allowed and paid the same drawbacks upon the exportation of any sort of foreign hemp, or foreign iron, exported from this kingdom to any British colony or plantation in America, and to the territories of the United States of America, or any of them, as are, or may hereafter be allowed by law upon the exportation of the like sort of hemp, or iron, to other foreign parts.

XI. And whereas by the said fifteenth article of the treaty before mentioned, the British Government reserves to itself the right of imposing such duty as may be adequate to countervail the difference of duty not payable on the importation of European and Asiatic goods, when imported into the United States in British or in American vessels, be it therefore enacted, by the authority aforesaid, that, from and after the fifth day of January, one thousand seven hundred and ninety-eight, there shall be raised, levied, collected and paid, to and for the use of His Majesty, his heirs and successors, on the importation into this kingdom of the goods, wares, and merchandise hereinafter mentioned or described, being of the growth, production, or manufacture of any of the territories of the United States of America, and imported directly from thence in American ships or vessels, owned and navigated, as by this act is required, the following additional duties of customs; that is to say, on the importation of any such goods, wares, and merchandise as aforesaid, (except tobacco, and other articles, for which provision is hereinafter made) an additional duty, at and after the rate of ten pounds per centum on the produce and amount of the several duties of customs due and payable by law, on the importation into this kingdom of the like goods or merchandise, from any of the said United States, in British built ships or vessels; on the importation of any such pig-iron, bar-iron, pot-ash, pearl-ash, in manner aforesaid, an additional duty, at, and after the rate of ten pounds per centum, on the produce and amount of the several duties of customs due and payable by law on the importation into this kingdom of any such goods from any British colony or plantation in America, when not accompanied with the certificates required by law; on the importation, in manner aforesaid, of any such pitch, tar, turpentine, rosin, mahogany, masts, yards and bowsprits, and unmanufactured goods and merchandise as aforesaid, (wood, staves, and tobacco excepted) an additional duty, at and after the rate of ten pounds per centum on the produce and amount of the several duties of customs due and payable by law on the importation of any such goods into this kingdom, from any British colony or plantation in America; on the importation in manner aforesaid, of any such unmanufactured wood and staves, an additional duty, at and after the rate of ten pounds per centum on the produce and amount of the several duties of customs due and payable by law, on the importation of any such goods into this kingdom from any part of Europe, not within his Majesty's dominions, in British built ships or vessels; on the importation, in manner aforesaid, of any oil made from fish or creatures living in the sea, and blubber, whale fins, and spermaceti, being the produce of the fisheries, carried on by the people of the said United States, and imported directly from thence into this kingdom in American ships or vessels, owned and navigated as by this act is required, an additional duty, at and after the rate of ten pounds per centum, on the produce and amount of the several duties of customs due and payable by law on the importation of any such goods into this kingdom from countries not under the dominion of His Majesty; on the importation, in manner aforesaid, of any such tobacco so imported, an additional duty of customs, at and after the rate of one shilling and sixpence for every hundred pounds weight of such tobacco.

XII. *Provided always*, That nothing in this act contained shall extend, or be construed to extend, to charge or impose the duty of ten pounds per centum by this act imposed on certain goods and merchandise imported into this kingdom from the said United States in American ships, on the produce or amount of the respective duties of five pounds per centum, and of ten pounds per centum, granted His Majesty by an act made in this present session to parliament, entitled An act for granting to His Majesty certain duties of customs on goods, wares, and merchandise, imported into, exported from, or brought and carried coastwise within Great Britain, except wine, and except coals when brought or carried coastwise; and for applying the money to a use by virtue of an act, passed in the last session of parliament, entitled "An act for the reduction of the drawbacks and bounties now allowed on the export-

ation of sugar, towards defraying the increased charge occasioned by any loan granted, or stock created, by any act or acts passed in the last session of parliament."

XIII. *Provided always*, That if any goods or merchandise so imported from the United States of America shall be permitted, by virtue of any act or acts of parliament in force at the time of such importation, to be secured in warehouses, without the payment of the duties due on the importation thereof, then, and in such case, the additional duties of customs, by this act imposed, shall not be payable unless and until such goods shall be taken out of such warehouse for the purpose of being used or consumed in this kingdom.

XIV. *Provided always*, That nothing in this act contained shall extend, or be construed to extend, to repeal or anywise alter the duties of package, scavage, balliage, or portage, or any other duties payable to the mayor and commonalty and citizens of the city of London, or to the Lord Mayor of the said city for the time being, or to any other city or town corporate, within the kingdom of Great Britain, or to repeal, or anywise alter any special privilege or exemption to which any person or persons, bodies politic or corporate, is or are now entitled by law, but the same shall be continued as heretofore.

XV. *And be it further enacted*, That such of the duties of customs and excise by this act imposed, as shall arise in that part of Great Britain called England, shall be under the management of the respective commissioners of the customs and excise in England for the time being, and such thereof as shall arise in that part of Great Britain called Scotland shall be under the management of the respective commissioners of the customs and excise in Scotland for the time being.

XVI. *And be it further enacted by the authority aforesaid*, That the duties of customs and excise, and the drawbacks of the duties of customs and excise upon, for, or in respect of the several goods, wares, or merchandise by this act imposed and allowed, shall and may be respectively managed, ascertained, raised, levied, collected, answered, paid, recovered, and allowed, in such and the like manner, and in or by any or either of the means, ways, or methods by which the former duties of customs and excise, and drawbacks of duties of customs and excise upon goods, wares, or merchandise in general, and also by any or either of the special means, ways, or methods respectively, by which the former duties of customs and excise and drawbacks of duties of customs and excise upon goods, wares, or merchandise of the same sorts or kinds respectively, were, or might be managed, ascertained, levied, raised, collected, answered, paid, recovered, and allowed, and the goods, wares, or merchandise, so by this act respectively made liable to the payment of, or chargeable with duties of customs and excise, or so entitled to drawback of duties of customs and excise, upon the importation thereof into, or exportation thereof from Great Britain, or on any other account whatever, shall be, and the same are hereby made subject and liable to all and every the conditions, regulations, rules, restrictions, and forfeitures, to which goods, wares, or merchandise in general, and also all and every the special conditions, rules, restrictions, regulations, and forfeitures respectively, to which the like goods, wares, or merchandise, respectively, were subject and liable by any act or acts of parliament in force on, and immediately before the passing of this act respecting the revenues of customs and excise, except where any alteration is expressly made by this act; and all and every pain, penalty, fine or forfeiture, of any nature or kind whatever, for any offence whatever committed against, or in breach of, any act or acts, of parliament in force, on, and immediately before the passing of this act made for securing the revenue of customs and excise, or for the regulation or improvement thereof, and the several clauses, powers, and directions therein contained (unless where expressly altered by this act) shall, and are hereby directed and declared to extend to, and shall be respectively applied, practised, and put in execution, for, and in respect of, the several duties of customs and excise and drawbacks of duties of customs and excise hereby charged and allowed, in as full and ample manner, to all intents and purposes whatever, as if all and every the said acts, clauses, provisions, powers, directions, fines, pains, penalties, or forfeitures, were particularly repeated and re-enacted in the body of this act.

XVII. And whereas, by the said fifteenth article of the treaty before mentioned, it is further agreed that the British Government does reserve to itself the right of imposing on American vessels, entering into the British ports in Europe, a tonnage duty equal to that which shall be payable by British vessels in the ports of America: and whereas, it is thought expedient, for the present, to exercise the power reserved in the said article so far only as relates to imposing a tonnage duty on American ships entering the ports of His Majesty's dominions in Europe, equal to the excess of the duty payable in the ports of the United States by British ships, beyond that which is payable by American ships entering the same ports; *Be it therefore enacted*, That, from and after the fifth day of January, one thousand seven hundred and ninety-eight, there shall be raised, levied, collected, and paid, unto and for the use of His Majesty, his heirs, and successors, a tonnage duty at and after the rate of two shillings, of good and lawful money of Great Britain, for each and every ton burthen of every ship or vessel belonging to the inhabitants of the United States of America, coming or arriving within the limits of any port of Great Britain, and that the tonnage of every such ship or vessel shall, in case of any doubt or dispute as to the same, be ascertained by admeasurement, in the mode and manner directed by an act passed in the twenty- sixth year of His present Majesty's reign, entitled "An act for the further increase and encouragement of shipping and navigation."

XVIII. *And be it further enacted, by the authority aforesaid*, That it shall and may be lawful to and for any officer or officers of His Majesty's customs, to stop and detain every ship or vessel, liable to the payment of the said duty, until the said duty is paid as aforesaid; and, in case payment thereof shall not be made for the space of three calendar months after the arrival of such ship or vessel at any port in this kingdom, it shall and may be lawful to and for the commissioners of His Majesty's customs in England and Scotland respectively, or any three or more of them, to cause such ship or vessel, and her masts, apparel, and furniture, to be sold publicly to the best bidder, and the produce thereof to be applied, first, to the charges that shall arise by such detention and sale, next, to the said duty imposed by this act, and the overplus to be paid to the proprietor of such ship or vessel, or other person duly authorized by such proprietor to receive the same.

XIX. *And be it further enacted by the authority aforesaid*, That the tonnage duty hereby imposed shall be paid into the hands of the proper officer of His Majesty's customs, at the respective ports or places where such duty shall become due and payable, and such duty shall be under the management of the commissioners of His Majesty's customs in England and Scotland respectively.

XX. And to the intent that the said duty may be answered and paid, *Be it further enacted by the authority aforesaid*, That no officer of His Majesty's customs whatever, or his deputy, or clerk, at any of the said ports or places in Great Britain, where such duty shall become due and payable, shall, from and after the said fifth day of January, one thousand seven hundred and ninety-eight, take or receive any entry outwards, cocket, or report outwards, for any ship or vessel liable or subject to the said duty, nor shall such ship or vessel be suffered or permitted to depart, from any such port or place, until the said duty shall be paid, pursuant to the directions of this act, to the respective collectors or other principal officers of His Majesty's customs, authorized to receive the same, and until the respective master or owner of any such ship or vessel, subject to the payment of such duty, shall show to such respective officer a receipt for the same.

XXI. *And be it further enacted*, That all the moneys from time to time arising by the several new and additional duties, by this act imposed as aforesaid, (the necessary charges of raising and accounting for the same respectively excepted) shall, from time to time, be paid into the receipt of His Majesty's exchequer at Westminster, and the said money, so paid in as aforesaid, shall be carried to and made part of the consolidated fund.

XXII. And, whereas, by the thirteenth article of the said treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, it is, among other things, provided, that the vessels belonging to the citizens of the United States of America shall be admitted and hospitably received in all the seaports and harbors of the British territories in the East Indies, and that the citizens of the said United States may freely carry on a trade between the said territories and the said United States, in all articles of which the exportation or importation respectively, to or from the said territories, shall not be entirely prohibited; *And it is further provided*, That the said trade shall be carried on under the regulations contained in the said article; and it is expressly agreed that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to some port or place in America, where the same shall be unladen, and that such

regulations shall be adopted by both parties, as shall, from time to time, be found necessary to enforce the due and faithful observance of the above recited stipulation: *Be it therefore enacted*, That it shall and may be lawful for the ships belonging to the citizens of the United States to carry on the said trade to the British territories in the East Indies, and to import into, and export from, the said territories, all articles, of which the importation or exportation respectively, to or from the said territories, shall not be entirely prohibited, in the manner, and with the privileges and advantages, and subject to the restrictions and regulations contained and expressed in the said thirteenth article of the said treaty of amity, commerce, and navigation, any law to the contrary notwithstanding; and, particularly, notwithstanding any provisions contained in an act, passed in the twelfth year of the reign of His late Majesty King Charles the Second, entitled "An act for the encouraging and increasing of shipping and navigation."

XXIII. *And be it further enacted*, That all acts or engagements entered into by the subjects of the United States or of His Majesty, in pursuance of the said thirteenth article, shall be deemed and taken to be lawfully done, provided the same shall have been done or entered into, since the final ratification of the said treaty; and provided the same might have been done and entered into, agreeably to the said thirteenth article, any law to the contrary notwithstanding; and the same shall be deemed, and taken to be, in all respects, and to all intents and purposes whatsoever, as if the same had been done, entered into, or had taken place, subsequent to the passing of this act, any prohibition to the contrary notwithstanding; and no penalty, forfeiture, or disability, of any kind or nature whatsoever, shall be incurred or sued for, for or on account of any such acts or engagements.

XXIV. And whereas, by the ninth article of the said treaty, it was agreed that British subjects, who then held lands in the territories of the said United States, and American citizens, who then held lands in the dominions of His Majesty, should continue to hold them according to the nature and tenure of their respective States and titles therein, and might grant, sell, or devise the same to whom they should please, in like manner as if they were natives, and that neither they nor their heirs or assigns, should, so far as might respect the said lands and the legal remedies incident thereto, be regarded as aliens: *Be it therefore enacted by the authority aforesaid*, That all lands, tenements, and heriditaments, in the kingdom of Great Britain, or the territories and dependencies thereto belonging, which on the said twenty-eighth day of October, one thousand seven hundred and ninety-five, (being the day of the exchange of the ratification of the said treaty between His Majesty and the said United States) were held by American citizens, shall be held and enjoyed, granted, sold, and devised, according to the stipulations and agreements contained in the said article, any law, custom, or usage to the contrary notwithstanding.

XXV. *Provided always*, That nothing herein contained shall extend, or be construed to extend, to give any right, title, or privilege to any person, not being a natural born subject of this realm, which such person would not have been entitled to if this act had not been made, other than, and except such rights, titles, and privileges, as shall be necessary for the true and faithful performance of the stipulations in the said article contained, according to the true intent and meaning thereof, or to give to any person, not being either a natural born subject of this realm, or a citizen of the said United States, any right, title, or privilege, to which such person would not have been entitled if this act had not been made.

XXVI. And whereas by the said treaty it is further agreed, that His Majesty and the United States, on mutual requisitions by them respectively, or by their respective ministers or officers authorized to make the same, will deliver up to justice all persons who, being charged with murder or forgery committed within the jurisdiction of either, shall seek an asylum, within any of the countries of the other, provided that this shall only be done on such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed, and that the expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition, and receive the fugitive: *Be it enacted by the authority aforesaid*, That in case requisition shall at any time be made, in pursuance of, and according to, the said article, for the delivery of any person charged with murder or forgery, committed within the jurisdiction of the said United States, it shall be lawful for one of His Majesty's principal secretaries of State, by warrant under his hand and seal, to signify that such requisition has been so made, and to require all justices of the peace, and other magistrates and officers of justice, to govern themselves accordingly, and to be aiding and assisting in apprehending the person so charged, and committing such person, for the purpose of being delivered up to justice according to the provisions in the said article; and thereupon it shall be lawful for any justice of the peace, or other person having power to commit for trial persons charged with offences against the laws of this kingdom, to examine, upon oath, any person or persons touching the truth of such charge, and upon such evidence as, according to the laws of this kingdom, would justify the apprehension and commitment for trial of the person so charged, if the offence wherewith he shall be so charged had been committed in this kingdom; it shall be lawful for such justice of the peace, or other persons having power to commit, as aforesaid, to commit the person so charged to His Majesty's gaol, there to remain, until delivered pursuant to such requisition, as aforesaid, and thereupon it shall be lawful for one of His Majesty's Secretaries of State, by warrant under his hand and seal, to order the person so committed to be delivered to such person or persons as shall be authorized by the said United States to receive the person so committed, and convey such person to the dominions of the said United States to be tried for the offence with which such person shall be so charged; and if the person so charged shall escape out of any custody to which he shall be committed, as aforesaid, it shall be lawful to retake such person in the same manner as any person charged with any offence against the laws of this kingdom may be retaken upon an escape, so that such person so charged, as aforesaid, may be effectually delivered up to justice, according to the true intent and meaning of the said article of the said treaty.

XXVII. *And be it further enacted*, That this act shall continue in force so long as the said treaty between His Majesty and the United States of America shall continue in force, and no longer.

[The following documents, explanatory of the treaty with Great Britain, and of the acts of Parliament laid before Congress by the preceding message, are added to those communicated by the President.]

Mr. King to the Secretary of State.

LONDON, *June* 12, 1797.

SIR:

I had the honor to state to you, in a former letter, that a bill was soon to be brought into Parliament, making the commercial provisions required by our treaty. Such a bill has been introduced into the House of Commons; and an abstract of it having been sent to me from Lord Grenville's office, I sent his Lordship a note, with sundry observations upon the regulations proposed to be established concerning our trade and navigation, and requesting his Lordship to confer with me upon the subject before the bill should be discussed in the House of Commons.

I enclose a copy of the abstract, note, and remarks. In my conference with Lord Grenville, I briefly recapitulated the objections which had occurred against the provisions of the bill. His Lordship received them with great candor, and observed, that the details of the treaty, as well as the proposed regulations, being out of his mind, he could not speak with confidence, or conclusively, respecting them; that, in respect to the requisition that our ships trading to Great Britain should be American built, or prize vessels, and navigated by at least three-fourths American seamen, he said it was conformable to the analogous provisions in all former cases, and that this provision existed under the commercial treaty with France, concluded in 1786. I observed that it was impracticable to discriminate, in certain cases, American built from foreign built ships, since all vessels owned on a certain day, in the year 1789, had been registered as American ships; that, though the greatest part, indeed, nearly all of these ships were American built, yet there were a few foreign built, and that a discrimination was impracticable. His Lordship replied that he did

not imagine that, in practice, there would be any difficulty experienced from this regulation. I repeated, in detail, the objections to the bill, on account of the omission of a revision corresponding with that part of the fifteenth article of the treaty, which it has been supposed authorizes us to import into Great Britain, in American vessels, the productions of every country, without being confined to those of America; I said the article, in this respect, was in the face of the navigation act; but that we could understand it in no other light. His Lordship answered that he could not, at that time, make any reply on that point, but expected very soon to be able fully to discuss it.

His remarks respecting the countervailing duty were of a similar nature: he said they were desirous of preserving the present footing of the trade, as far as they could consistently with their treaties with other nations, and that he believed that the variations would be very immaterial; that a table was preparing which would exhibit, at one view, the present footing of the trade, and likewise the variations that would take place by the imposition of the countervailing duty; that, till such a view was before him, he could not, with any advantage, speak concerning the manner of executing the right reserved to them by the treaty.

His Lordship said there was a distinction between the light money collected in England, and the tonnage duty levied in America; the former was private property, and the latter was a public revenue: besides, that the British lights were useful to our commerce, not only with England, but also with other neighboring nations, while our lights were of advantage only in our trade.

I replied that the object of the parties was to give an equal and fair competition to their respective ships in their trade with each other; that it was of no importance, and, in reference to that equality, that there was no difference whether the imposition was for private or public purposes: nor did we maintain our light houses at less expense from the circumstance of their being, from our local position, almost exclusively beneficial to the ships that resorted to our ports; that the right, under the treaty, to impose a tonnage duty on American ships, must be decided by the fact whether British ships, resorting to the American ports, now pay a greater duty per ton than American ships pay which resort to British ports.

Lord Grenville said, that in the equalization of tonnage duties, under former treaties, the light duties had never been included in the compensation, and that it might affect their whole system to consider them as a branch of their public revenue.

I replied, that, in order that their system might not be disturbed, perhaps it might be agreed that they should impose the proposed duty of two shillings sterling per ton on American vessels, to balance the difference of tonnage duties in the American ports; and that we should impose two shillings sterling per ton on British ships, to balance the difference of light money in the British ports. Lord Grenville answered, that the subject was not then so distinctly in his possession as to enable him to pursue the conversation with advantage.

Concerning the India trade his Lordship said, that he then saw no objection to insert a clause in the bill, or to introduce a new bill, giving to the India company a right to permit the American ships to take freights from India to China, and likewise from India to Europe, leaving the subject in the discretion of the local Government of India; and that it was likewise proper that the bill should contain a clause, making valid insurances on American ships, which had been made in England since the conclusion of the treaty. In respect to the doubt which has been started in the case of the American ship Argonaut, Collect, master, whether the trade from America to the British territories in India must not be direct, Lord Grenville said he did not think there would be any difficulty on that point. Our conference ended with Lord Grenville's saying, that, as soon as he should receive the necessary information and documents on this subject, he would converse with me further.

I ought to observe to you, that no certain inference results from this conversation; Lord Grenville having commenced it by saying that he was not prepared to speak conclusively on any point.

With perfect respect, &c.

RUFUS KING.

[The following is the abstract, transmitted by Lord Grenville to Mr. King, and the remarks of Mr. King thereon, referred to in the preceding despatch.]

ABSTRACT.

SECTION 1. Any goods, wares, and merchandise, the produce and manufacture of the United States, which are not prohibited by law to be imported from foreign countries, may be imported directly into this kingdom, subject to the duties hereafter mentioned, in American built ships, or American prize ships, owned by the subjects of the said United States, and navigated by a master and three-fourths at least Americans.

2. American produce or manufactures, (except as hereafter enumerated) to pay the same duties of customs and excise as if imported from any other foreign country in British ships. And where different duties are imposed upon importation from different foreign countries, then upon the lowest of such duties in tables A, D, and F, in the consolidation act. If imported in American ships, then subject also to the countervailing duties imposed by this act.

REMARKS.

SECTION 1. The ships belonging to the people and inhabitants of the United States consist of American built and of foreign built ships. This section establishes a discrimination. American built ships, belonging to Americans, may trade to Great Britain; ships not built in America, though owned by Americans, may not trade to Great Britain, unless they are prize ships. It is not plain that the treaty permits this discrimination to be made: the expressions in the 14th article, are "*the people and inhabitants* of the two countries, respectively, shall have liberty freely and securely, &c. to come with *their ships* and cargoes to the lands, cities, &c. within the dominions and territories aforesaid, to enter into the same, &c. subject as to what respects this article to the laws of the respective countries." This limitation is supposed to regard the prohibition of, and the duties upon, particular commodities, and not to refer to the quality of the ships, nor the manner in which they shall be navigated, whether by subjects or foreigners. The section seems to be liable to objection, not only on account of the discrimination of native built from foreign built ships, but also in respect to the regulation that three-fourths of the crew of American ships should be Americans—regulations adopted by Great Britain, in their system, but not required by the United States. A third objection to the section is, that it confines the American trade with Great Britain to goods, wares, and merchandise, of the growth and manufacture of the United States, contrary to a clause of the 15th article of the treaty, that permits the importation, by American vessels, of any article (whether the production or manufacture of the United States or otherwise) that may be imported by the ships of any other country.

SECTIONS 2, 3, 4, 5, 6, 7, 8. These sections appear to change, in several instances, the footing on which the American trade now stands; and this to its disadvantage. At this time any unmanufactured goods and merchandises, the importation of which is not prohibited by law, (except tobacco, fish oil, whale fins, and spermaceti, which are subject to other regulations) and any pig iron, bar iron, pitch tar, turpentine, rosin, potash, pearlash, indigo, masts, yards, and bowsprits, the growth or production of the United States, may be imported on the footing specified in the third section. All other goods and merchandise, (except tobacco,

3. Pig iron, bar iron, pitch, tar, turpentine, rosin, potash, pearlash, masts, yards, bowsprits, and unmanufactured wood and staves, imported, (without any certificate) to pay the same duties as if imported in British built ships, from the British Plantations, with certificates subject also, if imported in American ships, to the countervailing duties imposed by this act.

4. Oil, blubber, whale fins, and spermaceti, may be imported on the same duties as if imported in British built ships from foreign countries, subject likewise to the countervailing duties imposed by this act.

5. Tobacco may be imported on the same duties as from a British colony; and snuff upon the same duty as when imported from Europe, subject to the regulations of the 29th George III., and 30th George III., and to the countervailing duty.

6. Rice may be landed and warehoused upon paying 8*d.* the cwt., and giving bond for the remainder of the duties within eighteen months. Provided that in the port of London, and other enumerated ports, it may be landed and warehoused without paying any duty, with liberty to export the same within eighteen months; or, if taken out for home consumption, upon paying the duty payable thereon.

A saving of the temporary provision bill, which admits certain articles duty free.

7. Goods, &c. exported from the United States, entitled to the same drawbacks, when exported from Great Britain to any foreign country, as the like goods are entitled to on exportation to any other foreign country by law, and goods exported to the United States, entitled to the same drawbacks and bounties as if exported to the British colonies.

8. The same drawback upon the exportation of foreign hemp and iron to any British colony, or to the United States, as is now, or may hereafter be, allowed by law, upon the exportation thereof to other foreign ports.

9. From and after the 5th of January, 1798, goods, &c. the growth, produce, or manufacture of the United States of America, imported into this country, directly from the said States, in American ships, to be subject to the following additional duties of customs, viz.

10. All goods, &c. (except tobacco, and other articles for which provision is made hereafter) 10 per cent. on the amount of the duties of customs, payable on such articles when imported from the United States in British ships.

11. Pig iron, bar iron, pot and pearl ash, 10 per cent. on the amount of the duties of customs payable on the said articles imported from any British colony, or plantation, in America, when not accompanied with the certificates required by law.

12. Pitch, tar, turpentine, rosin, masts, yards, and bowsprits, 10 per cent. on the amount of the custom duties payable on these articles when imported from any British colony or plantation in America.

13. Unmanufactured wood, and staves, 10 per cent. on the duties of customs payable on such goods, imported from any part of Europe not within His Majesty's domains, in British ships.

14. Oil, blubber, whale fins, and spermaceti, the produce of American fisheries, 10 per cent. on the duties of customs payable on the like articles, on importation from countries not under the dominion of His Majesty.

15. Tobacco, 18*d* per hundred lbs. weight.

16. This act not to be construed to impose this additional duty of 10 per cent. on the duties of 5 per cent. and 10 per cent. granted to His Majesty, by an act of the present session, on certain goods (except wine and coals) exported from, or brought, and carried coastwise within Great Britain.

17. This additional duty of 10 per cent. not to be paid on goods permitted to be imported from the United States, and to be warehoused, until, and unless, such goods are taken out of the warehouse to be consumed in this kingdom.

18. This act not to exempt from duty any articles in American ships, which by any law now in force, may be imported without payment of snuff, and rice,) not above enumerated, and also fish oil, whale fins, and spermaceti; being of the growth, production, or manufacture of the United States, may be imported on the footing specified in the second section.

Tobacco, snuff, and rice, will remain upon the same footing on which they now stand.

These changes will yield little or no advantage to the British revenue; they will affect disadvantageously the course of business which, from practice, has become, in some degree, habitual; they regard a subject of detail and intricacy in which alterations for slight causes should be avoided; they, moreover, afford occasion for misrepresentation and misunderstandings; added to which, the early period at which the commercial regulations of the treaty must again come under examination, and the mutual interest of the parties that the most impartial and liberal views should prevail on that occasion; may lead at least to a doubt whether any change of the existing state of the trade between Great Britain and the United States, will be a measure of prudence, in reference to future and more important arrangements on that subject.

Sections 9 to 20, both inclusive. These sections are liable to objections; the right to impose a countervailing duty is clear; the policy, under existing circumstances, of exercising this right, merits, perhaps, consideration.

Most of the commodities imported into Great Britain by American ships are raw materials, and of importance to the manufactures, to the navigation, and to the marine of England; the policy of England has hitherto been to obtain these articles in the cheapest and most easy manner; this countervailing duty, though disadvantageous to the American, will enhance the price of raw materials to the manufacturer of England; it will also change the present footing of the American trade, and be liable to the inconveniences that may arise from such change.

Besides, the object which alone can be in view in the imposition of this countervailing tax, may be defeated, after the expiration of two years subsequent to the peace: it is only for that term that the American Government are restrained from increasing the existing difference of duties on goods imported into the United States in American and British ships; the British Government can countervail only the now existing difference; the American Government cannot increase this difference at any time before the expiration of two years after the peace; but afterwards, they may increase the difference; and the British Government will have no right to countervail such augmentation. It may be added, that admitting the policy to be as clear as the right, still it is not obvious that the manner of imposing this countervailing duty is warranted by the treaty. The right reserved, is to countervail, by an adequate duty, the difference of duty payable on goods imported into the United States by American and British ships: the thing to be countervailed is not a given sum, but a ratio, or proportion; the rule is simple, and its application should be so likewise. Instead of imposing 10 per cent. upon the duties payable on American goods imported from America in British ships, which it is conceived would be a rule in itself simple, as well as simple in its operation, these sections, in some cases, impose 10 per cent. upon the duties payable on goods imported from the United States by British ships; in others, 10 per cent. upon the duties payable on similar goods imported from British colonies, without certain certificates; in others, 10 per cent. upon the duties payable on similar goods imported from British colonies; in others, including certain articles of wood, the duty on which will amount to a prohibition, 10 per cent. on the duties payable on similar goods imported in British ships from any part of Europe, not under the British dominions; in others, including the important article of fish oil, already subject to a very heavy duty, 10 per cent. upon the duties payable on similar goods imported from countries not under the British dominions; and, in the case of tobacco, a specific sum (not a proportion of duty) of 18*d.* per hundred.

duty only upon condition of their being brought in British ships, unless such goods are particularly exempted from duty by this act.

19. Proviso to save the duties of package, scavage, balliage, or porterage, or other duties payable to the city of London, or other corporation, and to save also special privileges and exemptions belonging to any private persons or bodies politic.

20. All the duties imposed by this act, placed under the respective commissioners of excise and customs in England or Scotland. All these duties and drawbacks, as well as all penalties and forfeitures arising from this act, subjected to the rules and regulations already provided by law in such cases respectively.

21. A tonnage duty of 2*s.* to be paid by American ships arriving in Great Britain, such tonnage to be ascertained by admeasurement, according to statutes 26th Geo. III. ch. 60.

22. Officers of the customs may detain ships, and, after the space of three months, such ships may be sold for paying such tonnage duty.

23. The produce of such tonnage duties to be under the management of the commissioners of the customs in England and Scotland; and no such ship is to be suffered to clear out till the master shall have produced a receipt for the payment of the tonnage duty.

24. Money arising from the duties imposed by this act to be paid into the exchequer, and to be made part of the consolidated fund.

25. Lands, &c., holden by American citizens on the 28th of October, 1795, shall be enjoyed, granted, &c. according to the stipulations and agreements in the 9th article of the treaty.

26. Proviso that this shall not extend to give to persons, not being natural born subjects, other privileges, &c. than such as are necessary for the foregoing purpose.

27. In case of requisition, according to the 27th article of the treaty, His Majesty's Secretary of State is to require justices of the peace, &c. to apprehend persons charged with murder or forgery, committed within the United States, and to proceed in the examination, and commit to gaol the same as if such crime had been committed in this kingdom; and to order the persons so apprehended and committed to be delivered to any person authorized from the United States to receive them into custody.

It is possible that this mode of executing the countervailing right may be the least burthensome to the American commerce; but as the standards referred to are various, and unknown, it may be, likewise, that this manner of executing the right will be found to be injurious; it seems certain that it will be obscure to the Americans. Besides, a plain, simple, as well as an equitable mode of imposing this countervailing duty may be devised. Why, then, resort to one that is, at least, to one of the parties, obscure, complex, and concerning the equity of which it can only be an affair of conjecture.

Sections 21, 22, 23. These sections propose to levy 2*s.* per per ton on American ships, under that clause of the 15th article of the treaty reserving to Great Britain a right to impose, on American vessels in Europe, a tonnage duty, to equal that impost on British vessels within the United States. The object of this stipulation of the treaty was to put upon an equal footing the ships of the two countries in their trade and intercourse with each other. This was equitable; and if a difference of imposition exist, it should be countervailed; the propriety of the tax, then, depends on the fact whether British vessels, trading to the American ports, do pay higher tonnage duties than American vessels, trading to British ports, pay; the coast of America is very extensive; and, from one extreme to the other, is lighted at a great expense; there is no duty or tax collected from ships under the name of light money; the only tax or duty is called a tonnage duty, which amounts to 2*s.* 3*d.* sterling per ton on foreign ships; this tax, together with one of the same denomination, but less in amount, paid by American ships, is paid with all other taxes into the general treasury, and stands appropriated, in common with them, for the payment of annuities, and the various objects of public expenditure, including the building and support of light houses, beacons, buoys, &c. In the ports of Great Britain the duties paid on the tonnage of foreign ships, for light money, and other objects, vary; and, indeed, from the rights of different cities and corporations it is not easy to ascertain, with precision, the extent of these demands upon foreigners in their commerce with Great Britain. In Liverpool and Bristol, as well as in London, there are taxes, incident to navigation, which are levied in a double or some increased ratio upon foreign ships; in all cases the British light money is double upon foreign ships. The lights of St. George's channel, on foreign ships, amount to 10*d.* per ton; in the English channel to 2*s.* 4*d.* per ton; and the northern lights to 8½*d.* per ton; and American ships, touching for orders, and bound up channel as far as Amsterdam, pay all the channel lights; and if to the northward of Amsetrdam they pay the channel and northern lights; and it is understood that this duty is exacted for the passage, up and down, whether the vessel returns down channel, goes north about, or never returns. Thus, on an American vessel, of 200 tons burthen, the duty for channel lights is £23 6*s.* 8*d.*, and for northern lights £7 1*s.* 8*d.*, making £30 8*s.* 4*d.* which, taken for both passages up and down, makes £60 16*s.* 8*d.*, or 6*s.* 1*d.* per ton. If the American ship falls into St. George's channel, and afterwards pursues her voyage up the English channel, which is not uncommon, she pays for the lights in St. George's channel, which amount to 10*d.* per ton; which, added to 6*s.* 1*d.* gives a tonnage duty of 6*s.* 11*d.* paid by American ships, and amounting, on a ship of 200 tons, to £69 3*s.* 4*d.* which is £34 11*s.* 8*d.* more than is paid by a British ship of the same tonnage, provided that British ships pay for the passage, up and down, otherwise the difference against the American ship will be £49 15*s.* 10*d.*

Or thus. A British and American ship, for the advantage of all the lights on the American coast, in their inward and outward passage, pay a tonnage duty, viz:

A British ship of 200 tons,	*Sterling*,	£22 10*s.*
An American, of like tonnage,		2 10
Difference,		£20 00

A British and American ship for the advantage of the lights in St. George's Channel, the English Channel, and for the Northern Lights, pay a tonnage duty, viz:

British ship of 200 tons, for a single passage,	£19	7*s.*	6*d.*
American ship of the same tonnage, double passage,	69	3	4
Difference,	£49	15	10

Or, if the British ship pays two, or double passages, then thus:

British ship,	£34	11*s.*	8*d.*
American do.	69	3	4
Difference,	£34	11	8

This is stating the question in the strongest manner against the American ships. If, instead thereof, an average statement could be made, especially if, in addition to the heavy tax for the support of lights which foreign ships pay, the local and corporate duties are taken into the account, it is confidently believed that a result would appear unfavorable, (if not in the extreme above stated) to the American navigation. The conclusion is against the proposed tonnage duty of 2*s.* per ton, on American vessels. It is true that few British vessels are at present employed in the trade between Great Britain and the United States. This may be satisfactorily accounted for, without recourse to an opinion that it proceeds from the tonnage duty imposed by the United States.

28. American ships may trade to and from the British territories in the East Indies, subject to the restrictions contained in the 13th article of the treaty, and notwithstanding the navigation act, 12th Charles II. sec. 22.

29. All acts or engagements done or entered into by American or British subjects, in pursuance of the 13th article of the treaty, since the final ratification of the treaty, and in conformity thereto, shall be deemed, to all intents and purposes, as if they had been done or entered into, subsequent to the passing of this act.

30. This act to continue as long as the treaty, and no longer.

Sec. 28. The American cargoes for the India market consist of wines, usually taken on board in the outward passage at Madeira, and various other articles, sometimes collected in America, and frequently purchased on the outward passage in England and elsewhere. This was the footing on which the trade stood when the treaty was made. The object of the treaty, in this respect, was, to convert a favor into a right. A question has been started, whether the trade from the United States to India must not be direct, in the outward, as well as in the return passage. It is of importance to the security of this branch of the American commerce, that no doubts should exist on this point; and, as from a careful examination of the article there does not appear to be any reason to doubt the intentions of the parties, it is to be wished that expressions may be used in the proposed bill which shall remove all questions on this point.

The American vessels which take on board goods in the British territories in India, are required to return direct to America; but it never has been understood that the voyage must be direct from America to such British territories. Should such a construction be attempted, it would defeat, in a very considerable degree, the benefit of the article. The footing of sufferance on which the trade stood before the treaty would be preferable.

Previous to the treaty American vessels sometimes obtained freights from the British territories in India to China. It is believed that such freights are still occasionally obtained by the Danes and Swedes; and, likewise, that the ships of these nations obtain permission of the British local government in India, to take freights from India to different parts of Europe.

It would be a very satisfactory measure to the American merchants, if, by a clause in the proposed act of Parliament, these advantages, which are gratuitously enjoyed by the Swedes and Danes, might, likewise, be enjoyed by the Americans, in such cases as the competent authority in India should allow.

All that is desired on this head is, that the treaty may not be construed to incapacitate the Americans from enjoying, by favor, those advantages which, by favor, are occasionally granted to other neutral and friendly merchants.

Mr. King to the Secretary of State.

London, *4th July*, 1797.

Sir:

In a further conference with Lord Grenville, respecting the bill for carrying into effect the treaty with us, and the remarks that I sent him on that subject, his Lordship stated to me the following observations upon these remarks, which had been made by the Board of Trade.

"Section 1st. The object of this clause of the bill is to equal (as far as respects the United States) the third section of 12th C. II. c. 18; by which the trade with Asia, Africa, and *America*, is confined to British built ships only.

"It is conceived that the discrimination complained of is clearly comprehended under the words "subject always, as to what respects this article, (that is, article 14) to the laws and statutes of the two countries respectively;" which words cannot be supposed to relate, exclusively, to duties and prohibitions; no mention whatever being made of duties or prohibitions in any part of the article.

"The expression *their ships*, on which this objection is grounded, is to be found in most of the commercial treaties concluded by Great Britain, particularly in those with Russia and France. But no idea was ever entertained, either here or in Russia, or in France, that by such a stipulation, the French were exempted from the provisions of the eighth section of the act of navigation; and no deviation from the spirit or letter of that act can be supposed to be intended by either party, except where it is expressed in the most unequivocal words.

"The general principle of the bill (with a variety of exceptions in favor of America) is to put America upon the footing of the most favored *European* nation. The regulations respecting the built of European ships, and the persons by whom they are navigated, apply, more or less, to the trade of every European nation. There seems, therefore, no room to complain that they are applied to America. It may further be observed that this restriction has been established by the orders in council, by which the trade has hitherto been regulated; and that, under this restriction, the trade has annually increased, and is now carried on entirely in American bottoms.

"The third objection arises from the accidental omission of the words "from thence," in the copy of the abstract. Those words are in the order of council, and will be in the act. The restriction upon the American trade is no more than a restriction of the *indirect* importation of goods, the growth, produce, or manufacture of America; a restriction which applies, in all *material* articles, to every European nation. All European articles, the importation of which is not confined by the act of navigation to British ships, or ships of the built of the country, from whence such articles are brought, or has been since exempted from the operation of that act by particular provisions, will remain free to American ships, in common with all others.

"The extended interpretation, given by the remark to one of the clauses of the 15th article, is inadmissible. In the first place, that clause, connected with what precedes it, evidently applies only to the articles, and not to the manner in which they are brought. In the next, the interpretation would completely defeat, by a side wind, the whole principle of the act of navigation, and cannot, therefore, be supposed to have been intended.

Sections 2, 3, 4, 5, 6, 7, 8. By all these sections the importation of all American articles, in *British ships*, is intended to be left precisely upon the same footing in which it stood by the orders in council, from which the words of the proposed act are nearly taken. These have been now acted upon without difficulty for many years, and are clearly understood, both here and in America. It is to be hoped, therefore, that no occasion is given for misrepresentation or misunderstanding, at least in this part of the bill.

"It is true that non-enumerated unmanufactured goods and merchandise, which were importable under the orders in council on the British plantation duties, would be importable, by this act, on the duties payable by the most favored nation. The difference is not believed to be material, because the chief articles of that sort are specified in the next section, and are thereby made importable on the British plantation duties; and because there are but few articles, besides those specified, which pay less duty, or are duty free, when imported from a British plantation. There will, however, be no objection to restore non-enumerated unmanufactured goods and merchandise to the footing on which they stood by the orders in council; and the bill will be brought into the House of Commons upon that principle.

"All the material articles of the American trade, which might, according to the treaty, have been subjected to the heavy duties now payable on many of them by the most favored nation, are put upon a par with the same articles from British colonies, and pay either a very low duty, or no duty at all. Amongst the latter are pot and pearl ashes, bar and pig iron, and most articles of wood.

"Indigo was omitted among the enumerated articles, as the insertion of it was stated by the officers of the customs to be superfluous; it being importable, under certain regulations, from all countries, duty free.

"The general stipulation respecting duties in the treaty is, that the duties on American articles shall not be higher than are, or shall be, payable on the like articles from any other foreign country; and the provisions of the former sections prove that this country is sensible of the principles of policy stated in the remark.

"According to the treaty, such further duty may also be imposed as may be (not *equal to*, but) *adequate to countervail* the difference of duty on the importation of European and Asiatic goods into the United States, in British and American vessels. The object of retaining such a right was by *no* means to check American trade, but to protect British navigation, on the same principle on which America has protected her own; and the manner in which it is now proposed to be exercised will be found, upon examination, liberal; never exceeding, and, in most cases, falling within, the limits prescribed by the treaty.

"The interpretation given to the last clause of the 15th article is far from clear or admissible; but, even if it were true that, at the period referred to, the American Government might increase the now subsisting difference between the tonnage and other duties on British and American ships, it is also true that the British Government might exercise their right of imposing duties on American articles, in any ships, and countervailing duties on such articles in American ships to its full extent; and that both countries might experience much inconvenience from such a conduct. But it may be hoped that both countries are too sensible of their mutual interest to engage in this kind of commercial hostility; and the manner in which the British Government proposes, at present, to exercise its rights, is perfectly remote from any such idea.

"The mode of imposing the countervailing duty is stated to be obscure, and another more simple is proposed.

"Had the right of imposing duties been exercised to its full extent by one general clause subjecting American articles to no higher duties than those payable on similar articles from any other foreign country, obscurity would have been avoided; a countervailing duty (in addition to such duties) of ten per cent. on their amount might have been imposed. The rule would have been simple in itself, and simple in its operation; but the most material articles of the American commerce would have been exposed to heavy, and, in many instances, insupportable burthens. All the apparent obscurity and complexity of these provisions, which, however, will be found upon examination to be sufficiently intelligible, arises from the desire on the part of the Government of this country of favoring the American commerce in its most important branches.

"The rule proposed in the remark is not indeed (nor could it be expected that it should be) *that* rule which is above stated as the *most* simple. But it is suggested that 10 per cent. should be imposed upon the duties payable on American goods imported from America in British ships. It will be found, upon examination, that this is exactly what is done in all cases to which such a rule is applicable.

"Section 10 applies this rule to all the articles included in section 2. Section 14 applies it to the articles included in section 4. Section 11 relates to bar and pig iron, pot and pearl ash.

"These articles are generally subject to duty, but, when imported from the British plantations, *with certificates*, are duty free.

By section 3, these articles, when imported from the United States in British ships, are put upon the same footing as if imported from the British plantations, with certificates, and are therefore duty free.

"As the imposition of 10 per cent. upon nothing is impossible, it is imposed upon the amount of the duty payable on importation from the British plantations *without certificate*.

"This duty on pot and pearl ash is about 2*s*. 4*d*. per cwt.; the ten per cent. will be about 2½*d*.

"This duty on pig iron is about 5*s*. 9*d*. per ton; the ten per cent. will be about 6½*d* per ton.

"This duty on bar iron is about £3 1*s*. 9½*d*. per ton; the ten per cent. about 5*s*. 7½*d*.

"These will be the only duties payable on these articles, even when imported in American ships; whereas the duties which might have been imposed, consistently with the treaty, would have been, on pig iron above, £31 10*s*. per cwt. ad valorem; and on bar iron, above £3 7*s*. per ton.

"The importation of iron from America consists almost entirely of pig iron, on which the proposed duty is merely nominal.

Section 13 relates to unmanufactured wood and staves, upon which no duty is payable when imported from the British plantations. The imposition of ten per cent., on the proposed principle, was here also impossible; and the ten per cent. is therefore imposed upon the lowest duties on wood and staves imported from foreign countries, *i. e.* when so imported in British ships. American unmanufactured wood and staves, as well as the articles in section 11, will, therefore, pay nothing when imported in British ships; and when imported in American ships, only one-tenth part of the duty payable on the same articles when imported from any other country in British ships.

"This can hardly be conceived to be, in any instance, a prohibitory duty. It will, in fact, be, upon most articles, little more than nominal. The duties paid by the wood of other countries, amounted, last year, to about £350,000; of which America paid no part whatever.

"Section 12. These articles are in no case duty free. They do not, therefore, require the same special provision with the articles included in section 11. But the rule proposed in the remark is exactly applied to them.

"Section 15. The proposed additional duty on tobacco imported in American ships is 18*d.* per 100 lbs. weight.

"The present custom house duty on British plantation tobacco, imported in British ships, is 6*d.* per pound, *i. e.* 50*s.* per 100 pounds weight.; the ten per cent. upon this would be 5*s.* It is not necessary to observe how far the adoption, in this case, of a specific sum, instead of a proportion of a duty, is favorable both to American commerce and navigation.

"If the proposed tax upon American commodities, even when imported in American vessels, is conceived to be a heavy burthen, it is desired that the duties now payable in America upon all articles of British commerce should be compared with those which, after passing the proposed bill, will be payable in Great Britain upon all articles of American commerce. A glance of the eye over such a comparative table would supersede the necessity of further argument upon this head.

"It should, however, be observed, that the rate of custom duties has, of late, been considerably increased in America. On comparing the tax table of August, 1790, with the bill which commenced on the last day of March, 1795, (subsequent to the date of the treaty) it will be found that the duties on all the articles of British trade, have been raised in different proportions, varying from the addition of one-third, to the addition, in many instances, of a tax equal to the original duty. The difference of duty, on importing the same articles in British or American ships, has indeed still been only ten per cent.; but it is evident that this ten per cent. when calculated upon a larger sum, imposed, in fact, a heavier burthen; and, if a literal interpretation were to be insisted upon, might be argued, "to increase the then subsisting difference between the duties payable on the importation of any articles in British or American vessels;" which increase is particularly provided against in the fifteenth article.

"Sections 21 to 26. The doubt implied in the remarks on these sections, whether the tonnage duty proposed to be levied on American ships is within the stipulation of the treaty, rests upon a supposition (which cannot be admitted) that the contracting parties were ignorant of the difference then existing in the light, and other duties, payable in British ports by British or American vessels. That difference was, in fact, notorious to both parties; and, notwithstanding that the right reserved is *expressly* to impose a tonnage duty equal to (*not* "*adequate to countervail*," as expressed in another part of the same article) that which shall be payable by British vessels in America.

"It might further be stated that light house duties, or tolls, never have been considered, as yet, in the negotiation or construction of any treaty of commerce, as public duties; they are, in truth, not so: they are of service to many foreign ships which never enter a British port, and they are so various, according to the different voyages made by different ships coming into our ports, that any attempts to calculate any countervailing duty, with a reference to these tolls, would be deficient, if not impracticable.

"The right reserved by the treaty is not, however, proposed to be exercised to its full extent, as the intended tonnage duty, of 2*s.* per ton, is not equal to the tonnage duty payable in America by British ships, but to the difference between the duty payable in America on British and American ships.

"The light duties on all ships vary in the different ports of Great Britain, each ship being charged for the toll of such lights only as she passes; but no tolls are collected in any of the outports by the corporation of Trinity House, except the light duties. In London, American and other ships, besides the toll to the several lights, pay a duty of about 8*d.* per ton, (under the denomination of Trinity duties) for the buoys and beacons, which are very numerous.

"The tolls for the benefit of the lights are, in general, double on American and other foreign ships to what British ships pay.

"With respect to the light duties on American ships passing up St. George's channel, the English channel, and the northern lights, the following is an accurate statement of the light duties paid by an American ship of 200 tons, and a British ship of the same burthen, viz:

	£.	s.	d.
An American ship of 200 tons, passing through the English channel to London, pays to the numerous lights on the coast,	10	16	8
And, on her return,	10	16	8
Which is 1*s.* 1*d.* per ton, each way,			
If the same ship proceeds to the Baltic, the additional lights amount to	4	1	3

Which is less than 5*d.* per ton, and is payable for the single passage; but the same ship passes the northern lights on her back passage, without any additional charge.

	£.	s.	d.
An American ship of 200 tons, from America to Liverpool or Bristol, pays, for lights,	5	00	00
And thence to America,	5	00	00
Which is 6*d.* per ton each way.			
A British ship of 200 tons, from London to America, pays	5	16	08
From America to London,	5	16	08
Which is 7*d.* per ton each way.			
A British ship of 200 tons, from Liverpool or Bristol to America, pays	2	10	00
Back from America,	2	10	00
Which is 3*d.* per ton each way.			

On a supposition that an American ship performs the after mentioned voyage, which rarely happens (it may be said never) she pays for 200 tons in the following proportion to a British ship, viz:

	American. £.	s.	d.	British. £.	s.	d.
From America to Bristol,	5	00	00	2	10	00
Bristol to London,	10	16	8	5	16	8
London to the Baltic,	4	1	3	3	4	7
For her return to America,	15	16	8	8	6	8
Northern lights not charged for, the back passage.						
	£35	14	7	£19	17	11

"So that an American ship of two hundred tons would pay, £35. 14*s.* 7*d.* (not £69. 3*s.* 4*d.* as stated in the remarks) for a voyage from America to Liverpool or Bristol, from thence to London, from London to the Baltic, and home to America.

"A British ship, for the same voyage, would pay £19. 17*s.* 11*d.*

"In the course of the above voyage a ship passes, and has the benefit of, thirty-six lights; every one of which leads her clear of the most dangerous sands, shoals, or rocks; and American ships always avoid the payment of lights for their passage through the English Channel, if bound to a foreign port, by not entering a British port, unless bound there to deliver, or forced in by distress of weather; and then they only pay for such lights as they receive benefit from; and although American ships pay their light duties for the passage up and down the channel, yet if such ships do not pass all the lights, in the several channels, which they have paid for, either by not returning down channel, going north about, or never returning, the duties they paid for the several lights they have not passed are returned to them.

"Section 28. Nothing can be further from the intention of this country than any idea of so constructing the treaty as to *incapacitate* the Americans from enjoying, by favor, the advantages which are granted, occasionally, by favor, to other friendly and neutral merchants. Nothing in the section can have any such effect. It does no more than permit American ships to carry on the trade as stipulated by the treaty.

"The intercourse which neutral ships have been allowed to enjoy with the British territories in India, though sanctioned by custom, appears, by some late decisions in our own courts of justice, to be contrary to law: and it will be necessary to make some general legislative provision upon that subject. The directors of the East India Company will then be legally authorized to give directions for the admission of neutral ships, subject to such regulations as they may think proper: provided, only, that they are not inconsistent with any act of Parliament for regulating their trade, nor with any treaty.

"By the proposed clause the intercourse, stipulated by the treaty, is exempted from the discretion of the directors, and put upon the footing of right. With respect to all other intercourse, American ships will be capable of profiting, in common, with others, of such advantages as may be granted by favor."

From the tenor of these observations it was evident that most of the points were so far settled as to leave little hope of alteration. I however insisted upon the equity of the objection against the tonnage duty, as well in my conference with Lord Grenville, as with a subsequent one that I had with Lord Liverpool. The answer was, that their light duties were not a branch of revenue; that the terms of the treaty left no room for construction; and that, independent of their desire to encourage their own navigation, the balancing of their light duties against our tonnage duties would constitute a precedent that would operate to their disadvantage in their future treaties with other nations. I concluded the discussion, on this head, by observing that it was reasonable to suppose, that the parties did intend to put their navigation upon an equal footing, in their intercourse with each other; that it was plain that this equality would not exist under the proposed tonnage duty; and that there remained no other mode of correcting the inequality, but by our Government's imposing and collecting a duty under the denomination of light-money.

Light houses, in Europe, are generally supported by a duty, imposed for that special purpose, upon all ships, and the duty is commonly double upon foreign ships. I have not discovered that these tolls, or duties, have ever been included in the computation frequently made in the adjustment or equalization of the taxes imposed by different nations upon the ships which enter their ports.

These duties are not considered as a branch of revenue; from the manner in which our tonnage duty is levied, collected, and paid, it is deemed to be a branch of our revenue; though a considerable portion of the amount of the duty is annually applied to support our light houses, beacons, buoys, &c.

It merits consideration, not only in reference to this country, but likewise as it respects the similar duties of other European nations, whether we ought not to impose, in like manner with them, a particular and adequate duty upon all ships for the support of our light houses.

In these conferences I urged, but without success, the objection that I had before made against the full countervailing duty upon fish oils; as the countervailing right was not exercised in its full extent in respect to tobacco and rice. I suggested the policy of a small additional duty only, to the very high duties already imposed upon this article. I was answered, that in tobacco and rice we were not rivals, but that in the whale fishery we were so; that, even against high duties, large quantities of our spermaceti oil, and occasionally cargoes of our brown oil, were sold in England; and that our skill and situation gave us great advantage over others in this branch of industry.

My efforts have been more successful in respect to our trade to India. A clause was added to the bill, giving it a retrospective operation from the time of the exchange of the ratifications of the treaty, by which the insurances which had been made here upon our ships in that trade will become legal. Another clause which had been added to protect such of the British officers against suits as, after the conclusion of the treaty and before the passage of the bill, had seized American ships trading to India, was rejected. This clause had been inserted in the bill with a special reference to the capture, by Lord Keith, at the Cape of Good Hope, of the ship Argonaut, Collect, master; its rejection leaves the remedy in full force, as well against the underwriters as against Lord Keith.

I found, in the course of these conferences, that our construction of the 13th article of the treaty, in respect to the outward voyage to India, would be admitted by this Government; and that we have a right, under that article, to go to India from England, Madeira, or any other country, and with productions collected and taken on board at any place, instead of being confined to a direct voyage from America to India; a construction of the article that the East India company have endeavored to establish.

I likewise found the greatest readiness to put us upon as good a footing as any other nation in the trade which, by favor, may be carried on with India. A late decision in Westminster Hall had shown, that the trade hitherto carried on by foreigners with the British possessions in India, was against the navigation act: a bill has, therefore, been brought into Parliament, vesting in the directors of the East India company a power to permit such trade, under such regulations as may be judged advisable. These regulations will be principally for the purpose of preventing British subjects carrying on a trade under foreign flags; our ships, by this bill, will have an equal right with those of other nations in amity with Great Britain, to share in the coasting trade of India, in the freightage from India to China, and from India to Europe, the restrictions and limitations in our treaty notwithstanding.

The East India company have opposed this bill; though I have good reason to be satisfied that they have done so, not from an aversion to our participation in the trade, but from an apprehension that British capital and British subjects would engage in it, to the injury of the company's monopoly.

The bill for carrying the American treaty into effect has passed into a law.

The bill permitting the ships of nations in amity with Great Britain to trade to the British possessions in India, under certain regulations, is before Parliament, and will probably pass into a law. (See page 103.)

I annex copies of sundry papers which have passed between the Court of Directors and the Board of Control, respecting as well this bill as that which has passed into a law for carrying into effect the American treaty.

With perfect respect and esteem, I have the honor to be, Sir, your obedient and faithful servant,

RUFUS KING.

Papers referred to in the preceding letter.

J. Anstruther to Mr. Inglis.

LINCOLN'S INN, 31*st May*, 1797.

SIR:

A case has lately occurred in the Court of King's Bench respecting the trade of foreigners to India, which renders some law upon the subject necessary. An action was brought upon a policy on the cargo of an American ship loaded in the British territories in India. Lord Kenyon held, that it was against the act of navigation for foreigners to export from, or import into the British territories in India, any goods whatever; and therefore nonsuited the plaintiff. If this decision be right, a Danish, or Swedish, or American ship, loading her cargo in India, is liable to be seized and confiscated, and some law must be passed to set the matter right.

The attention of the Board of Trade was called to the point by the American minister. They sent the subject to the Board of Control, who thought the proper mode of remedying the evil was, to put the trade under the regulation of the East India Company. By their directions, I have prepared the accompanying act, to be submitted to the court of directors. I have the honor to be, yours, &c.

J. ANSTRUTHER.

HUGH INGLIS, Esq.

Mr. Dundas to Mr. Inglis.

WHITEHALL, 14*th June*, 1797.

SIR:

I have received your letters enclosing two clauses which are wished to be inserted in the bills now pending in Parliament, one for carrying into effect the treaty with America; the other for regulating the trade to be carried on with India by the ships of nations in amity with Great Britain.

These subjects are closely connected together, and I shall shortly give you my reasons why I would deem it very impolitic to bring either of those propositions under discussion. I do not think Parliament would agree to adopt them; and therefore, all the unpopularity likely to arise from the discussion would attach on the East India Company alone.

First, with regard to the clause respecting the American intercourse with India, I think the clause goes beyond the terms of the treaty; for I can discover no words in it to justify the proposition that the Americans are bound to go directly from America without touching at any other port; and therefore it would be most impolitic indeed to attempt, at the request of the East India Company, to make the situation of the American trade to India more severe than settled by a solemn and well considered treaty. Besides, it is well worthy the consideration of the East India Company, if it is not more impolitic to relax from the rigor of the American treaty, as it now stands, than to endeavor to draw it straighter than the terms of that treaty warrant. If a more extensive mode of trading to India is permitted to other nations, in amity with Great Britain, the Americans, whose amity with us is at least as desirable as that of any other nation, would probably consider themselves hardly dealt with if they were to be kept in a worse state of intercourse with India than that which has been, and I think, probably will be, continued to other nations in amity with us.

This leads me to observe upon the clause proposed to be inserted in the other bill, relative to the intercourse of other nations in amity with us. Upon this subject it cannot fail to strike you, on the first view of it, that you are avowedly, by this clause, rendering more unfavorable to other nations the trade to India, than has, in fact, and in practice, been exercised by them. Surely the Court of Directors cannot think this is the moment when it can be thought right to excite the jealousy of other nations respecting our Indian pre-eminence; the reverse must be our conduct; and in proportion as we may be obliged to hold up our rights of sovereignty in that country, exactly in the same proportion must we convince other nations of the liberality of our commercial principles. In truth, the bill now brought forward, puts the trade of other nations more under the check and control of the East India Company than it has hitherto in practice been; and, under such circumstances, it would, in my opinion, be most unwise to avow, by a proposition coming from them, that they intend, in the execution of it, to be more illiberal and rigorous than heretofore.

So far, with regard to the manner in which the proposition may operate on the feelings of foreign nations; but I would submit to the serious consideration of the East India Company, how far they would be wise, from considerations nearer home, to bring forward or to agitate such a proposition.

The manifest tendency of what you propose, if it has any effect at all, is to throw a difficulty in the way of the export of the produce and manufactures of this country. If the East India Company, in virtue of their monopoly, and the capital they possess, not only in Britain but in India, are not able, by a wise and economical commercial system, to secure to themselves the export trade from Great Britain to India, against any competition with any foreign nation whatever, it is a confession at least unnecessary to bring forward, and one which the representatives of the commercial and manufacturing interests of Great Britain will not feel disposed to countenance, by lending their aid to render it more difficult for other nations to make British produce or manufactures part of their assortments to the Indian market. I have uniformly been of opinion, and always will remain so, that the East India Company must maintain their monopoly, not merely by legislative regulations and restrictions, which on such a subject will always prove to be unavailing and ineffectual, but by the exercise of a judicious and well devised system of commercial policy.

I have the honor to be, sir, your most obedient humble servant,

HENRY DUNDAS.

East India Company's report sent to Mr. Dundas, with the clauses alluded to in his letter to Mr. Inglis.

"AT A COMMITTEE OF LAW SUITS, *9th June*, 1797.

"Pursuant to reference of court of 31st ultimo, the committee, with the assistance of the counsel and solicitor, took into consideration a letter from John Anstruther, Esq. enclosing draft of a bill proposed to be brought into Parliament for permitting ships of countries and States, in amity with His Majesty, to import into, and export from, the British possessions in India, with such regulations as may be made by the Court of Directors.

The committee also considered a clause in an act, now before the House of Commons, applicable to the 13th article of the treaty with the United States of America (so far as relates to their trading to and from the East Indies;) and, having very maturely deliberated thereon, they are of opinion that it is necessary, on the part of the Company, and for the preservation of their interest, and of the general interests of this country, and to secure to it, as far as possible, the carrying trade, that all ships and vessels of countries and States, in amity with His Majesty, should be restrained from importing goods and commodities of the growth, produce, and manufacture of the British territories, into any port or place in the East Indies, being part of the British possessions, without having first landed such goods and commodities in the country or territory to which such ship shall truly, and *bona fide*, belong; and, also, that they should be restrained from importing into any port or place whatever, any goods or commodities exported by them from the British territories in the East Indies, otherwise than to the ports of the country to which such ship shall actually belong.

"Which is submitted to the court."

Clause proposed by the East India Company to be added to the American bill.

"Provided always, that nothing in this act shall extend, or be construed to extend, to authorize any citizen of America to carry on any trade, otherwise than directly from some port in America to the said British territories in India; and from the said British territories in India to some port in America; any thing herein contained to the contrary notwithstanding."

N. B. A similar clause *mutatis mutandis* was proposed to be added to the foreign trade bill.

5th Congress.] No. 131. [2d Session.

FRANCE.

COMMUNICATED TO CONGRESS, FEBRUARY 5, 1798.

United States, *February 5th*, 1798.

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

I have received a letter from his excellency Charles Pinckney, esq. Governor of the State of South Carolina, dated on the 22d of October, 1797, enclosing a number of depositions of witnesses to several captures and outrages committed within and near the limits of the United States, by a French privateer, belonging to Cape François or Monte Christo, called the Vertitude, or Fortitude, and commanded by a person of the name of Jordon, or Jourdain, and particularly upon an English merchant ship named the Oracabissa, which he first plundered, and then burned, with the rest of her cargo of great value, within the territory of the United States, in the harbor of Charleston, on the 17th day of October last; copies of which letter and depositions, and also of several other depositions relative to the same subject, received from the collector of Charleston, are herewith communicated.

Whenever the channels of diplomatical communication between the United States and France shall be opened, I shall demand satisfaction for the insult, and reparation for the injury.

I have transmitted these papers to Congress, not so much for the purpose of communicating an account of so daring a violation of the territory of the United States, as to show the propriety and necessity of enabling the Executive authority of Government to take measures for protecting the citizens of the United States, and such foreigners as have a right to enjoy their peace and the protection of their laws within their limits, in that, as well as in some other harbors, which are equally exposed.

JOHN ADAMS.

Letter from Governor Pinckney to the President of the United States.

Charleston, *October* 22, 1797.

Sir:

I have the honor to submit to your consideration the enclosed affidavits respecting the English ship Oracabissa, burnt on Tuesday last within the bar of this harbor, by a privateer, said to be called the Vertitude, commanded by a Captain Jourdain, and belonging to Cape François; also of the capture of the ship Pallas, belonging to this port, and the Mary, of Savannah. By an examination of these affidavits, you will find this was a very glaring and wanton violation of the neutrality of the United States, and such as will require their serious attention. The distance from this city to the place where the act was committed, prevented our interfering in time. As soon as I received intelligence of it from the British consul, I ordered an armed force from Fort Johnson to proceed to the Oracabissa, to protect her, while within our harbor and the jurisdictional line of the United States, from seizure, depredation, or insult; but the cutter was not able to get down before the ship was destroyed, and the privateer had put to sea, and proceeded beyond the limits of the United States, where she captured the Pallas and the Mary the next day. As I am convinced these violations of our neutrality within our harbors and limits cannot be countenanced by the French Government, but are generally committed by vessels not commissioned, or which proceed contrary to their instructions, I have considered it my duty to transmit them to you for your determination, and have requested the collector to forward copies to the proper department. The trade of this city being extremely important to the revenue of the United States, and much exposed, from its southern situation, to cruisers from the Floridas, Bahamas, and the West Indies, British as well as French, (for they have both lately captured a number of our vessels), I conceive it would be proper that a revenue cutter of at least twenty guns should be equipped for the use of this port, and for the protection of the neutrality of the United States within our jurisdictional line, until the establishment of a general peace, which, I trust, will soon take place; and that all our differences with the French republic will be honorably and amicably adjusted.

I have the honor, &c.

CHARLES PINCKNEY.

State of South Carolina, *city of Charleston.*

By John Mitchell, Esq. Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me the said notary, Jonathan Story, master of the ship Oracabissa, of London, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that on his voyage from Jamaica, loaded with sugar and rum, bound for London, he met with severe gales of wind, by which he lost his main and mizen masts, and sprung a leak; that being in great distress off the harbor of Charleston, the British consul, having had information of his situation, sent six or seven men to assist him, and enable him to get over the bar, and up to Charleston, to repair the said vessel; that, after several days lying at anchor off the bar, on Friday evening, the thirteenth of this instant, October, he got over the bar with the said ship, and came to anchor in Five Fathom Hole, in the harbor of Charleston aforesaid: the wind being contrary, he could not proceed up to the city; that, on Monday evening, the sixteenth of said month, about sun down, he saw a small armed schooner come over the bar, and came to anchor to the north-north-west of said ship, but showed no colors; that immediately after the said armed schooner weighed anchor, and came close up under their starboard quarter, and came to anchor; ordered him to hoist out his boat, but on his answering his boat was stove, they sent their boat, with an officer and four or five armed men, with pistols and cutlasses, took forcible possession of said ship Oracabissa, ordered the deponent, with his papers, on board the said schooner, and carried him and one man on board, and sent the boat, with four or five armed men, on board the said ship; that, when he got on board, he perceived two carriage guns, but the small arms were concealed from him; that he asked the name of the said schooner, and the captain's name, but they refused to inform him: one of the men said she came from Cape François, and was a French privateer; that, as soon as the boat went the second time with men on board, he saw them begin to plunder the vessel and cargo, and continued to do so till eight o'clock on Tuesday morning; that they brought as much rum and sugar of the cargo, and the rigging and sails of the vessel, as they could stow in the said privateer; that at nine o'clock they cut the said ship Oracabissa's cables, and set her on fire in four several places, to wit—fore, main, and after hatchway, and in the gun room: the ship then drifted on the breakers, near the shore; after which, the captain of the said privateer told him he had fifty men on board, but would not tell him his name, or the vessel's name; also said that the captain of a British frigate had burned a privateer he commanded in Hampton roads, and for that reason he burned the ship, but could he have carried her off, he would have done it; that the deponent received part of his clothes in a bag, and received no personal bad treatment, himself or crew; immediately after, the privateer weighed anchor, got over the bar, and went into Stony Inlet, and landed him with

fifteen men on the beach, being the whole number on board the ship when taken at anchor in the harbor of Charleston, contrary to the laws of neutrality and of nations; that they got to Mr. Taylor's, who treated them very kind, and in a friendly manner.

JONATHAN STORY.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my seal of office, at Charleston, this 18th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.
[L. S.]

JNO. MITCHELL, *Q. U. Not. Pub.*

STATE OF SOUTH CAROLINA, *city of Charleston.*

By John Mitchell, Esq. Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Michael Delany, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that he is a branch pilot belonging to Charleston; that on this morning A. M. as he was conducting the brig Hannah, of Charleston, Captain Daniel Bythewood, into harbor, this 17th instant, at a quarter past nine o'clock, he discovered the British ship Oracabissa on fire, from her stern to the main hatch; but, being then about four miles distant from her, he cannot be more particular; that, at the time he first discovered the fire, there were no colors flying that he could perceive, but in a few minutes after, he saw colors flying at the fore topmast head, but could not distinguish of what nation.

MICHAEL DELANY, his × mark.

Captain Daniel Bythewood being also duly sworn agreeably to law, deposeth that, on this morning, about a quarter past nine o'clock, being in the brig Hannah of Charleston, under his command, as he was crossing the bar of Charleston, having Michael Delany, a branch pilot, on board, he saw a large ship dismantled, and at anchor in Five Fathom Hole, within the bar and harbor of Charleston; he saw the smoke and flames issuing from the said ship from her stern to the main hatchway; that when he first discovered the smoke he perceived no colors, but afterwards saw colors flying at the fore-topmast head, but could not distinguish to what nation they belonged.

DANIEL BYTHEWOOD.

Mr. John Colhoun being also duly sworn agreeable to law, deposeth that, on yesterday the sixteenth of this instant, October, about half past one o'clock, P. M. he went on board the British ship Oracabissa, in Five Fathom Hole, commanded by Captain Story, with provisions sent by His Britannic Majesty's consul for the captain and men on board, the said ship having lost her main and mizen masts, being in distress from severe gales, and a great leak which kept one pump going; about half past two, being at dinner with the captain, one of the seamen came and informed him there was a picaroon coming in, he had better be on his guard for fear of an attack, when the captain asked the deponent to go out and look at the said picaroon, which he did, and was of opinion, with the seamen and pilot, that the said picaroon or privateer was an enemy's vessel; that the seamen wanted to fire at her; but, by the advice of the deponent, the captain forbad it, but got the six-pounder in order to defend the vessel if she was attacked; the said picaroon came over the bar; passed the ship, and came to an anchor between her and the light house; soon after, the said picaroon weighed anchor, and came to N. N. W. at between two and three miles distance, about five o'clock; the deponent left the said ship and proceeded to Charleston in a whale boat, with two negroes; that he rowed close under the stern of the said picaroon or schooner privateer to endeavor to find out what she was; that he hailed her and asked from whence she came, to which answer was made in bad or broken English, from Savannah, and also desired the deponent to come on board, to which he refused; he then asked him if he was a pilot, he answered no; but would send him one if he wanted one; to this the same voice asked what ship that was, to which he replied, Ay! ay! He then rowed towards the ship to put them on their guard, on which the said picaroon weighed anchor and endeavored to cut him off from the ship, but he hailed the ship, and told them to take care, at which time the said schooner fired a shot at him; he then ordered the sail set, and stood for the light house, at which time he received a second shot, and was chased until he got into shoal water; they then fired a third shot, but were obliged to desist chasing, and proceeding to the ship, came to an anchor about a mile from her stern; he then proceeded to Charleston, and about nine o'clock informed the British consul of the above particulars.

JOHN COLHOUN.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my seal of office, at Charleston, this 17th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.
[L. S.]

JNO. MITCHELL, *Q. U. Notary Public.*

STATE OF SOUTH CAROLINA, *city of Charleston.*

By John Mitchell, Esq. Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me the said notary, Mr. Shadrach Turner, of Charleston, a pilot, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare that, on Monday, the 16th instant, he was sent on board the British ship Oracabissa, Captain Story, who lay at anchor in Five Fathom Hole, within the bar and harbor of Charleston, in distress, to relieve the pilot who had been on board several days and was sick; that about 3 o'clock a small French schooner privateer came over the bar and came to anchor to the northward of the said ship; that seeing a boat go from the ship, in which Mr. Colhoun was, the privateer got under way and chased her till she got into Light House Creek, then run up under the stern of the said ship, and came to an anchor on her starboard quarter, hailed her, and asked from whence she came, and was answered from Jamaica, and came there in distress; they then ordered the captain to lower his boat down, and come on board; he answered the boat was stove; on which the privateer hoisted his boat out, and sent a lieutenant and another officer with two men on board, who took forcible possession of the ship as a prize to said privateer, and sent the captain with his papers on board her, and afterwards sent several more men on board to assist in pumping, who began to plunder the vessel, and continued to do so all night, sent sugar, rum, cordage, and sails on board the said schooner, as much as could be stowed, till eight o'clock in the morning of the 17th, when they sent Captain Story on board the ship to get his clothes, and see they had taken none; that between eight and nine all the people were sent on board the privateer, and at nine o'clock they set her on fire in several places, and cut her cables; she then drifted on the Folly Breakers, with her colors flying; they then got under way, and stood over the bar and into Stono Inlet, where all the people were landed, but the deponent, whom they kept on board, having first proposed to land them on Light House Island, but the deponent informed them it could not be done with safety; that they lay in Stono all the night; that yesterday morning they got out and bore down on the ship Pallas and ship Betsey, who were bound for Charleston; they took the Pallas and let the Betsey go, and sent the deponent on board her, in which vessel he got up to Charleston this morning; that when he was on board the privateer the captain showed him his commission, in which the said schooner is called the Vertitude, and the captain, Jordon, of Monte Christo; that he was well treated on board.

SHADRACH TURNER.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal of office, at Charleston, this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.
[L. S.]

JNO. MITCHELL, *Q. U. Not. Pub.*

STATE OF SOUTH CAROLINA, *city of Charleston.*

By John Mitchell, Esquire, Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, of Charleston, who, being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that he was employed by Benjamin Moodie, Esquire, His Britannic Majesty's consul in this city, to go on board the British ship Oracabissa, Captain Story, who was in great distress, having lost her main and mizen mast, and sprung a leak; that, on the 9th day of this instant, October, he, with six more men, went from this city, and got on board said vessel, then about three leagues over the bar; that they came to anchor that evening, and on Friday, the 13th, the ship got over the bar of Charleston, and came to anchor in Five Fathom Hole, the wind being contrary could not proceed for the city; that the ship continued at anchor till Monday afternoon, about 3 o'clock, when a small armed schooner privateer came over the bar, and came to anchor about north of the ship; that a little before sun down the said schooner weighed anchor, and came close along side said ship and dropped anchor; that she had no colors up. They ordered the captain of the ship to hoist out his boat and come on board with his papers, who answered the boat was stove; they then sent him their boat with an officer and four or five armed men, who took forcible possession of the vessel, and carried the captain, with his papers, and the boatswain, on board the privateer, and detained them, and sent the boat again with more men on board the ship; that they immediately began to plunder the cargo and vessel, and continued to carry sugar, rum, coffee, cordage, and sails, all night, with all the other articles they could carry; that, on the morning of Tuesday the 17th, about nine or ten o'clock, they set the said ship Oracabissa on fire in three places that he saw, cut both cables, by which she drifted on the Folly Breakers, close by the light house shore; that the deponent was informed the said privateer was called the Adventure, from Cape François, Captain Jordon; they then took the deponent, Captain Story, and all the men on board of the ship on board the privateer, got under way and over the bar, then run into Stono Inlet, where they landed all the people except Mr. Turner, the pilot, whom they carried away.

WILLIAM MINOTT.

In testimony whereof, I, the said notary, have hereunto set my hand and affixed my seal of office, at Charles-
[L. S.] ton, the 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL, *Q. U. Not. Pub.*

STATE OF SOUTH CAROLINA, *city of Charleston.*

By John Mitchell, Esq. Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Daniel Allen, master of the ship Flora, of Providence, in the State of Rhode Island, who being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that he sailed from Turk's Island on the 10th day of this instant, October, bound for Charleston, in the State of South Carolina; that he arrived at the bar on yesterday, the 18th instant, and on this morning got over the bar, when a small French privateer schooner came along side, and obliged him to haul his wind and return over the bar at a very considerable risk, having no pilot on board. After he got over the bar, the said privateer obliged him to take six men belonging to the brig Mary on board his vessel, when they permitted him to proceed over the bar and up to the city, where he arrived about 11 o'clock this day, the 19th instant.

DANIEL ALLEN.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal of office, at Charleston,
[L. S.] this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL, *Q. U. Not. Pub.*

STATE OF SOUTH CAROLINA, *city of Charleston.*

By John Mitchell, Esq. Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Thomas Pierson, first mate, Robert Glaister, second mate, Alexander Jordon, and Benjamin Jeffries, seamen on board the ship Pallas, of Charleston, who being severally duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that they sailed on board the said ship Pallas from Port Glasgow, commanded by Captain John Hunter, loaded with coals and dry goods, American property, and bound for Charleston, in the State of South Carolina aforesaid, on Monday, the 12th day of August last, being all natives of the United States; that they arrived in said ship off the bar of Charleston on Monday, the 16th of this instant, October; that on Wednesday, the 18th, about 12 o'clock, they were in ten fathoms water, N. N. W. of the Charleston light house, about six leagues from the land, when a small schooner, a French privateer, which they were informed was called the Fortitude, commanded by Captain Jordon, carrying two six pounders, came up, having then an English jack flying, and ordered them to hoist out the boat, and the captain to come on board, and bring his papers with him; that being some time getting, the privateer sent her boat along side, and an officer with armed men came on board, and forcibly took Captain Hunter, two men, and a boy, on board the privateer, and sent more men on board the ship, took possession of her as a prize to the said privateer, put the deponents, with four more of the crew, and two passengers, on board the ship Mary, of Hamburg, leaving Captain Hunter, two men, and a boy on board the Pallas; that the officer who was put on board the said ship Pallas said he would carry her to Cape François, in St. Domingo; that the ship Mary got over the bar of Charleston this morning, the 19th, and landed them in the city about 11 o'clock this day.

THOMAS PIERSON,
ROBERT GLAISTER,
ALEXANDER JORDON,
BENJAMIN JEFFRIES, his × mark.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal of office, at Charles-
[L. S.] ton, this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL, *Q. U. Not. Pub.*

STATE OF SOUTH CAROLINA, *city of Charleston.*

By John Mitchell, Esq. Justice of the Quorum in and for the said State, and notary public, by lawful authority duly sworn, admitted, and commissioned, residing and practising in the city and State aforesaid.

Do hereby certify that, on the day of the date hereof, personally came and appeared before me, the said notary, Ithamar Haskin, second mate, Thomas Davis, Isaac Sanford, John Clark, and Thomas Smith, seamen on board the brig Mary, of Savannah, in the State of Georgia, who being duly sworn on the Holy Evangelists of Almighty God, did depose, testify, and declare, that they sailed on board the said brig Mary, of Savannah, in Georgia, commanded by Francis Lightborne, from Savannah aforesaid, bound for London; that they and each of them are native Ameri-

cans; that they arrived at London, and on the 7th day of July last, being loaded with porter and dry goods, they sailed in said vessel under the command of the said Captain Lightborne; John Stafford, first mate, and a boy; having a long passage, they did not arrive on the coast of America till Wednesday morning, the 18th instant, October; they made the land near Charleston harbor in sixteen fathoms water; that about 8 o'clock in the night of the same day, being in eight fathoms water, about three leagues from the land and light-house of Charleston, a small French privateer schooner, carrying two guns and several swivels, came along side the said brig, hailed her, and ordered the captain with his papers to come on board, which he did. They detained the captain and two men, and sent an officer with eight men on board the said brig, who took forcible possession of her as a prize to said privateer; that this morning the deponents were put on board the ship Flora, of Providence, State of Rhode Island, who brought them to Charleston, South Carolina, and landed them about 11 o'clock; the said Captain Lightborne, John Stafford, the mate, and the boy, being put on board the said brig Mary, whom the prize master declared he would carry to Cape François, in St. Domingo, where he said she came from and belonged to, but never hoisted any colors during the whole time.

ITHAMAR HASKIN,
THOMAS DAVIS, his × mark.
ISAAC SANDFORD,
JOHN CLARK,
THOMAS SMITH, his × mark.

In testimony whereof, I, the said notary, have hereunto set my hand, and affixed my seal of office, at Charles-
[L. S.] ton, this 19th day of October, in the year of our Lord 1797, and in the 22d year of the independence of the United States of America.

JNO. MITCHELL, *Q. U. Not. Pub.*

5th CONGRESS.] **No. 132.** [2d SESSION.

GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 19, 1798.

Gentlemen of the House of Representatives:

In the report of the Secretary of State, and the documents herewith transmitted, will be found such information as is in our possession, of the losses recovered by the citizens of the United States, under the treaty made with Great Britain, which are now presented to the House of Representatives in compliance with their request, in their resolution of the first of this month.

JOHN ADAMS.

UNITED STATES, *February 18th*, 1798.

DEPARTMENT OF STATE, *February* 16, 1798.

To the President of the United States:

The Secretary of State respectfully presents, as directed, the annexed papers, exhibiting, pursuant to a resolve of the House of Representatives of the first instant, "a statement of the losses recovered by the citizens of the United States, under the treaty made with Great Britain;" and, as far as he possesses information, "specifying those cases which have actually been decided in the court of appeals."

Document A contains a schedule of the cases of costs and damages which, in order to save the delay and expense attending their prosecution before the judiciary tribunals, were refered, by the consent of the American and British Governments, to the decision of Sir William Scott, the King's Advocate General, and Doctor John Nicholl, the advocate retained on the part of the United States. The annexed extract of a letter from Mr. Bayard, the American agent, dated 28th February, 1797, and marked A A, will show how advantageously to the claimants this class of cases was settled by the referees. The sums awarded were paid on the 28th of last July.

Document B contains a list of the causes in which, on the 29th of last July (the date of the latest communication upon the subject) restitution had been decreed by the board of commissioners appointed to carry into effect the 7th article of the treaty of amity, commerce, and navigation with Great Britain; and document C contains such cases wherein the amount of the awards had been paid at the time last mentioned, being all that were then due. It is proper to add, that, in a letter from the American commissioners, dated the 29th of July, 1797, they intimate that, "except some more cases of capture, under the orders of 1795, for taking vessels loaded with provisions, there is very little prospect of any other being in a state to come before the commissioners, till the term of eighteen months, from the commencement of their business, shall have expired. Every cause, in which the parties were furnished with the necessary evidence, had been decided; and they trusted, that almost every principle of importance, or liable to contest, had been settled and determined, until the question should be agitated, if any should ever be made, of their right to judge on cases not decided by the commissioners of appeal, after the said term of eighteen months is elapsed."

The Department of State is not in possession of documents from which any tolerably accurate or comprehensive statement can be made of the decisions decreeing restitution, or reversing sentences of condemnation, which have actually taken place in the High Court of Admiralty and Court of Appeals in prize causes; but owing to the multiplicity of business which, in time of war, accumulates upon them, and to the small space of time allotted for the sittings of the latter, there is reason to believe that no great despatch has been given to the decision of the American causes depending therein. Document D contains such as have been extracted from the imperfect papers, with which the Department of State is furnished in relation to that subject.

TIMOTHY PICKERING.

A.

Vessel.	Master.	Owners.	Residence.	Sum awarded.	Int. at 5 per ct.	Amount.	Costs deducted.	Net sum.	To whom paid.
Apollo, -	Hempsted,	Wm. Stuart, and R. & W. Perkins, -	New London,	£142 10 00	£23 17 08	£166 07 08	£13 08 10	£152 18 10	Advised to draw.
Ann, - -	Wright,	Waldo and Deblers, - - -	Portland, -	64 00 00	10 02 08	74 02 08	10 02 08	64 00 00	Paid to Mr. Broomfield, attorney for W. S. Waldo.
Amelia, -	Whittlesey,	W. Jos. and R. Hart, - - -	Seabrook, Con.	160 12 00	30 11 00	191 03 00	14 02 02	177 00 10	
Betsey, -	Caulkins,	Elijah House and Pember Cauklins, -	New London,	738 15 00	114 18 03	853 13 03	15 03 06	838 09 09	Advised to draw.
Betsey, -	Burr,	S. and R. Burr, and al. - -	Warren, R. I.	446 19 06	71 14 01	518 13 07	14 04 10	504 08 09	Advised to draw.
Bayonne, -	Lawton,	Christopher Champlin, - - -	Newport, R. I.	142 10 00	22 18 10	165 08 10	14 06 06	151 02 04	Messrs. Dickason & Co. paid.
Three Brothers,	Edgarton,	Edw. R. and John Haham, - -	New London,	648 02 09	100 16 03	748 19 00	16 10 10	752 08 02	W. Rowlet.
Betsey, -	Trefethen,	Daniel and H. Trefethen, - -	Portsmouth, N.H.	277 17 06	43 12 01	321 09 07	13 10 02	307 19 05	Advised to draw.
Chloe, -	Lord,	Elijah House, - - - -	New London,	152 05 00	23 17 00	176 02 00	13 13 02	162 08 10	Do.
Eleven Sons, -	M'Intire,	Neel M'Intire, - - - -	Portsmouth, N.H.	1,150 00 00	175 07 06	1,325 07 06	14 00 08	1,311 06 10	Messrs. Dickason & Co.
Friendship, -	Downe,	Nathan Weston, - - -	Kennebeck, -	250 00 00	40 16 00	290 16 00	16 04 02	274 11 10	Advised to draw.
Harriet, -	Brock,	G. Stocum, - - - -	Alexandria,	360 00 00	70 16 00	430 16 00	15 16 10	414 19 02	Do.
		Isaac Starr, J. Brown, J. Mendenhall, -	Brandywine,						
Maria, -	Peoples,	William Bell, and the master, - -	Philadelphia, -	23 15 00	4 13 05	28 08 05	4 13 05	23 10 00	Do.
Ranger, -	Clark,	Gilbert Horney, - - - -	Portsmouth, -	2,385 17 08	382 14 08	2,768 12 04	15 17 06	2,752 14 10	Messrs. Dickason & Co.
Sally, - -	Edgar,	Philip Care, - - - -	Philadelphia, -	200 00 00	34 08 08	234 08 08	14 12 02	220 16 06	Advised to draw.
Sally, - -	Noyes,	Pettingall and Smith, and Samuel Coffin,	Newburyport,	220 00 00	38 15 11	194 02 00	13 12 02	180 09 10	Do.
Success, -	Holmes,	David Hinckley, - - -	Boston, -	1,000 00 00	147 10 00	1,147 10 00	46 07 06	1,101 02 06	D. Hinckley, paid.
Tryall, -	Boyle,	Caleb Hall, - - - -	Baltimore, -	251 08 00	41 12 06	293 06 00	31 12 08	261 13 04	
Two Sisters, -	Calvert,	John Calvert, - - - -	Norfolk, -	50 00 00	9 09 07	59 09 07	9 09 07	50 00 00	Advised to draw.
Union, -	Cottle,	William and Thomas Rotch, - -	New Bedford,	372 12 09	61 15 07	434 08 04	14 15 02	419 13 02	Do.
Columbus, -	Trevitt,	Marston Watson, - - -	Marblehead, -	450 00 00	72 12 09	522 12 09	19 06 02	503 06 07	Samuel Cabott, esquire.
Chance, -	Earl,	Clark and Nightingale, - - -	Providence, -	76 00 00	12 11 09	88 11 09	12 11 09	76 00 00	Do.
Dolphin, -	Graves,	J. H. and E. Blanchard, and - -	Boston,	1,510 14 09	240 15 03	1,751 10 00	15 10 06	1,735 19 06	Do.
		J. Weldon, and M. Watson, - -	Marblehead,						
Fox, - -	Adams,	W. and P. Combs, - - -	Newburyport,	79 04 00	12 19 00	92 03 00	12 19 00	79 04 00	Do.
Friendship, -	Pate,	Jesse Harlow, and the master, - -	Plymouth, -	300 00 00	48 02 06	348 02 06	14 18 02	333 04 04	Do.
Nancy, -	Ingersol,	John Ingersol, - - - -	Salem, -	250 14 02	39 00 02	289 14 04	15 15 06	273 18 10	Do.
Polly, -	Knight,	J. Norris, - - - -	Salem, -	450 00 00	69 12 09	519 12 09	15 12 06	504 00 03	Do.
Vassalboro', -	Porter,	David Stearns, and al. - - -	Charleston, -	1,000 00 00	160 08 04	1,160 08 04	36 05 00	1,124 03 04	Do.
Commerce, -	Pope,	George Makepeace, - - -	Boston, -	950 00 00	149 13 00	1,099 13 00	17 12 02	1,082 00 10	Advised to draw.
Dolphin, -	Barker,	Messrs. Perkins, - - -	Boston, -	170 00 00	27 06 10	197 06 10	13 18 10	183 08 00	Messrs. Cazenove & Co.
Fox, - -	Adams,	W. and Ph. Combs, - - -	Newburyport,	581 01 02	95 04 02	676 05 04	14 07 06	668 18 02	Mr. Cabott.
Harriet, -	Bradbury,	T. & F. Bradbury, and T. H. Hooper, -	Newburyport,	195 14 08	36 00 04	231 15 00	13 05 06	218 09 06	Advised to draw.
James, -	Morris,	Elias Shipman, Eben. Peck, Mr. Todd, and R. Townsend, - - -	New Haven, -	1,106 05 06	193 12 00	1,299 17 06	14 07 02	1,285 00 04	Do.
Milly Huntress,	Eastwood,	William Bell, - - - -	Philadelphia, -	241 00 00	42 03 06	283 03 06	14 10 06	268 13 00	James Bell.
Neptune, -	Barr,	John Barr, - - - -	Salem, -	450 00 00	42 03 09	492 03 09	17 12 02	435 05 10	Advised to draw.
						Further bill,	38 10 02		
						Postage,	15 07		
N. York Packet,	Shaw,	Messrs. Hazard and Robinson, -	Charleston, S.C.	308 15 00	51 02 07	359 17 07	14 17 02	345 10 05	Advised to draw.
Polly, - -	Shillabar,	William Shillabar, and J. Morris, -	Salem, -	460 00 00	43 02 06	503 02 06	17 09 08	446 04 10	Advised to draw.
						Costs, -	38 10 02		
						Postage, -	17 10		
Sally, - -	Grafton,	Daniel Saunders, and Stephen Osborne,	Salem, -	220 00 00	34 01 06	254 01 06	14 00 06	240 01 00	
Betsey, -	Porter,	Walter and J. Heyer, - -	New York, -	161 15 06	28 06 02	190 01 08	13 15 06	176 06 02	W. & J. advised to draw.

A—Continued.

Vessel.	Master.	Owners.	Residence.	Sum awarded.	Int. at 5 per ct.	Amount.	Costs deducted.	Net sum.	To whom paid.
Delight, -	Sturgis,	Messrs. Perkins, - - -	Boston, -	£2,000 00 00	£293 01 01	£2,293 01 01	£19 04 02	£2,273 16 11	Messrs. J. H. Cazenove & Co.
Endeavor, -	Everton,	Nathaniel Fitz, - - - -	Petersburg, -	102 12 00	16 13 04	119 05 04	13 05 06	105 19 10	Advised to draw.
Jerusha, -	Wood,	Swan and Putnam, - - -	Charleston, -	225 12 06	23 19 05	249 11 11	15 12 02	233 19 09	Mr. Cabott, paid.
Lark, - -	Tittle,	Benj. Leirte, - - - -	Beverly, -	100 00 00	15 14 02	115 14 02	14 03 08	101 10 06	Messrs. Dickason & Co. paid.
Norfolk, -	Walsh,	T. Fitzmorris, esq. - - -	Philadelphia, -	941 09 00	155 12 00	1,097 01 00	15 10 02	1,081 10 10	Messrs. Phyn, Ellice, & Inglis.
Betsey, -	Wheelright,	E. and A. Wheelright, and al. - -	Newburyport,	700 00 00	75 06 11	775 06 11	15 18 10	759 08 01	J. Cabott, esq. paid.
John, - -	Wallace,	N. Leach, - - - -	Beverly,	700 00 00	112 05 10	812 05 10	15 05 06	797 00 04	Do.
Russel, -	Holbrook,	Kunniwell and Jarvis, - - -	Penobscot, -	755 00 00	120 07 03	875 07 03	14 05 06	861 01 09	Advised to draw.
Neptune, -	Woodberry,	M. Bicker and Son, - - -	Charleston, -	250 00 00	29 05 10	279 05 10	16 09 10	262 16 00	P. Wynn, No. 120 Wood-st.
Roby, -	Bradish,	Williams and Thompson, - -	Baltimore, -	400 00 00	31 18 10	431 18 10	55 07 02	376 11 08	Advised to draw. [Co.
Peggy, -	Bryan,	Messrs. J. and S. Smith, - -	Baltimore, -	250 00 00	39 06 05	289 06 05	17 12 10	271 13 07	Messrs. Shaban, M'Insee, and
John, - -	Mahool,	Ditto, - - - -	Baltimore, -	750 00 00	131 05 00	881 05 00	20 12 02	860 12 10	Do. do.
Success, -	Holmes,	D. Hinckley, - - - -	Boston, -	1,350 00 00	193 12 06	1,543 12 06	20 03 10	1,523 08 08	D. Hinckley.
Olive Branch, -	Provost,	J. Peters, - - - -	New York, -	220 00 00	7 06 08	227 06 08	16 05 06	211 01 02	Messrs. J. H. Cazenove & Co.
Ranger, -	Atwood,	Samuel Down, and J. M. - -	Boston, -	87 05 00	14 07 02	101 12 02	14 02 02	87 10 00	Advised to draw.
Betsey, -	Tait,	Hugh Bathune, - - - -	Charleston, -	300 00 00	52 10 00	352 10 00	7 01 06	345 08 06	Do.
Roebuck, -	Wharfe,	Davis and Gilman, - - -	Boston, -	850 00 00	134 10 00	984 10 00	15 00 10	969 09 02	S. Cabott.
Molly, -	Mercer,	R. Bard, J. Tittermary, &c. - -	Philadelphia, -	2,100 00 00	131 05 00	2,231 05 00	35 12 06	2,195 12 06	S. Bayard.

A. A.

Extract of a letter from S. Bayard, Esq. to the Secretary of State, dated

FEBRUARY 28*th*, 1797.

SIR:

I have the pleasure to inform that Sir William Scott and Dr. Nicholl have conferred together on the subject of the cases of cost and damage. In many of them, where the documents were satisfactory, they have made definitive awards; in others their awards are conditional, allotting a certain sum of money on the party's producing an affidavit of his having sustained a loss to that amount. Where the proofs were defective, they have, in many cases, specified the nature of the further proofs demanded; and in the rest, simply declared the total want of all necessary information.

I have examined the cases in which they have given awards, and on the whole observe, with pleasure, that they have made liberal allowances to our claimants, and exacted a less degree of proof than would, probably, have been demanded by the commissioners under the treaty.

I have written to all the claimants interested in the class of cases, informing them of the awards in their respective causes, and stating the kind of proofs they should furnish where further evidence is required.

When I have obtained the consent of the King's proctor to those awards, which are absolute, I shall, through our minister, endeavor immediately to have some arrangement made for paying the sums allotted to the claimants respectively.

B.

Number.	Ship's Name.	Master's Name.	Loss or sum claimed.	Sum awarded.
1	Betsey, - - -	Wm. Furlong, -	£8,138 2 0	£6,683 2 6
2	Farmer, - -	D. Osborn, - -	2,000 0 0	1,161 12 2
3	Sally, - - -	E. Choate, - -	2,000 0 0	1,189 8 3
4	Rising Sun, - -	—— Rossiter, - -	- - -	1,419 11 0¼
5	Diana, - - -	G. Gardner, - -	- - -	501 0 6
6	Brothers, - -	Joseph Martin, -	2,029 2 6	851 15 1
7	Bacchus, - -	R. Robins, - -	8,000 0 0	5,881 14 6
8	Neptune, - -	James Jeffries, - -	6,451 5 9	5,274 5 6
9	Nancy, - -	T. Potter, - -	4,020 15 9	2,716 0 2½
10	Bald Eagle, - -	—— Atkins, - -	407 6 9	120 9 0
11	Barbara, - -	J. Holland, - -	- - -	743 5 5¼
12	Jason, - - -	Benj. West, - -	1,010 4 10	631 18 6
13	Phœnix, - -	Samuel Gale, - -	- - -	99 0 0
14	Harmony, - -	W. Robinson, - -	- - -	3,313 16 0
15	Commerce, - -	John Grimes, - -	- - -	4,297 14 8

C.

Number.	Ship's Name.	Master's Name.	Date of the award.	Sum awarded.
1	Betsey, - - -	Wm. Furlong, -	April 13, 1797, -	£6,683 2 6
2	Sally, - - -	E. Choate, - -	Ditto, - -	1,189 0 8¾
3	Farmer, - -	D. Osborn, - -	May 3, 1797, - -	1,161 12 2
4	Bacchus, - -	R. Robins, - -	Ditto, - -	5,881 14 6
5	Rising Sun, - -	—— Rossiter, - -	June 20, 1797, - -	1,419 11 0¼
6	Barbara, - -	J. Holland, - -	Ditto, - -	743 5 5¼
7	Jason, - - -	Benj. West, - -	June 28, 1797, - -	631 18 6
8	Bald Eagle, - -	—— Atkins, - -	Ditto, - -	120 9 0
9	Harmony, - -	W. Robinson, - -	June 30, 1797, - -	3,313 16 0
10	Phœnix, - -	Sam. Gale, - -	Ditto, - -	99 0 0
11	Diana, - - -	G. Gardner, - -	Ditto, - -	501 0 6
			Sterling, -	£21,744 10 4¼

D.

1. The bark Apollo, T. Folger, master, belonging to Oliver and Thompson, of Baltimore, was captured by the Sally and Dragon, privateers, and adjudged at Jamaica; the sentence of condemnation was reversed in the Court of Appeals.

2. The brigantine Bacchus, R. Robbins, belonging to Oliver and Thompson, of Baltimore, was captured on the 17th Dec. 1793, by the Mars privateer, and adjudged at Jamaica; the sentence of condemnation was reversed in the Court of Appeals.

3. The schooner Betsey, J. Betterton, master, belonging to Reed and Ford, of Philadelphia, was captured on the 20th August, 1794, by the Experiment, privateer, and adjudged at Bermuda; the sentence of condemnation was reversed, with costs and damages, by the Court of Appeals.

4. The ship Columbia, William Maley, master, belonging to Bohl Bohlen and others, of Philadelphia, was captured in January, 1794, by the Vulture and Alligator, privateers, and adjudged in the High Court of Admiralty; the vessel and cargo were restored, and the question of costs and damages waved.

5. The Cleopatra, F. Donovan, master, was captured by His Britannic Majesty's ship Culloden, and the sentence and condemnation was in salvage reversed in the Court of Appeals.

6. The schooner Dove, M. Burke, master, belonging to Mr. Ketland, and others, of Philadelphia, was captured on the 30th of October, 1794, by the Bermudiana, privateer, and adjudged at Tortola; the sentence of condemnation was reversed, and further proof was ordered in the High Court of Appeals.

7. The Eagle, H. Manning, master, belonging to Seamen and Co. of Charleston, was captured by His Britannic Majesty's ship Hermione, and adjudged at Jamaica; the sentence of condemnation was reversed in the Court of Appeals, but without costs or damages.

8. The Fair Lady, R. Lillibridge, master, belonging to Dutilh and Wachsmuth, of Philadelphia, was captured on the 5th of September, 1793, by the Hope, privateer, and adjudged at Bermuda; the sentence of condemnation was reversed, and further proof ordered in the Court of Appeals.

9. The brig Harriet, G. Calder, master, belonging to Abraham Sasportas, of Charleston, was captured on the 9th of May, 1793, by the Mary, privateer, and adjudged at Jamaica; the sentence of condemnation was reversed, and further proof ordered in the Court of Appeals.

10. The schooner Hetty, T. Boyl, belonging to P. Simen and T. Curriere, of Baltimore, was captured on the 26th of June, 1793, by the Five Brothers and John, privateers, and adjudged at New Providence; Simen's property condemned, and further proof ordered of Curriere's in the Court of Appeals.

11. The Hannah, John Cox, master, belonging to J. L. Espine and Co. of New York, was captured by the Little Ann, privateer, and adjudged at Jamaica; the sentence of condemnation was reversed, and further proof ordered in the Court of Appeals.

12. The Hannah, B. Rice, master, belonging to James Tisdale, of Boston, was captured by the Gipsey, privateer, and adjudged at Jamaica; the sentence of condemnation was reversed in the Court of Appeals, but without costs or damages.

13. The brigantine Mary, M. Pearson, master, belonging to Joseph Carter, of Newbury-port, was captured on the fourth of July, 1793, by the Mary, privateer, and adjudged in the High Court of Admiralty; the vessel was restored, with freight, and the cargo condemned, but no appeal by the agent.

14. The Maryland, J. Stran, master, belonging to Stewart and Plunket, of Baltimore, was captured by the Prince of Wales, privateer, and adjudged at Monserrat; the sentence of condemnation was reversed in the Court of Appeals, and the question of costs and damages reserved.

15. The Ospray, B. Paddock, belonging to William Rotch and others, of Nantucket, was captured by His Britannic Majesty's ship Spitfire, and adjudged in the High Court of Admiralty; the sentence, condemning the entire ship and cargo, reversed in the Court of Appeals, and the part belonging to Samuel Redman, and the crew, restored.

16. The brigantine Pomona, J. Crockett, belonging to Bohl Bohlen, and others, of Philadelphia, was captured in the year 1795, and adjudged at Bermuda; the cargo was restored in the High Court of Admiralty.

17. The ship Rising Sun, D. Olney, belonging to Brown, Benson, and Ives, of Providence, was captured the 12th of September, 1793, by the Vulture, privateer, and adjudged in the High Court of Admiralty; the goods were restored in the Court of Appeals, but without costs or damages.

18. The sloop Sally, Hays, belonging to Thomas Fitzsimons, of Philadelphia, was captured on the 4th of March, 1794, by the Britannia, privateer, and adjudged at Bermuda; the sentence of condemnation was reversed in the Court of Appeals, but without costs or damages.

19. The brigantine Salome, H. Wasson, master, belonging to Ambrose Vasse, of Philadelphia, was captured on the 30th of October, 1794, by the Duke of York, privateer, and adjudged at Bermuda; the sentence of condemnation was reversed in the Court of Appeals, and further proof ordered.

5th CONGRESS.] **No. 133.** [2d SESSION.

TUNIS.

COMMUNICATED TO THE SENATE, FEBRUARY 21, 1798.

UNITED STATES, *February 21st*, 1798.

Gentlemen of the Senate:

Having received the original treaty concluded between the United States and the Government of Tunis, I lay it before the Senate of the United States, whether they advise and consent to its ratification.

JOHN ADAMS.

To all whom these presents shall come or be made known:

Whereas the underwritten David Humphreys hath been duly appointed commissioner plenipotentiary, by letters patent under the signature of the President and seal of the United States of America, dated the 30th day of March, 1795, for negotiating and concluding a treaty of amity and commerce with the most excellent and illustrious lord the Bey and supreme commander of the State of Tunis: whereas in conformity to the necessary authority committed to him therefor, he did constitute and appoint Joel Barlow an agent in the business aforesaid: and whereas the annexed treaty was, in consequence thereof, agreed upon, in the manner and at the time therein mentioned, through the intervention of Joseph Stephen Famin, invested with full powers for the said purpose:

Now know ye, that I, David Humphreys, commissioner plenipotentiary, aforesaid, do approve and conclude the said treaty and every article and clause therein contained, reserving the same, nevertheless, for the final ratification of the President of the United States of America, by and with the advice and consent of the Senate of the said United States.

In testimony whereof I have signed the same with my name and affixed thereto my seal, at the city of
[L. S.] Madrid, this 14th day of November, 1797.

DAVID HUMPHREYS.

GOD IS INFINITE.

Under the auspices of the greatest, the most powerful, of all the Princes of the Ottoman nation, who reign upon the earth, our most glorious and most august Emperor, who commands the two lands and the two seas, Selim Kan the Victorious, son of the Sultan Moustafa, whose realm may God prosper until the end of ages, the support of Kings, the seal of justice, the Emperor of Emperors;

The most illustrious and most magnificent Prince Hamouda Pacha Bey, who commands the Odgiak of Tunis, the abode of happiness, and the most honored Ibrahim Dey, and Soliman, Aga of the Janissaries, and chief of the Divan, and all the elders of the Odgiak, and the most distinguished and honored Adams, President of the Congress of the United States of America, the most distinguished among those who profess the religion of the Messiah, of whom may the end be happy.

We have concluded between us the present treaty of peace and friendship, all the articles of which have been framed by the intervention of Joseph Stephen Famin, French merchant residing at Tunis, chargé d'affaires of the United States of America, which stipulations and conditions are comprised in twenty-three articles, written and expressed in such a manner as to leave no doubt of their contents, and in such way as not to be contravened.

ARTICLE 1. There shall be a perpetual and constant peace between the United States of America and the magnificent Pacha, Bey of Tunis; and also a permanent friendship, which shall more and more increase.

ART. 2. If a vessel of war of the two nations shall make prize of an enemy vessel, in which may be found effects, property, and subjects of the two contracting parties, the whole shall be restored; the Bey shall restore the property and subjects of the United States, and the latter shall make a reciprocal restoration; it being understood on both sides, that the just right of what is claimed shall be proved.

ART. 3. Merchandise belonging to any nation which may be at war with one of the contracting parties, and loaded on board of the vessels of the other, shall pass without molestation, and without any attempt being made to capture or detain it.

ART. 4. On both sides, sufficient passports shall be given to vessels, that they may be known and treated as friendly; and, considering the distance between the two countries, a term of eighteen months is given, within which term respect shall be paid to the said passports, without requiring the *congé* or document, (which at Tunis is called testa) but after the said term the *congé* shall be presented.

ART. 5. If the corsairs of Tunis shall meet at sea with ships of war of the United States having under their escort merchant vessels of their nation, they shall not be searched or molested; and in such case the commanders shall be believed upon their word, to exempt their ships from being visited, and to avoid quarantine; the American ships of war shall act in like manner towards merchant vessels escorted by the corsairs of Tunis.

ART. 6. If a Tunisian corsair shall meet with an American merchant vessel, and shall visit it with her boat, she shall not exact any thing, under pain of being severely punished; and, in like manner, if a vessel of war of the United States shall meet with a Tunisian merchant vessel, she shall observe the same rule. In case a slave shall take refuge on board an American vessel of war, the consul shall be required to cause him to be restored; and if any of their prisoners shall escape on board of the Tunisian vessels, they shall be restored: but if any slave shall take refuge in any American merchant vessel, and it shall be proved that the vessel has departed with the said slave, then he shall be returned or his ransom shall be paid.

ART. 7. An American citizen having purchased a prize vessel from our Odgiak, may sail with our passport, which we will deliver for the term of one year, by force of which our corsairs, which may meet with her, shall respect her; the consul, on his part, shall furnish her with a bill of sale, and, considering the distance of the two countries, this term shall suffice to obtain a passport in form; but after the expiration of this term, if our corsairs shall meet with her without the passport of the United States, she shall be stopped and declared good prize, as well the vessel as the cargo and crew.

ART. 8. If a vessel of one of the contracting parties shall be obliged to enter into a port of the other, and may have need of provisions and other articles, they shall be granted to her without any difficulty, at the price current of the place; and if such a vessel shall have suffered at sea, and shall have need of repairs, she shall be at liberty to unload and reload her cargo, without being obliged to pay any duty.

ART. 9. If, by accident, and by the permission of God, a vessel of one of the contracting parties shall be cast by tempest upon the coasts of the other, and shall be wrecked or otherwise damaged, the commandant of the place shall render all possible assistance for its preservation, without allowing any person to make any opposition; and the proprietor of the effects shall pay the costs of salvage to those who may have been employed.

ART. 10. In case a vessel of one of the contracting parties shall be attacked by an enemy under the cannon of the forts of the other party, she shall be protected and defended as much as possible; and when she shall set sail, no enemy shall be permitted to pursue her from the same port or any other neighboring port, for forty-eight hours after her departure.

ART. 11. When a vessel of war of one of the parties shall enter a port of the other, she shall be saluted by the forts, and shall return the salute, gun for gun, neither more nor less. But there shall be given by the parties, respectively, a barrel of powder for every gun which shall be required for the salute.

ART. 12. When citizens of the United States come within the Dependencies of Tunis, to carry on commerce, the same respect shall be paid them as the merchants of other nations enjoy; and if they choose to establish themselves within our ports, no opposition shall be made; and they shall be free to avail themselves of such interpreters as they may judge necessary, without any opposition thereto, in conformity with the usages of other nations; and if any Tunisian subject shall establish himself within the Dependencies of the United States, he shall be treated in the same manner. If a Tunisian subject shall freight an American vessel and load her with merchandise, and he shall afterwards wish to unlade it or ship the same on board of another vessel, we will not permit him, until the matter shall be decided by merchants, who shall make an award thereon, which shall be conclusive. No captain shall be detained against his will in port, except in the case of our ports being shut for the vessels of all other nations; which may extend to merchant vessels, but not to those of war. The subjects or citizens of the two nations shall be protected by the government or commandants of the places where they may be, and not by the other authorities of the country. In case the Government of Tunis shall have need of an American vessel for its service, the captain shall freight his vessel, and the freight shall be paid to him according to the agreement of the Government, without his being allowed to refuse.

ART. 13. If among the crews of merchant vessels of the United States, there shall be found subjects of our enemies, they shall not be made slaves, on condition that they do not exceed a third of the crew; and when they do exceed a third, they shall be made slaves; the present article only concerns the sailors, and not the passengers, who shall not be, in any manner, molested.

ART. 14. The citizens of the United States of America, who shall transport into the kingdom of Tunis the merchandise of their country, in the vessels of their nation, shall pay three per cent. duty. Such as may be laden by such citizens under a foreign flag coming from the United States, or elsewhere, shall pay ten per cent. duty. Such as may be laden by foreigners on board of American vessels coming from any place whatever, shall also pay ten per cent. duty. If any Tunisian merchant wishes to carry merchandise of his country, under any flag whatever, into the United States of America, and on his own account, he shall pay three per cent. duty.

ART. 15. It shall be free for the citizens of the United States to carry on what commerce they please in the kingdom of Tunis, without any opposition, and they shall be treated like the merchants of other nations; but they shall not carry on commerce in wine, nor in prohibited articles; and if any one shall be detected in a contraband trade, he shall be punished according to the laws of the country. The commandants of posts and castles shall take care that the captains and sailors shall not load prohibited articles: but if this should happen, those who shall not have contributed to the smuggling shall not be molested nor searched, no more than the vessel and cargo, but only the offender, who shall be demanded to be punished. No captain shall be obliged to receive merchandise on board of his vessel, nor to unlade the same, against his will, until his freight shall be paid.

ART. 16. The merchant vessels of the United States which shall cast anchor in the road of the Goulette, or any other port of the kingdom of Tunis, shall be obliged to pay the same anchorage for entry and departure which French vessels pay, to wit: seventeen piasters and an half, money of Tunis, for entry, if they import merchandise, and the same for departure, if they take away a cargo; but they shall not be obliged to pay anchorage if they arrive in ballast, and depart in the same manner.

ART. 17. Each of the contracting parties shall be at liberty to establish a consul in the dependencies of the other; and if such consul does not act in conformity with the usages of the country, like others, the Government of the place shall inform his Government of it, to the end that he may be changed and replaced; but he shall enjoy, as well for himself, as his family and suite, the protection of the Government; and he may import, for his own use, all his provisions and furniture without paying any duty; and if he shall import merchandise, which shall be lawful for him to do, he shall pay duty for it.

ART. 18. If the subjects or citizens of either of the contracting parties, being within the possessions of the other, contract debts, or enter into obligations, neither the consul, nor the nation, nor any subjects or citizens thereof, shall be in any manner responsible, except they or the consul shall have previously become bound in writing; and without this obligation in writing they cannot be called upon for indemnity or satisfaction.

ART. 19. In case of a citizen or subject of either of the contracting parties dying within the possessions of the other, the consul or the vekil shall take possession of his effects, (if he does not leave a will) of which he shall make

an inventory, and the Government of the place shall have nothing to do therewith; and if there shall be no consul the effects shall be deposited in the hands of a confidential person of the place, taking an inventory of the whole, that they may eventually be delivered to those to whom they of right belong.

ART. 20. The consul shall be the judge in all disputes between his fellow-citizens or subjects, as also between all other persons who may be immediately under his protection; and in all cases wherein he shall require the assistance of the Government where he resides to sanction his decisions, it shall be granted to him.

ART. 21. If a citizen or subject of one of the parties shall kill, wound, or strike a citizen or subject of the other, justice shall be done according to the laws of the country where the offence shall be committed. The consul shall be present at the trial; but if any offender shall escape, the consul shall be in no manner responsible for it.

ART. 22. If a dispute or law-suit on commercial or other civil matters shall happen, the trial shall be had in the presence of the consul, or of a confidential person of his choice, who shall represent him, and endeavor to accommodate the difference which may have happened between the citizens or subjects of the two nations.

ART. 23. If any difference or dispute shall take place concerning the infraction of any article of the present treaty, on either side, peace and good harmony shall not be interrupted until a friendly application shall have been made for satisfaction; and resort shall not be had to arms therefor, except where such application shall have been rejected; and if war be then declared, the term of one year shall be allowed to the citizens or subjects of the contracting parties to arrange their affairs, and to withdraw themselves with their property.

The agreements and terms above concluded by the two contracting parties shall be punctually observed, with the will of the MOST HIGH. And for the maintenance and exact observance of the said agreements, we have caused their contents to be here transcribed, in the present month of REBIA ELUL, of the HEGIRA one thousand two hundred and twelve, corresponding with the month of August, of the Christian year one thousand seven hundred and ninety-seven.

The AGA SOLIMAN'S signature and seal.
IBRAHIM DEY'S signature and seal.
The BEY'S signature and seal.

Extract of a letter from Joel Barlow, Esquire, to Colonel David Humphreys, dated

ALGIERS, *23d May*, 1797.

"The peace of Tunis is concluded, as I am confidently informed by Mr. Famin. The sickness of the First Secretary of State has prevented its being enregistered, signed, and sent me. It is on the footing of note No. 3, which I sent you by Captain O'Brien. I shall, at a proper time, send you copies of all my letters on this subject, to convince the Executive I could do no better."

[The note No. 3, above referred to, does not appear among the papers transmitted by Colonel Humphreys: but in Captain O'Brien's journal of his mission to Tunis, to negotiate, in conjunction with Mr. Famin, a peace with that regency, there are three notes of the terms of peace; the first, proposed by the Bey, containing military and naval stores, estimated at sixty-eight thousand five hundred and fifty dollars, but which would cost much more, also fifty thousand dollars in cash, and in presents twenty-two thousand, in the whole one hundred and forty thousand five hundred and fifty dollars. Captain O'Brien having rejected these terms, proposed others containing military and naval stores to the amount of twenty-nine thousand three hundred and fifty dollars, estimated, as before, much under the real cost to the United States, and cash and presents the same as proposed by the Bey, the whole amount, one hundred and one thousand three hundred and fifty dollars. These terms were rejected by the Bey, who then offered the following as definitive:]

TERMS No. 3.

Determined terms of Hamonda, Bashaw of Tunis, to make a peace with the United States of America.

26 guns, 12 pounders, carriages complete for sea.
14 guns, 8 pounders, do.
12,000 balls from 4 to 24 lbs.
250 quintals of gun powder.
50 quintals of musket powder.
20 keels 52 feet long each.
500 knees, oak.
200 forked knees.
60 masts fit for vessels from 36 guns to 12: four different sizes.
300 oars, 34 feet long each.
800 oak plank from 3 to 27½ inches, from 12 to 16 feet.
5,000 pine boards 3 inches, 1 foot broad, 12 and 16 feet long.
300 pieces ranging timber, pine, 9, 10, 11, 12 inches.
10 cables of 14 inches, 110, 120 fathoms each.
10 cables of 12 do.
15 hawsers, from 6, 7, 8 inches.
600 quintals Swedish iron in bars.
200 barrels of pitch.
200 barrels of rosin.
200 barrels of tar.
40 quintals of match rope.

[The above called]	Regalia, supposed amount in dollars,	35,000
	Peace, cost in money,	50,000
	Peace presents,	12,000
	Consuls' presents,	4,000
	Sackatappa, or secret service,	6,000
	Total amount in dollars,	107,000

Extract of a letter from Colonel Humphreys to the Secretary of State, dated at

MADRID, *November* 14, 1797.

"I have the honor to transmit to you herewith, the original treaty lately concluded between the United States and Tunis, for the consideration of the Executive. And I cannot refrain from recommending, at the same time, to the favorable notice of Government, the persevering, intelligent, and honorable conduct of Mr. Joseph Stephen Famin, in the management of this tedious and difficult negotiation."

DEPARTMENT OF STATE, *February* 21, 1798.

The foregoing extracts from Mr. Barlow's and Colonel Humphreys' letters, and from Captain O'Brien's journal, are truly made.

TIMOTHY PICKERING.

5th CONGRESS.] No. 134. [2d SESSION.

TUNIS.

REPORTED TO CONGRESS, FEBRUARY 28, 1798.

Mr. BINGHAM, from the committee to whom was referred the consideration of the treaty with the Bey of Tunis, made the following report:

That a peace with the Bey of Tunis, after a variety of difficulties, and a tedious negotiation, has been at length concluded on the following terms, viz:

In money, - - - - - - - -	$50,000
In naval stores, called regalia, - - - - -	35,000
In peace presents, - - - - - - - -	12,000
In consuls' presents, - - - - - - - -	4,000
In sackatappa, or secret service money, - - - -	6,000
	$107,000

The greatest portion of which, it is supposed, has already been disbursed through the medium of a temporary loan, obtained on account of the United States.

The committee further report the following resolution:

Resolved, That the Senate do advise and consent to the ratification of the Treaty of Peace and Friendship between the United States of America and the Bey and Government of Tunis, concluded in the month of August, 1797, on condition that the fourteenth article of the said treaty, which relates to the duties on merchandise, (to be reciprocally paid by the citizens and subjects of the said parties, in their respective ports) shall be suspended.

That it be recommended to the President of the United States to enter into a friendly negotiation with the Bey and Government of Tunis, on the subject of the said article, so as to accommodate the provisions thereof, to the existing treaties of the United States with other nations.

5th CONGRESS.] No. 135. [2d SESSION.

AMERICAN SEAMEN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 1, 1798.

Report of the Secretary of State to the House of Representatives of the United States:

In obedience to their resolve of the 29th of November last, (which was received on the 9th instant) the Secretary of State lays before the House of Representatives, an abstract of all the returns* of registered American Seamen, and of the protests and returns* respecting Impressed Seamen, since the 17th of February, 1797, (the date of his last report) transmitted to him by the collectors of the different ports, pursuant to the directions of the act for the relief and protection of American Seamen; and copies or abstracts of such communications from the agents employed by virtue of the said act, in foreign ports, as have been received.

To these the Secretary adds sundry important communications, on the same subject, from Mr. King, the minister of the United States at London.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *February 27th*, 1798.

* For these returns see Commerce and Navigation, No. 41.

Abstract of all the Protests, or Affidavits of Masters of Ships and Vessels of the United States, transmitted to the Secretary of State, in pursuance of the fifth section of the "Act for the relief and protection of American Seamen," and received by him since the 17th February, 1797, the date of his last communication to the committee of the House of Representatives, appointed to inquire into the operation of the said act.

No. of Protest.	Date of Protest.	Name of American Vessel.	Where belonging.	Master's Names.	Names of people impressed.	Of what country.	By whom impressed.	When impressed.	Whether they had protections.
1	Aug. 12, 1796,	Brig Fanny,	North Carolina,	James Wilson,	David Lovet,	Unknown,	British Ship of War, name unknown,	March 10, 1796,	It does not appear.
2	Jan. 23, 1797,	Ship Independence,	New London,	Ichabod Goodrich,	James Anderson, Alex. Anderson,	Connecticut,	British Ship of War, Ceres,	January 22, 1797,	Do.
					William Gray, Ezekiel Holding, Simon Hubal,	United States,			
3	Feb. 13, 1797,	Thomas,	Newburyport,	Joseph Crown,	Francis Newcomb,	Massachusetts,	British Press Gang, Gravesend,	October 12, 1796,	Had not a protection.
					John Francoise,	Havre de Grace,	Taken out of the ship when lying in the Thames, by authority of the British Government,	Do. 28, 1796,	It does not appear.
					John Flourens,	L'Orient,			
4	Feb. 7, 1797,	Schooner Betsey,	Salem,	Samuel Townsend,	Edward Burnham,	Massachusetts,	British Sloop of War, Rattler,	January 12, 1797,	Had a protection.
5	Feb. 12, 1797,	Brig Prosper,	NewYork,	William Broad,	Court Cruger,	Prussia,	British Ship of War, Dictator,	No date,	It does not appear.
					James Valechove,				
					John Johnson,	Sweden,	English Frigate, Ambuscade,	Do.	
6	Feb. 24, 1797,	Ship Fame,	Do.	John Ablin,	William Holliday,	Unknown,	English Schooner of War,	Do.	Do.
					George Frazer,		Marie Antoinette,	Do. returned to N. York,	Do.
7	Oct. 12, 1796,	Brig Sukey,	Providence,	William Thornton,	Thomas Crandol,	Maryland,	British Sloop of War, Lark,	10th October, 1796,	Do.
8	Feb. 10, 1797,	Sloop Polly and Betsey,	Do.	Ben. E. Gorton,	Simon Humphrey, John Armington, Wm. Holdridge, Mathew Allen,	Rehoboth, Massachusetts,	French Privateer, name unknown,	Taken and carried into Basseterre, Nov. 1, 1796, put in prison, and detained until the 8th,	All had protections.
9	Feb. 9, 1797,	Brig Eliza,	Warren,	John Champlin,	George Fork,	Unknown,	English Frigate, Quebec,	January 5, 1797,	Had not a protection.
10	Jan. 19, 1797,	Schooner Hannah,	Salem,	Asa Batchelder,	William Booe,	Denmark,	Do. do. do.	November 23, 1796,	Had a protection issued by a Notary Public.
11	Mar. 8, 1797,	Brig Tryal,	Newburyport,	James R. Dennis,	George Gay,	England,	British Ship of War, name unknown,	December 18, 1796,	Had not a protection.
					John Davis,	Do.	Do. do. do.	December 23, 1796,	Do.
12	Jan. 11, 1797,	Diana,	Boston,	Benj. Henderson,	Baptist Lesle,	Genoa,	Armed Schooner Mercury, Jamaica,	January 7, 1797,	It does not appear.
13	Jan. 28, 1797,	Ship Halcyon,		Gustavus Taylor,	William Stevens,	Virginia,	English Ship of War, Lady Jenny,	January 23, put two mariners on board said ship,	Had protections from the American Consul at Brest.
					John Cocks,				
14	Dec. 27, 1796,	Sch'r Expedition,	Philadelphia,	Shubel Swaine,	John Davis,	United States,	British Ship of War, Sampson,	December 11, 1796,	It does not appear.
					Charles Black,				
					Daniel Rider,	Prussia,			
15	Jan. 23, 1797,	Friendship,	New London,	William Green,	Rupes King,	Unknown,	Do. do. Ceres,	January 2, 1797,	Do.
16	Mar. 20, 1797,	Ship Ann,	Nantucket,	Thads. Coffin,	William Duncan,	Do.	Do. do. Merlin,	February 24, 1797,	Had not a protection.
18	Feb. 21, 1797,	Fidelity,	Baltimore,	Charles Weems,	Two, names not mentioned,	United States,	Do. do. Roebuck,	February 19, 1797,	It does not appear.
19	Apl. 11, 1797,	Schooner Betsey, Holland,	Philadelphia,	William Shallcross,	Elias Hinson,	Denmark,	Do. do. Woolwich,	April 1, 1797,	Do.
20	Feb. 27, 1797,	Sloop Industry,	Do.	John Wheelan,	Thomas Lewis,	Maryland,	British Frigate, Ceres,	February 26, 1797,	Had not protections.
					Thomas Hicks,				
21	No date,	Ship Hope,	–	William Bainbridge,	John Turner,	Rhode Island,	Do. do. name unknown,	January 10, 1797,	It does not appear.
22	Apl. 26, 1797,	Brig Lydia,	Providence,	John Cook,	John Jay,	Unknown,	Do. Ship of War, Abbicore,	April 2, 1797,	Do.
23	May 29, 1797,	Virginia & Philadelphia packet	–	John Hallett,	Miles Northam,	Virginia,	Do. do. do. La Raison,	– – –	Had a protection.

ABSTRACT—Continued.

No. of Protest.	Date of Protest.	Names of American Vessels.	here belonging.	Master's Names.	Names of people impressed.	Of what country.	By whom impressed.	When impressed.	Whether they had Protections.
24	April 6, 1797,	Sloop Hawk,	Rhode Island,	Holden Langford,	Sam. Thompson, Andrew Lippet,	United States,	British armed Schooner, Port Royal,	May 7, 1797,	Had a protection.
25	Do. 17, "	Schooner Hiram,	New York,	James Buchanan,	John Francis,	Unknown,	French Privateer, name unknown,	December 23, 1796,	It does not appear.
26	Mar. 22, "	Ship Briseis,	–	James Breath,	Lewis, Lewis,	France,	French Ship of War,	September 19, 1796,	It does not appear.
27	June 15, "	Schr. Charming Betsey,	–	William Roberts,	Christ. Sweeney, Thomas Dial,	Pennsylvania, Unknown,	British Frigate, Tartar,	– – –	Had not protections.
28	Mar. 18, "	Snow Becca,	Gloucester,	John Somes,	John Somes and six others,	Unknown, Do.	French Privateer, La Polline, Do. do. do.	March 5, 1797, Do. do.	Does not appear, detained thirteen days. Do. forced to sail on a cruise.
29	June 12, "	Brigantine Mary,	Haverhill,	John Cowper,	John White,	A native of Engl'd	British Frigate, name unknown,	November 15, 1796,	Had a protection.
30	May 2, "	Brig Sally,	Wilmington,	Charles Venn,	Patrick Dugan,	Ireland,	Do. Ship of War, Dictator,	April 27, 1797,	It does not appear.
31	April 5, "	Do. do.	Do.	Do.	John Borgeson,	Sweden,	Do. Sloop of War, Victorious,	March 27, 1797,	Do. do.
32	June 16, "	Sloop Miranda,	Philadelphia,	Thomas Skelly,	Fredk. M'Connell, William Derick,	Ireland, Isl'd of St. Martin's	British Frigate, Tourterelle,	May 26, 1797,	Do. do.
33	Do. 17, "	Schooner Hodge,	Newburyport,	Ephraim Hutchins,	Thomas Brown,	Ireland,	Do. do. do.	Do. 10, 1797,	Had not a protection.
34	Do. 28, "	Industry,	Boston,	Rufus Low,	Thomas Law, William Hunter, Abraham Harris, James Boested,	Massachusetts, Denmark,	British Frigate, Ceres,	April 7, 1797,	Does not appear.
35	Aug. 6, "	Citizen,	Baltimore,	William Massey,	Thomas Ward,	Unknown,	Do. armed Schooner, Montego Bay,	– – –	Had a protection.
36	May 13, "	Barque Mercury,	Bath,	Zebulon Farnham,	John Paul,	Do.	Do. Frigate, L'Ambuscade,	– – –	Do. do.
37	July 20, "	Ship Edward,	Providence,	Mettcalf Bowler,	Francis Gibbens,	France,	By authority of the French republic at Rochefort, and put on board a French Ship of War,	March 7, 1797,	Had not a protection.
38	Aug. 5, "	Schooner Concord,	Alexandria,	Micah Atkins,	James Swan,	Ireland,	British Schooner, Maria Antoinette,	June 6, 1797,	Does not appear.
39	April 30, "	Eliza,	Danvers,	Samuel M'Intyre,	Peter Dutton,	Unknown,	Do. Ship of War, Dictator,	April 27, 1797,	Do. do.
40	July 31, "	Brig Betsey,	Salem,	Nathaniel Silsbee,	Edward Hulen,	Massachusetts,	Do. Frigate, Sybille,	February 9, 1797,	Do. do.
41	Oct. 18, "	Ship Hope,	Norwich,	Sylvester Bill,	Avery Tinker,	Connecticut,	Do. do. Tourterelle,	September 28, 1797,	Had a protection.
42	Dec. 6, "	Alphabet,	Philadelphia,	Benjamin Driggs,	William Collet, Peter Graham, Geo. Bumblecomb, Three black men,	United States, Unknown,	Do. do. Prevoyante, Do. do. do.	November 22, 1797, Do. do.	Had protections. Does not appear.
43	Dec. 11, "	Schooner Isabella,	Philadelphia,	Francis Driscol,	John Easton,	Massachusetts,	Do. Ship of War, Jamaica,	November 5, 1797,	Had not a protection.
44	Feb. 12, 1798,	Brig Loraney,	Do.	Joseph Morris,	John Lacey,	Ireland,	Do. do. do Fortriel,	October 23, 1797,	Do. do.

Returns of impressments and detentions made by the collectors, in pursuance of the act for the relief and protection of American seamen, which have been received by the Secretary of State, since his communication of the 17th February, 1797, to the Committee of the House of Representatives, appointed to inquire into the operation of the said act.

"The Collector of Dighton returns, for the quarter ending with the 30th of June, 1797, that "he has not received any report that a seaman has been impressed or detained abroad."

The Collector of Ipswich returns, for the quarter ending with the 31st of March, "that there does not appear to have been any impressments or detentions of American seamen by any foreign power to have taken place, no protests of masters of vessels having been made, during the above period, in his office." And for the succeeding quarter he returns in like manner.

The Collector for the district of Providence returns as follows:

"The following appear, by the declarations of the masters, to be all the instances of impressment and detention of men belonging to vessels of the United States, which have entered at this port in the first quarter of the present year, 1797.

"James Brown and John Cloak, British subjects, impressed off the Grand Key, Bahamas, and carried on board the British ship of war Dictator, commanded by —— Weston, Esquire, from on board the brigantine Adventure, Jeremiah Greenman, master.

"The mate and three seamen, citizens of the United States, taken out of the sloop Polly and Betsey, Benjamin E. Gorten, master, by a small French Privateer, and carried with the sloop into Guadaloupe, but restored after several days imprisonment: protest transmitted.

"Thomas Crandall, of Maryland, (having no protection) impressed from on board the brigantine Sukey, William Thornton, master, by the British sloop of war, the Lark, commanded by —— Ogilvie, Esquire, off Cape François."

The Collector of Providence returns, for the second quarter of 1797, that "the brigantine Lydia, John Cooke, master, from Aux Cayes, entered on the 26th April, 1797, had one seaman impressed and carried on board of the British ship Abbicore, —— Foster, commander: protest transmitted.

"Sloop Lark, Charles Remington, master, from Tobago, had the mate taken and detained three days.

"Ship Macy, Samuel Parkard, master, from Havana, entered on the 27th of April, had one seaman impressed.

"Sloop Hawk, Holden Langford, master, from Jamaica, entered on the 16th May, had two seamen impressed."

The Collector of Providence returns, for the third quarter of 1797, that "Samuel Brown, a negro man, belonging to Philadelphia, was impressed on the 16th of July, 1797, from on board of the schooner Betsey of this port, Major F. Bowler, master, on her passage from Turk's Island, by a British frigate of thirty-six guns, her name and the commander's unknown; and of which a protest was made agreeably to law.

"Francis Gibbons, a native of France, married and resident at New London, in Connecticut, was taken by the French authority at Rochefort, from on board the ship Edward, of this port, Metcalf Bowler, master."

The Collector for Providence returns, for the fourth quarter of 1797, "that none of the mariners belonging to the vessels entered at this port, during the last quarter of the year 1797, have been impressed or detained, while on their respective voyages."

The Collector of Annapolis returns, on the 18th of April, 1797, "that there have been no reports made to his office, of any seamen being impressed by any of the British ships of war since the passing of the act for the relief and protection of American seamen."

The Collector of Wilmington, North Carolina returns, "that there were no impressments from the 1st October, 1796, to the 31st March, 1797."

The returns of the Collectors of New York and Pennsylvania are annexed

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF PENNSYLVANIA, FOR THE FIRST QUARTER OF 1797.

Abstract of American Seamen impressed by the Belligerent Powers, commencing 1st January, and ending 31st March, 1797.

Date of Entry.	Names of Vessels.	Names of Masters.	Where from.	Names of Seamen.	Places of Birth.	Place of Impressment.	By whom impressed.		Nations to which they belong.
							Names of Vessels.	Names of Master or Commander.	
1797. February 20,	Ship Clothier,	Gardiner,	Demarara,	Samuel Drens,	Maryland,		La Prompt,		British.
	Ditto,	Ditto,	Ditto,		Boston,		Ditto,		Do.
March 14,	Brig Sea Nymph,	M'Dougall,			a Dane,		Bull Dog,		Do.
15,	Sally,	Cotter,	Antigua,	John Mulpheron,	an Irishman,		Roebuck,		Do.
	Ditto,	Ditto,	Ditto,	William Ingren,	an Englishman,		Ditto,		Do.
	Ship Catharine,	Farraday,	St. Thomas,	Thomas Fulger,	an American sent in return,				Do.
	Northern Liberties,	Geddes,	Isle of France,	James Henry,			The Brave,		Do.
		Ditto,	Ditto,	John Kendal,			Ditto,		Do.
		Ditto,	Ditto,	Samuel Conyngham,			Ditto,		Do.
25,	Brig Flora,	Stephens,	Havanna,		a Spaniard,				Spain.

SHARP DELANY, *Collector.*

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF PENNSYLVANIA, FOR THE SECOND QUARTER OF 1797.

Abstract of American Seamen Impressed by the Belligerent Powers, commencing 1st April, and ending 30th June.

Date of Arrival.	Names of Vessels.	Names of Captains.	Where from.	Names of Seamen.	Where impressed.	By whom impressed.	States or Nations to which they belong.
1797. April 10,	Schooner Lively,	John Clarke,	St. Thomas's,	Thomas Daily,	West Indies,	British ship,	Supposed G. Britain.
	Do.	Do.	Do.	John Shaw,	Do.	Do.	Do.
	Do.	Do.	Do.	James Robinson,	Do.	Favorite,	Do.
	Do.	Do.	Do.	John Sybiand,	Do.	Do.	Denmark.
27,	Minerva,	Anthony Andaulle,	Port au Prince,	William Williams,	Cape St. N. Mole,	British ship,	New England.
	Do.	Do.	Do.	James Palmer,	Do.	Quebec,	Do.
29,	Dick,	William Brown,	Trinidad,	William Hendy,	Detained at Trinidad by Governor Pinkston,		Supposed French.
May 2,	Brig Eagle,	Richard Rundle,	Cape St. N. Mole,	Do.	West Indies,	British ship,	A Dutchman.
	Gratitude,	James Clifton,	Do.	Two men,	Do.	Do.	Not citizens.
3,	Ship Molly,	John Frost,	Liverpool,	One seaman,	London,	Do.	Uncertain.
	Schooner Poll,	Thomas Hammet,	Gonaives,	Do.	West Indies,	Do.	Do.
4,	Brig Minerva,	James Long,	Jacquemel,	William Thomas,	Do.	British ship Regulus,	A Dane.
5,	Schooner Mille,	James Edwards,	Gonaives,	Jeremiah Leray,	Do.	Tartar,	United States.
8,	Betsey Hollow,	William Shallcross,	Antigua,	Elias Hinson,	Do.	Woolwich,	A Dane.

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF PENNSYLVANIA, FOR THE SECOND QUARTER OF 1797.

Abstract—Continued.

Date of Arrival.	Names of Vessels.	Names of Captains.	Where from.	Names of Seamen.	Where impressed.	By whom impressed.	States or Nations to which they belong.
1797. May 12,	Brig Schuylkill, - -	George Irwin, -	St. Thomas's, -	One man, - - - - -	West Indies, -	British ship Woolwich, - -	A Dane.
	Ship Hope, - - -	William Bainbridge,	St. Bartholomews,	John Turner, - - - -	Do.	Indefatigable, commanded by Sir Ed. Pelew, -	Rhode Island.
	Peggy, - - -	John Lynes, - -	Trinidad, - -	John Defardin; had resided eight years in Baltimore, and had a protection, - - - -	Do.	British ship Dictator, - -	French.
13,	Schooner Expedition, -	Shubael Swaine, -	St. Thomas's, -	John Davis; had a protection, -	Do.	Sampson, - -	United States.
	Do.	Do.	Do.	Charles Black, a negro; do. -	Do.	Do.	Do.
	Do.	Do.	Do.	Daniel Rider, do. -	Do.	Do.	Prussian.
	Do.	Do.	Do.	Garrick Hirser, do. -	Do.	Do.	German.
15,	Snow Good Hope, - -	John Gemeny, -	St. Croix, - -	John Black, - - - -	Do.	Labbett, - -	Massachusetts.
16,	Schooner Huminia, -	Robert Boggess, -	Port au Prince, -	Lewis Howe; had formerly been on board a man of war, (British)	Do.	Quebec, - -	Virginia.
18,	Brig Charlotte, - -	Richard Bishop, -	Gonaives, - -	James Philips, - - - -	Do.	Sisters, - -	Great Britain.
	Schooner Friendship, -	Peter Odlin, - -	Jacquemel, -	John Holness, - - - -	Do.	Regulus, - -	Dutch.
19,	President,* -	Robert Lillibridge,	L'Anse-à-Veau,				
June 5,	Sally, - -	Thomas Hughes, -	Honduras, -	One seaman, - - - -	Do.	Marland, - -	Great Britain.
8,	Brig Fly, - - -	Isaac Hubber, -	Jeremie, - -	William Hutcheson, - -	Do.	Melpomene, -	Uncertain.
14,	Sally, - - -	Charles Venn, -	St. Thomas's, -	Patrick Dongan, aged eighteen, apprentice to the owners, -	Do.	Dictator,	
	Do.	Do.	Do.	Wm. Hemphill; had his indentures with him, - - -	Do.	Do.	
	Do.	Do.	Do.	John Boswaine, - - -	Do.	Do.	Sweden.
	Molly, - - -	Edward Russel, -	St. Kitts, - -	Aaron Chandler,	Taken out by a French privateer vessel, ordered for Guadaloupe: vessel retaken by a British privateer.		
	Do.	Do.	Do.	George Webber,			
	Do.	Do.	Do. - -	Edmond Brett,			
	Do.	Do.	Do. - -	Thomas Bassett,			
16,	Sloop Miranda, - -	Thomas Skelly, -	Jacquemel, -	Frederick M'Connel, mate, -	West Indies, -	British ship Tourterelle, - -	Ireland.
	Do.	Do.	Do.	Wm. Derrick, apprentice, bound in Philadelphia, by the overseers of the poor, - - -	Do.	Do.	
	Do.	Do.	Do.	John Haskett, - - -	Do.	Do.	Uncertain.
May 1,	Industry, - -	John Whelan, -	Cape François, -	Thomas Lewis, - - -	Do.	Ceres, - -	Maryland.
	Do.	Do.	Do.	Thomas Hueks, - - -	Do.	Do.	Do.
20,	Schooner Star, - -	Jos. Woodman, -	London, - -	Edward Barry; had a protection,	London, - -	Do.	Ireland.
	Do.	Do.	Do.	Robert De Laharty, - - -	Do.	Do.	
23,	Brig Newton, - -	Jos. Dacosta, -	St. Croix, - -	Richard Jones, - - -	At Sea, - -	Prevoyante, - -	Great Britain.

* Captured by a British ship at Heneauga, who took out all his seamen, viz: six men, and manned her with seven men; left on board two American captains, who, with Captain Lillibridge and the cook, retook the vessel.

SHARP DELANY, *Collector.*

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF PENNSYLVANIA, FOR THE THIRD QUARTER OF 1797.

Abstract of Seamen impressed by the Belligerent Powers, commencing July 1, and ending 30th September, 1797.

Date of Arrival.	Names of Vessels.	Names of Captains.	Where from.	Names of Seamen.	Where impressed.	By whom impressed.	State or nation to which they belong.
July 12, 1797,	Schooner Susanna,	Joshua Webb,	Cape N. Mole,	John Kennedy,	At Sea,	British ship Hannibal,	
" 17, "	Brig Active,	Robert Cooke,	Port-au-Prince,	John Yeaton,	Cape N. Mole,	" Queen,	
August 8, "	Ship Wilmington,	George Hillman,	Cadiz,	Nicholas Butler,	- - -	Schr. Antoinette,	United States.
				Zachariah Josey,	- - -	A British Cutter,	Foreign.
" 16, "	Schooner Nancy,	William Young,	Port-au-Prince,	Jonathan Anthony,	At Sea,	Name unknown,	
				Thomas Stokes,	Cape N. Mole,	- - -	Great Britain.

SHARP DELANY, *Collector.*

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF PENNSYLVANIA, FOR THE FOURTH QUARTER OF 1797.

Abstract of Seamen impressed by the Belligerent Powers, commencing October 1, and ending December 31, 1797.

Date of Arrival.	Names of Vessels.	Names of Captains.	Where from.	Names of Seamen.	Where impressed.	By whom impressed.	State or Nation to which they belong.
October 26, 1797,	Schooner Ranger,	James Friar,	Jacquemel,	James Armsted,	Lat. 20° N. Long. 76,	British ship Abbicore,	United States.
				William M'Cand,	- - -	- - -	Ireland.
November 4, 1797,	Brig Mary,	Peter Yorke,	Gibraltar,	Charles Leviston,	Sea,	British ship Surprise,	Massachusetts.
December 5, "	Ship Fair American, Re-taken by the British.	Henry Tredwell,	London,*				

SHARP DELANY, *Collector.*

* Taken by a French privateer; the mate and all hands taken out.

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF NEW YORK, FROM THE 9TH AUGUST, 1796, TO THE 30TH JANUARY, 1797.

Return of American Seamen which have been impressed from on board of vessels belonging to the United States, and arrived in the District of the city of New York.

Date of Entry.	Vessels' Names.	From whence.	Names of the persons impressed.	Of what country.	By whom impressed.	Where.	Date.
1796.							1796.
August 9	Ship Penelope, Bunker,	Cork,	Thomas Petitt,	Ireland,	British Frigate Cleopatra, Penrose,	At sea,	August 5
9	Do. do.	Do.	William William,	Wales,	Do. do.	Do.	5
11	Brig Fanny, Wilson,	Cadiz,	Davis Levett,	Unknown,	Ship of war, name unknown,	Do.	March 10
September 1	Ship Mary, Macey,	Petersburgh,	Daniel Cree,	England,	By the press gang,	Liverpool,	10
9	Ship Severn, Fairly,	Hull,	John Brown,	Germany,	Do. do.	Do.	July 6
9	Do. do.	Do.	Merrit Fast,	America,	Do. do.	Hull,	6
9	Do. do.	Do.	Thomas Johnston,	Scotland,	Ship of war Thetis, Cochran,	At sea,	6
12	Brig Pearl,	Cork,	Thomas Kurk,	Unknown,	Sloop of war Hazard, Parker,	Off Cape Clear,	June 4
17	Brig Nancy, Barclay,	C. Nichola Mole,	Joseph Francis,	France,	Government,	At the Mole,	August 7
17	Ship Mohawk, Moore,	London,	Joseph Lowry,	Portugal,	Sloop of war Harper,	Woolwich, Eng.	June 8
October 12	Ship Orlando, Laughton,	Liverpool,	John Patter,	America,	Press gang,	Cowes,	May 5
12	Do. do.	Do.	John Dawling,	Ireland,	Do.	Do.	5
10	Ship Ellice, Harvey,	London,	John Justice, Mate,	Scotland,	Do.	River Thames,	July 7
12	Schooner Regulator, Robins,	Aux Cayes,	Michael Small, do.	Ireland,	Brig Diligence, Western,	At sea,	September 17
12	Do. do.	Do.	George Willson,	Denmark,	Do. do.	Do.	17
18	Brig Prudence, Hovey,	Amsterdam,	Thomas Philpen,	America,	Racoon Roe,	English Channel,	August 4
19	Ship Amsterdam Packet, Henderson,	Greenock,	James Morris,	Do.	Ship of war Assistance, Mowat,	At sea,	June 7
20	Schooner Blazing Star, Leonard,	St. Croix,	William Lewis,	Do.	Frigate Amiable,	Martinique,	September 22
22	Ship Tanner, Macey,	Carnarvon, Wales,	Griffith Griffiths,	Wales,	Ship of war Prevoyance, Wymess,	Carnarvon,	June 27
22	Do. do.	Do.	James Crown,	Do.	Do. do. do.	Do.	27
22	Do. do.	Do.	Thomas Thomas,	America,	Do. do. do.	Do.	27
31	Sloop Almena, Brebec,	St. Thomas,	Elias Rogers,	Do.	Frigate Alarm, Fellows,	St. George's Bay,	September 13
November 9	Brig Esperanza, Traviss,	Port au Prince,	William Curry,	Ireland,	Ship of war Hindostan,	Port au Prince,	21
14	Brig Eliza, Cook,	Kingston,	Lewis, Mullatto,	East Indies,	Do. name unknown,	Port Royal,	August 28
1	Schooner Amy, Woodman,	Cape Francois,	William White,	America,	Frigate Perverante,	At sea,	3
7	Ship Mary, Dillingham,	Turk's Island,	Nicholas Wells,	Do.	Prevoyante, Weynes,	Do.	September 12
7	Do. do.	Do.	Robert Roper,	Do.	Do. do.	Do.	12
7	Do. do.	Do.	Machel Law,	Do.	Do. do.	Do.	12
7	Do. do.	Do.	Alexander M'Kay,	Do.	Do. do.	Do.	12
18	Ship Fame, Harris,	London,	John Palmer,	Do.	Press gang,	Gravesend, Eng.	August 9
18	Schooner Three Anns, Richards,	Malaga,	John Anthony,	Ireland,	Ship of war Resolution, Pender,	Malaga,	October 3
December 12	Sloop Peggy, Askins,	Aux Cayes,	1 seaman, name unknown	Unknown,	Frigate Arethusa, Jevisden,	At sea,	September 30
31	Brig Almy, Cutter,	Jamaica,	John M'Master,	America,	French Privateer,	Do.	October 12
31	Do. do.	Do.	James Torns,	Do.	Do.	Do.	12
31	Do. do.	Do.	John M'Nerny,	Do.	Do.	Do.	12
31	Brig Mary, Willington,	C. Nichola Mole,	Moses Carney,	Ireland,	British Ship of war Dictator,	C. Nichola Mole,	November 3
29	Ship Planter, Montague,	Bristol,	James With,	England,	Frigate Thetis, Cochran,	Cape Virginia,	July 11
10	Schooner Romp, Peck,	Kingston,	David Anderson,	America,	Sloop of war Rattler, Cochet,	St. Domingo,	October 22
31	Do. do.	Do.	James Johnson,	Do.	Do. do.	Do.	22
31	Do. do.	Do.	Jacob Smith,	France,	Do. do.	Do.	22
31	Do. do.	Do.	William Barker,	America,	Ship of war Quebec, Cook,	At sea,	22

RETURN—Continued.

Date of Entry.	Vessels' Names.	From whence.	Name of the person impressed.	Of what country.	By whom impressed.	Where.	Date.
1797.							
January 3	Brig Seven Brothers, Singleton, -	Kingston, -	David Green, -	America, -	British Ship Sampson, Trip, - -	Port Royal, -	October 21
3	Do. do. -	Do. -	Thomas Ray, -	Do. -	Do. do. - -	Do. -	21
17	Swallow, Dorson, - -	Jaquemel, -	John Rodrique, -	Spain, -	Do. Quebec, Cook, - -	At sea, -	November 24
24	Lark, Odlin, - -	Logaine, -	Patrick Keating, -	Ireland, -	Frigate Ambuscade, Frisden, -	Logaine. -	15
24	Do. - - -	Do. -	John Hunter, -	Do. -	Do. do. -	Do. -	15
30	Schooner Minerva, Andaulle, -	Port au Prince, -	John Spoon, -	America, -	Fifty-four, name unknown, -	Port au Prince, -	October 10

COLLECTOR'S OFFICE, DISTRICT OF THE CITY OF NEW YORK, *February* 23, 1797. JOHN LAMB, *Collector.*

Return of American seamen which have been impressed on board of vessels belonging to the United States, and arrived in the District of the City of New York, from the 17*th of January to the* 1*st of May*, 1797.

Date of Entry.	Vessels' Names.	Masters' Names.	From whence.	Names of the persons impressed.	Of what country.	By whom impressed.	Where.	Date.
1797.								
January 17	Brig Trio, -	Story, -	Jamaica, -	William Bradle, -	America,	French Privateer La Triomphie, Labarrere, - - -	At sea, -	Dec. 27, 1796
				John Parker, -	Do.			
				William Corbin, -	Do.			
				William Ruly, -	Ireland,			
March 6	Ship Joseph, -	Telt, -	Dublin, -	James Elmes, -	England, -	British Brig Britannia, Lymonds, -	Dublin, -	Oct. 4,
22	Briseis, -	Breath, -	Bordeaux, -	Two seamen named Lewis,	France, -	French Commodore's ship, - -	Bordeaux, -	Sep. 19,
23	Independence	Goodrich, -	Martinique, -	John Ayres, -	America,	British Ship of war Ceres, - -	St. Pierre's, -	Jan. 22, 1797
				James Anderson, -	Do.			
				Alexander Anderson, -	Do.			
				William Gray, -	Do.			
				Ezekiel Holding, -	Do.			
April 3	Brig Elsa, -	Francis, -	Guadaloupe, -	Henry Doughty, -	Do. -	French Frigates Lapancy and Thetis, -	At sea, -	16,
3	Ship Blackriver,	Dobson, -	Martinique, -	James Ellis, -	England, -	British press gang, - - -	River Thames, -	16,
12	Schooner Peggy,	Hall, -	Curacoa, -	Jordan Anderson, -	Denmark,	Frigate Tortoral, - -	At sea, -	Mar. 8,
				Derk Nelson, -	Do.			
				Jacob Sebra, -	Holland,			
	Ship Fabius, -	Disverney, -	Havre de Grace,	One seaman, name unknown	Unknown, -	Ship of war Diamond, - -	Do. -	Feb. 12,
	Schooner Hiram,	Buchanan, -	St. Bartholomews,	John Francis, -	France, -	French Privateer, name unknown, -	Do. -	Dec. 23, 1796
24	Ship Diana, -	White, -	Guadaloupe, -	Thomas Powers, -	Ireland,	British Ship of war Vanguard, -	Do. -	Feb. 5, 1797
				Alexander Forbus, -	Scotland,			
May 1	Ship Harriot, -	Moore, -	Hamburg, -	William Warren, -	America, -	Frigate Thetis, - -	Do. -	Apr. 28,
1796.								
Decemb. 12	Sloop Peggy, -	Askins, -	Aux Cayes, -	Mate and 1 seaman, names	Unknown, -	Ambuscade, - -	Do. -	Sep. 13, 1796

COLLECTOR'S OFFICE, NEW YORK, *May*, 1797. JOSHUA SANDS.

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF NEW YORK, FOR THE THIRD QUARTER OF 1797.

Return of American Seamen which have been impressed from on board the vessels belonging to the United States, and arrived in the District of the City of New York, from the 1st of May to the 30th of September, 1797.

Date of Entry.	Vessels' Name.	Masters' Names.	From whence.	Names of the Persons impressed.	Of what Country.	By whom impressed.	Where.	Date.
1797.								1797.
July 24,	Snow Mary, - -	O'Brien, -	Liverpool, - -	Providence Anthony, -	Virginia, -	British Press Gang, - - -	Liverpool,	April.
August 9,	Brig Henry, -	M'Colly, -	Nassau, N. P.	Peter Towser, -	Genoese,	British sloop of war Swallow, Captain Folk, -	Nassau, -	June.
				Robert Warnick, -	America,			
10,	Ship William & Henry,	Cairns, -	Cork, -	Edward Burns, -	Ireland,	Do. ship of war Polyphemus, Lumsdaine, -	Cove Cork,	Febr'y 13.
				John Hartley, -	Sweden,			
				William Harvey, -	England,			
21,	Schooner Hope, -	Cooke, -	Surinam, - -	John Dore, - -	America, -	Do. sloop of war Frederick, Captain unknown, -	At sea, -	June 21.
23,	Barque Albany, -	Paddock,	Cork, - -	Thomas Oliver, -	England, -	Do. ship of war Polyphemus, Lumsdaine, -	Cork, -	March 9.
				James Hammond, -	America,			
	Ship Hope, - -	Pierce, -	Madeira, -	James Keys, -	Do.	British brig Eleorso, Captain James, - -	Madeira, -	May 23.
				John Burns, - -	Do.			
				Stephen Purcell, -	Do.			
26,	Brig Lewis, - -	King, -	Aux Cayes, - -	William Gage, -	Do. -	Do. frigate La Tortural, Captain unknown, -	At sea, -	August 9.
				David Wescott, Mate,	Do.			
				Joseph Wescott, -	Do.			
Septr. 4,	Ship John and Phœbe,	Dyer, -	Liverpool, -	Ebenezer Banks, -	Do.	French privateer Victoraine, Captain unknown, -	Do. -	July 20.
				Storos Aray, -	Do.			
				Thomas Truman, -	Do.			
				Samuel Weaver, -	Do.			
				John Smith, - -	Ireland,			
7,	Ship Hero, - -	Jackson, -	Calcutta, -	Peter M'Curdy, -	Do.	British ship of war Tremendous, Admiral Pringle,	Do. -	May 27.
				Joseph Shannon, -	Do.			
12,	Ship Merchant, -	Rossetter,	London, - -	Michael M'Curdy, -	Scotland, -	British Press Gang, - - -	London, -	April 24.

District of New York, *Collector's Office, October* 1, 1797.

RETURN OF IMPRESSMENTS, BY THE COLLECTOR OF NEW YORK, FOR THE FOURTH QUARTER OF 1797.

Return of American Seamen which have been impressed from on board of vessels belonging to the United States, and arrived in the District of the city of New York, commencing the 1st of October, and ending 31st of December, 1797.

Date of Entry.	Vessel's name.	Names of masters.	From whence.	Names of the persons impressed.	Of what country.	By whom impressed.	Where.	Date.
1797, Oct. 10.	Brig Lydia,	Ropes,	Cadiz,	Rob. Waters, country Robert Wilkins,	Unknown, Unknown,	British frigate Emerald, Captain Waller,	At sea,	May 12, 1797.
" 12.	Ship Success,	Miller,	St. Domingo,	Philip Barrow,	America,	British frigate Abergavenny, Capt. Cochet,	Port-au-Prince,	August 26, "
" 24.	Snow Nancy,	Webb,	Port-au-Prince,	William Dameral,	America,	Do. do. do.	Port-au-Prince,	" 25, "
Nov. 16.	Schooner Active,	Wilcox,	New Orleans,	Daniel Tankson,	America,	British frigate Magician, captain unknown,	At sea,	July 30, "
	Ship Columbus,	Cook,	London,	Robert Butler,	Negro,	British press-gang,	River Thames.	
" 21.	Ship Mary,	Starr,	London,	Jacob Willard, John Ogelf, William Jacobs,	America, Denmark, Sweden,	British press-gang,	Portsmouth,	Novem. 24, 1796,
Dec. 4.	Ship Diana,	Duplex,	Havanna,	Neil Clark, John Knapp,	America, America,	British frigate Thetis, Captain Cochran,	At sea,	Novem. 17, 1797.
" 11.	Brig Peggy,	Tod,	New Orleans,	John G. Beir,	Denmark,	British sloop of war, name unknown,	At sea,	
" 26.	Brig Anthony,	Garrat,	Trinidad,	Jo. Frederick Bootes,	Prussia,	British brig, the Victor Hughes, Dixon,	Trinidad,	" 5, "
	Schr. Chrisies,	Campbell,	Curaçoa,	Daniel Troy, William Ogilvie, William Dicken,	England, England, England,	British ship of war Assistance, Capt. Mowate,	Halifax,	March 8, "
	Snow Nancy,	Johnson,	Jamaica,	John Furlong, Alexander Davids, Two passengers, name	Ireland, England, Unknown,	Vessel's name unknown, Captain Beresford,	New Providence,	May 18, "
	Ship Maria,	Terris,	Demarara,	Two mates and four men, names not mentioned in the protest,		French privateer, name unknown,	At sea,	April 18, "

N. B. The three last mentioned vessels were omitted in the quarter ending June, 1797.

DISTRICT OF NEW YORK, COLLECTOR'S OFFICE, *January* 1, 1798.

JOSHUA SANDS, *Collector.*

Communications from David Lenox, Esquire, Agent for procuring the release of impressed American Seamen, in Great Britain.

LONDON, *July 1st*, 1797.

SIR:

The letter which I had the honor to write you the 12th instant, would inform you of my arrival here, and of an arrangement being in contemplation, which had for its object a more direct line than had hitherto been practised, of affording relief to our unfortunate seamen, who might be impressed or detained on board His Britannic Majesty's fleet; this has been effected, and applications in future are to be made by me, through Mr. Nepean, first secretary to the Admiralty. By the former mode, applications went from our minister to Lord Grenville, by him they were referred to the Lords of the Admiralty, and they gave directions to a secretary, to be forwarded to the commanders of the different ships; by this circuitous route, no doubt can be entertained that many omissions took place, and that to this cause may be attributed the many cases of our seamen to which no kind of attention has been paid: these will appear by the abstract lately sent you by Mr. King. I am preparing to make a renewal of all these cases, the result of which I will have the honor to transmit to you when I shall have it in my power. Since my arrival I have made application for eleven seamen, among whom there appeared no recent instance of impressment, except in the case of two men who were picked up here by the press gang; one of them was liberated on my interference, the other is yet detained on the supposition of his being a British subject. I find considerable difficulties will often arise from defects in our laws with respect to seamen. By act of Congress, of the 14th April, 1792, the consuls are authorized, in certain cases, to allow twelve cents per diem to our seamen; but I find the relief from this provision has been small indeed. The same law obliges masters of vessels to take on board seamen on the application of consuls, but this has seldom been enforced; and Mr. Johnson, consul at this port, has informed me that such applications have been very generally treated with contempt; however, I have requested him to renew the trial when cases shall occur, having no kind of doubt in my own mind, that on proof being sent to America, the penalty would be recovered, and an example or two would, in my opinion, have a good effect. My experience does not yet furnish me with sufficient grounds to point out all the defects of our laws on this subject; but Mr. King has a thorough knowledge of the business, and, I have been informed, has given every information; I shall, however, take the liberty to convey from time to time such ideas as may occur to me in the course of my official communications.

In compliance with my instructions, I have opened a correspondence with all the American consuls in the different European ports, and have informed them of my establishment here. With respect to that part which refers to my visiting "those ports and places which are the principal scenes for impressing or detaining American seamen," Mr. King is of opinion with me, that no good would result from it, for the commanders of vessels would not allow me, as matter of right, to go on board their ships; if, however, I find that any good can be expected, I will certainly make the attempt. That part which respects protections to our seamen, I much fear cannot be accomplished; I have seen the correspondence between Mr. King and Lord Grenville on this subject, and there appears unsurmountable obstacles on their part; I shall, however, attempt, at least, to establish a form which may protect our seamen once discharged from future impressment, but even this I find liable to objections, and I believe the fact is they are afraid to trust us. I have had great assistance from Mr. King since my arrival in arranging my business; and, from the general disposition I have found in every person with whom I have had to confer, I have reason to hope that I shall be able to conduct the business with which I am entrusted, with benefit to my country and satisfaction to myself.

I have the honor to be, &c. &c. &c.

LONDON, *July 17th*, 1797.

SIR:

Since I had the honor to write you the 1st instant, (copy of which is enclosed) nothing of consequence has occured in my official situation. On the 12th instant I renewed an application for all seamen who appeared, from documents in my possession, to be still detained on board His Britannic Majesty's fleet; and I now do myself the honor to forward you a copy of it. I beg leave, however, to observe that, I have reason to believe some of these men may have been discharged; yet, as it does not appear with certainty, I conceived it my duty to include the whole. As these men are now deprived of every kind of proof of their citizenship, and is a pretext for their being detained, I would suggest the propriety of some general publication to urge their friends to forward me the best proof in their power: those who can be furnished with extracts from church registers, attested by a notary, and certified by a British consul, will be the best, and such as I conceive will soon put it in my power to restore them to their country and friends: where this is impracticable, the best that can be obtained. My applications for impressed seamen now amount to twenty-six, and eight have applied to me who have been discharged; of these I keep a regular register, extracts from which I shall forward at stated periods.

I have the honor to be, with great respect, sir, your most obedient servant,

D. LENOX.

The Hon. TIMOTHY PICKERING, Esq.

A List of Seamen, representing themselves to be American citizens, impressed and detained on board His Britannic Majesty's fleets, whose discharge has been required by the Honorable Thomas Pinckney, Esq. late minister plenipotentiary of the United States of America at the Court of London, and now renewed by David Lenox, agent, residing in Great Britain, for the relief and protection of American seamen.

Date of application.	Seamen's Names.
July 19, 1793,	William Noles,
Ditto,	Robert Williams,
Ditto,	Thomas Woods,
September 12, 1794,	Peter Purver,
Ditto,	James Futterton,
September 23, 1794,	Nathaniel Knowles,
September 26, 1794,	James Morris Jones,
Ditto,	Robert Donovan,
Ditto,	Jesse Clark,
September 30, 1794,	Daniel Chubb,
October 8, 1794,	John Todd,
Ditto,	Thomas Walsh,
Ditto,	John Smith,
Ditto,	Zachariah Hill,
Ditto,	Frederick Johnston,
Ditto,	John Smith,
Ditto,	Samuel Webb,
Ditto,	Robert Oakes,
December 13, 1794,	William Winslow,
Ditto,	Samuel Hood,
February 12, 1795,	Moses Taylor,
March 2, 1795,	Robert Watts,
Ditto,	John Boyd,
Ditto,	Mark Nason,
Ditto,	Daniel Robinson,
Ditto,	John Fraine,
Ditto,	Philemon Skinner,
Ditto,	Reuben Rich,
Ditto,	John M'Carter,
Ditto,	John Cunningham,
December 23, 1795,	John Williams,
January 9, 1796,	Charles Lewis,
March 24, 1796,	Richard Smith,
Ditto,	Zadock Tiltson,
Ditto,	James Sears,
Ditto,	Peter Wickham,
Ditto,	William Peters,
April 13, 1796,	John Roase,
April 22, 1796,	William Wilson,
April 30, 1796,	William Wright,
Ditto,	John Elliot,
Ditto,	Allen Stanton,
Ditto,	Hugh Whorry,
Ditto,	John Matheur,
Ditto,	William Wilson,
Ditto,	John Mann or Marson,
Ditto,	Alexander Crawford,
Ditto,	Henry Moreton,
May 19, 1796,	John Wise,
Juue 9, 1796,	Benjamin Jones,
June 16, 1796,	James Newman,
Ditto,	Thomas Downey,
Ditto,	Philip Hoy,
Ditto,	William Bennet,
Ditto,	Peter Mortamore,
Ditto,	John Rogers,
Ditto,	Thomas Rose,
June 16, 1796,	Giles Rider,
Ditto,	Robert Benwick,
Ditto,	John Jones,
Ditto,	Joseph Brown,
June 21, 1796,	George Wells,
Ditto,	William Smith,
Ditto,	Richard Jones,
Ditto,	Edward Carew,
Ditto,	William Wilson,
Ditto,	William Hughes,
Ditto,	James Trumbell,
June 27, 1796,	Robert Key,
Ditto,	Andrew Ware,
Ditto,	Joseph Gray,
Ditto,	John Mehill,
Ditto,	Alexander Butler,
Ditto,	Joshua Hamilton,
Ditto,	Thomas Simmons,
July 1, 1796,	Thomas Henderson,
July 11, 1796,	William Peters,
Ditto,	Manett Taft,
Ditto,	John Brown,
Ditto,	John Brown,
It appears by a note that several of these men are discharged, but no names are particularized.	John Sullivan, Samuel Harford, Samuel Edwards, George Wilson, Charles Stewart, Isaac Leeds, Simon Brown, Peter Malliot, Richard Galloway, George Simons, Damon Burr, Philip Harris, Richard Howe, Tobias Dowell, William Maning, James Cridges, Sandford Sanders, —— Lawrence,
July 24, 1796,	John Shepherd,
Ditto,	John Stewart,
Ditto,	Benjamin Johnston,
Ditto,	Warren A. Kendrick,
Ditto,	John Barrett,
Ditto,	George White,
Ditto,	Samuel Leaviston,
Ditto,	James Kinney,
Ditto,	John Steward,
Ditto,	William Higgens,
Ditto,	John Cline,
Ditto,	John Murphey,
Ditto,	William Neall,
Ditto,	John Parker,
Ditto,	George Andrew,
Ditto,	Joseph Hill.

In all, one hundred and fourteen seamen, who appear, from documents in my possession, not to have been discharged on the application of Mr. Pinckney.

D. LENOX,
Agent for the relief and protection of American seamen.

LONDON, *July* 12, 1797.

A list of seamen representing themselves to be American citizens, impressed and detained on board His Britannic Majesty's fleets, whose discharge has been required by the honorable Rufus King, Esquire, minister plenipotentiary of the United States of America, and now renewed by David Lenox, agent, residing in Great Britain, for the relief and protection of American seamen.

Date of application.	Seamens' Names.	Ships where carried.
1796.		
August 8,	Hugh Christie, -	Glory.
" "	Abm. Hasleburgh,	Lion.
" "	Benj. Hasleburgh,	Same.
" "	James Hopewell,	Euryalus frigate.
" "	Daniel Robinson,	York.
" "	Joseph White, -	Enterprise tender.
" "	Wm. Thomson -	Sandwich.
" 24,	Wm. Greenhill,	Same.
" "	Wm. Heywood,	Standard.
" "	Francis Rose, -	Tender off the tower.
" "	John Williams, -	Sandwich.
Sept. 6.	George Hamilton,	Same.
" "	James Forster, -	Same, or Enterprise.
" "	Ezra Burnham, -	Regulus.
" "	Richard Howe jun.	Same.
" "	John Hutchins, -	Same.
" "	John Libbey, -	Same.
" "	Edward Nutter,	Same.
" "	Daniel Coggeshall,	Iphigenia.
" "	Simon Hurlburt,	Same.
" "	Hazard Pearce or Peane, -	Same.
" 14,	Joseph Buckley,	Sandwich.
" "	Philip Mingle,	Same.
" "	James Scott, -	Montague.
" "	George Kelly, -	Royal William.
" 28,	William Blount,	Scorpion sloop of war.
" "	William Harold,	Cruising ship Sally.
" "	John Strickley, -	Same.
" "	Wm. Thompson,	Thetis.
" "	Joseph Gibbons,	Spencer.
" "	Benj. Eastman,	Narcissus.
" "	Nathaniel Harris,	Lion.
" "	John Smith, -	Sampson.
" "	John Duff, -	Same.
" "	Patrick Maden,	Same.
" "	Tulone Martin,	La Sirenne.
" "	Estorie Martin, -	Same.
" "	John Doyle, -	Sampson.
" "	Benjamin Dogget,	Amazon.
" "	Samuel Morgan,	Same.
" "	John Messenger,	Same.
" "	Edward Clawson,	La Sirenne.
" "	Joseph Hobbard,	Same.
" "	Charles Hobbling,	Same.
" "	John C. Huper, -	Same.
" "	Thomas Freeman,	Hermione.
" "	Benj. Brewster,	Same.
" "	Joseph Myrrick,	Same.
" "	Joseph Smith, -	Same.
" "	John Robinson, -	Same.
" "	Joseph Hoodley,	Severn.
" "	Joseph Pearson,	Savage sloop of war.
" "	Thomas Evans,	Royal William.
" 30,	William Bell, -	Sandwich or Ardent.
" "	Robert Rice, -	Africa.
" "	Henry Carlton, -	Sandwich.
" "	Fred. Christian,	Same.
" "	Daniel Robinson,	York.
October 3,	Joseph Brown, -	Sandwich.
" 8,	William Keen, -	(At Gravesend.)
" "	Frederic Brown,	Savage.
" "	Peter Falls, -	Same.
" "	Jack Williamson,	Regulus.
" 11,	Hewet Peterson,	York.
" "	Arch. M'Elroy,	Inconstant frigate.*
" "	John Ward, -	Sanspareil.
" "	William Myers,	Sandwich.
" "	John Speke, -	Same.
" "	Walter Livezey,	Agamemnon.
" "	John Brown, -	Sandwich.
" "	John Raynor, -	Same.
" "	Edward Barry, -	Same.
" "	Oliver George, -	Swiftsure.
" "	John Allen, -	Same.
" "	James Brown, -	Sandwich.
" "	Joseph Brown, -	Same.
" "	Thomas Sivrtees,	Same.
" "	William Wheat,	Same.
" "	John Clark, -	Thalia.

Date of application.	Seamen's names.	Ships where carried.
1796.		
Oct. 11,	Jacob Deacon, -	Ardent.
" "	John Newley, -	York.
" "	Lot Spooner, -	Director.
" "	Elisha Brownhill,	Charon.
" 13,	F. Bridgewater,	Sandwich.
" "	James Cogshill, -	Savage sloop of war.
" "	John Burdock, -	Same.
" 19,	Isaac Phipps, -	Sandwich.
" "	Robert Barwick,	Lion.
" "	Rd. or Rt. Halfpenny, -	Defiance.
" "	Daniel Paul, -	Colossus.
" 24,	John Bagley, -	Sandwich.
" "	John Smith, -	Same.
" "	James M'Gill, -	Same.
" "	Jos. Cunningham,	Enterprise tender.
" "	James Young, -	Same.
" "	Hugh Everson, -	Sandwich.
" "	Lot Spooner, -	Director.
" "	John L. Crabb, -	Sandwich.
" 28,	John Allen, -	Swiftsure.
" "	Daniel Brennon,	Sandwich.
" "	Samuel Plumb, -	Sultan.
" "	Joseph Cutter, -	Same.
" "	James Lynn, -	Same.
" "	Samuel Dicky or Aickey, -	Same.
" "	John Clark, -	Royal William.
Nov. 16,	Thomas Leach, -	Sandwich.
" "	John Lightboy, -	Same.
" "	F. Newcomb, -	Same.
" "	Peter Vantile, -	Edgar.
" "	Enoch Jenkins, -	La Pique.
" "	George Wells, -	Colossus.
" "	Mak. Murdock,	Same.
" "	George White,	Same.
" "	Major Tiff, -	Haslar Hospital.
" "	George Hamilton,	Sandwich.
" "	James Ellis, -	Same.
" "	Henry Vents, -	Janus.
" "	Benjamin Sands,	Sandwich.
" 24,	Benjamin Hellen,	Triton frigate.
" "	John Nealle, -	Same.
" "	James M'Gill, -	Tisiphone
" "	Jesse Royal, -	Tender off the Tower.
" "	John Dunham, -	Circe frigate.
" "	Josiah Taylor, -	Cambridge.
" "	Elisha Brownen,	Same.
" "	Thomas Pearce,	Same.
Dec. 12,	William Ellick,	Same.
" "	Benjamin Bell, -	Vengeance.
" "	S. Howard, -	Le Caton.
" "	Annes Gates or Gales, -	Cambridge.
" "	Prince Lippet, -	Le Caton.
" "	R. Lumley, -	Same.
" "	S. Emmer, -	Bienfaisant.
" "	J. Loat, -	Cambridge.
" "	John Newble, -	Le Caton.
" "	John Hambley, -	Raisonable.
" "	Burton Wilcocks,	Veteran.
" "	A. J. Burland, -	Same.
" "	J. Gray, -	Same.
" "	William Taylor,	Cambridge.
" "	James Elmes, -	Britannia.
" "	R. Prentice, -	Raisonable.
" "	J. Noble, -	Chatham.
" "	J. Bliding, -	Raisonable.
" "	W. Cunningham,	Royal William.
" "	And. Thompson,	York.
" "	John Carter, -	Sea Horse.
" "	F. Ignatinson, -	Royal William.
" "	John M'Kay, -	Same.
" "	John Butler, -	Same.
" "	Morty Sullivan,	Same.
" "	John Steward, -	Same.
" "	James Munn, -	Nonesuch.
1797,	James Young, -	James.
Jan. 4,	James Hooper, -	Enterprise tender.
" "	Geo. Davenport,	Same.

*Mr. Lenox has made another application for this man, as the proof was within his own knowledge.

LIST OF SEAMEN—Continued.

Date of application.	Seamen's Names.	Ships where carried.
1797.		
January 4,	Jos. Henderson,	Prince.
" "	George Longfield,	Proselyte Frigate.
" "	Giles Rider, -	Pompee.
" "	James Heyligar,	Montague.
" "	Thomas Jones, -	Sandwich.
" "	Joseph Gray, -	Irresistible.
" "	Josdah Taylor, -	Deptford.
" "	James Collins, -	La Pique.
" "	Prince Hunter, -	Same.
" "	Francis Coll, -	York.
" "	James Robinson,	Colossus.
" "	T. Whitemarsh,	Trusty.
" "	John Wright, -	Venerable.
" "	Peter Jones or Joans,	Montague.
" 14,	John M'Kenzie,	Royal William.
" "	J. C. Harrison, -	Sandwich.
" "	William Hayes,	Lion.
" "	John Clemens, -	Enterprise tender.
	John Johnston, -	Same.
" "	John Bryant, -	Same.
" 24.	George Smith, -	Astrea.
" "	Allen Stanton, -	Sandwich.
" "	Edw. Parkinson,	Same.
" "	Benjamin Parker,	Same.
" "	John Henly, -	Roy'l Hos. Plymouth.
" "	A. Snell, -	Same.
" "	E. Carter, -	Same.
" "	J. Knightly, -	Same.
" "	E. Brownhill, -	Cambridge.
" "	J. Taylor, -	Same.
" "	J. Sennet, -	Same.
" "	H. Anderson, -	Enterprise Tender.
" "	James Morgan, -	Same.
February 2.	William Jackson,	Sandwich.
" "	Laurence Duggin,	Enterprise Tender.
" "	John Caufield, -	Same.
" "	Samuel Grant, -	Haslar Hospital.
" "	James Bowie, -	Monarch.
" "	John Downing, -	Jason.
" 8.	David Laurence,	Repulse.
" "	Daniel Coggeshall,	Same.
" "	Andrew Scott, -	Enterprise Tender.
" 11.	Joseph Henderson,	Ville de Paris.
" "	James Warner, -	Sandwich.
" "	Daniel Bryant, -	Same.
" "	John M'Cloud, -	Same.
" "	William Jewell,	Same.
" 13.	Samuel Fitts, -	Latond.
" "	John Arnold, -	Duke.
" "	David Roberts, -	Same.
" "	Benjamin Duxbry,	Same.
" "	James Waterman,	Raisonable.
" "	Robert Hayse, -	Haslar Hospital.
" "	Joseph Brannon,	Glory.
" 23.	Charles Slaid, -	Duke.
" "	Thomas Ray, -	Montour, or Ville de Paris.
" "	David Greer, -	Same.
" "	R. Garrick or Sarrick, - -	St. Florenzo Frigate.
" "	David Byrington,	Royal William.
" "	Matthew Bryant,	Same.
" "	John Davis,	Sampson.
" "	E. Buckingham,	Same.
" "	P. Underhill, -	Royal Hospital.
" "	James Toms, -	Same.

Date of application.	Seamen's Names.	Ships where carried.
1797.		
Feb. 23,	J. Robinson, -	Royal Hospital.
" "	John Fett, - -	Saturn.
" "	T. Morris, -	Same.
" "	Robert Paxton, -	Hospital.
" "	R. Lang, -	Royal Hospital.
" "	Cornelius Fey, -	Same.
" "	Jonathan Lewes,	Sandwich.
" "	John Rice, -	Same.
" "	Michael Hayes,	Same.
March 1.	Alex. Baxter, -	Same.
" "	Robert Olliver, -	(At Gravesend.)
" "	James Jones, -	Same.
" 15.	Thomas Dunham,	Circe Frigate.
" "	George Bandfield,	Haslar Hospital.
" "	John Wilson, -	Triton Frigate.
" "	John Johnston, -	Same.
" "	Isaac Robertson,	Same.
" "	William Trodd,	Same.
April 11.	Thomas Young, -	Royal William.
" "	John Jackson, -	Same.
" "	John M'Kenzie,	Same.
" "	Wm. Humphreys,	Same.
" "	John Hill, -	Same.
" "	Daniel Cogshell,	Isis.
" "	James Munn, -	Minerva Frigate.
" "	Jacob Stevens, -	Sandwich.
" "	Jonathan Glover,	Champion.
" "	Lot Spooner, -	Director.
" 24.	J. C. Harris, -	Le Caton.
" "	W. Stephenson,	Royal Hospital.
" "	Tho. M'Knight,	
" "	George Lewis,	
" "	John Steward,	
" "	John Loyd, -	Cambridge.
" "	John Conrad, -	Same.
" "	Charles Rose, -	Calypso.
" "	Joseph Young, -	Same.
" "	Richard Mayo, -	Triton Frigate.
May 6.	W. A. Kenricke,	Clyde.
" "	John Stafford, -	Tender off the Tower.
" "	Joseph Grout, -	Royal William.
" "	Thomas Young, -	Same.
" "	John Jackson, -	Same.
" 20.	John Coveny, -	Ardent.
" "	Andrew Mitchell,	Same.
" "	J. S. Cornhill, -	Same.
" "	Francis Rose, -	Same.
" "	William O'Hara,	Inflexible.
" 27.	John Burke, -	Enterprise.
" 29.	John Johns, -	Same.
" 31.	Jacob Stevens, -	Sandwich.
" "	William Wright,	Haslar Hospital.
" "	Anst. Ulary, -	Stork Sloop.
" "	William Fett, -	a 74, Capt. J. Douglas.
June 12.	Thomas Williams,	Ardent.
" "	George Delany, -	Ardent.
" "	James M'Neal, -	La Babete Frigate.
" "	Robert Glenn, -	Same.
" "	Samuel Larabee,	Phœnix Frigate.
" "	William Clark, -	Leviathan.
" "	William Blann,	Cambridge.
" "	John Williams,	Same.
" "	Samuel Price, -	Caton.
" "	Jos. Richardson,	Same.
" "	C. Delivin, -	Royal Hospital.
" "	Peter Martin, -	Same.
" "	Thomas Dixon, -	Same.

In all, two hundred and eighty-seven seamen, who appear, from documents in my possession, not to have been discharged on the application of Mr. King, and one hundred and fourteen on the application of Mr. Pinckney, making, in the whole, four hundred and one.

Mr. Lenox begs leave to remark, that there appears, in several instances, the same name, but as it is possible different persons may be meant, he conceives it his duty to mention them, but in doing this, he hopes no improper motive will be imputed to him.

D. LENOX,
Agent for the relief and protection of American Seamen.

LONDON, 12*th July*, 1797.

Abstract of the communications from Silas Talbot, Esq. Agent in the West Indies for procuring the release of impressed American seamen; to which are annexed copies of several of his letters, and the letters of Mr. Henry Craig, his Agent at Martinique.

On the 2d of September, 1796, he arrived at Barbadoes; but finding nothing there to claim his official attention, he proceeded for Martinique, and arrived at Fort Royal on the 28th of the same month. Here he had an interview with Admiral Sir Hyde Parker, in which he explained to him the object of his mission. The Admiral appeared altogether unaccommodating, and observed that, if he released any seamen who might be claimed, he must have unequivocal proof of their citizenship, and that he would not, in any case, receive their own attestation. By Admiral Parker he was referred to Admiral Harvey, who appeared perfectly well disposed; and, before Mr. Talbot left his ship, the latter assured him he was willing to enter into an inquiry, on the most liberal footing, and that all Americans should be released from the ships under his immediate command. Mr. Talbot having written to him on the 4th and 11th of October, requesting, among other things, liberty to visit the British ships of war in port, with the view of ascertaining such among the crews as were Americans, he returned for answer, "that, on the arrival of such of His Majesty's ships and vessels which were under his immediate command, every necessary inquiry should be made on the circumstances stated by Mr. Talbot, in respect to the impressing and detaining of seamen being subjects of the American States; and, in such cases, orders would be given for their immediate discharge; that he might rest assured that the most positive orders would be given to the captains and commanders of King's ships and vessels not to impress American seamen, and to pay due regard to the protections with which they may be furnished." With respect to the request to be permitted to visit the British ships, for the purpose of examining their crews, he referred Mr. Talbot to the Commander-in-chief, Sir Hyde Parker; but, on the 11th of October, Mr. Talbot had written to Sir Hyde, requesting him to cause an inquiry to be made for impressed Americans, and to respect their protections. On the next day, Sir Hyde answered him, declining to proceed "upon such slight grounds," requiring him to "identify particular men," and "produce incontestable proof that the individual is a citizen of America, upon which he should determine how to act;" and informing him that, "agreeably to his request, he should issue orders that no American seaman should be impressed, and that due regard should be paid to the protections of all American seamen." From this answer, connected with the verbal conference he had before had with Sir Hyde, Mr. Talbot deemed it useless to renew with him the request to be permitted to search for Americans among the crews of the fleet.

On the 20th of October, 1796, Mr Talbot writes, from St. Pierre, Martinique, that he had received good information, that, after his departure, a number of Americans were released from the ships of war lying at Fort Royal Bay the 14th preceding, and that they had also been paid off. The number he had not ascertained, but three of them were from Admiral Parker's ship.

On the 7th of November, 1796, he writes, from Antigua, that he had been on board of the Bull Dog, commanded by Captain Ryves, who treated him with great politeness, and showed him Admiral Harvey's orders for releasing five Americans, who were on board the ship, with which orders he said he intended to comply, and to pay them their wages and prize money.

Mr. Talbot intending to go to Jamaica, and deeming it of great consequence to have an agent under him permanently residing at Martinique, which is the usual resort of all the vessels appointed to watch and protect the Leeward Islands and a part of the continent, on the 12th of November, 1796, he appointed Mr. Henry Craig, an American, formerly of Baltimore, for that purpose, but without assigning him any emolument; as Mr. Craig was willing, through motives of attachment to his country, to undertake, without reward, the fulfilment of this service.

A copy of his letter, dated at St. Kitts, 19th November, 1796, is annexed, marked No. 1.

On the 22d of December, 1796, he writes, from Kingston, Jamaica, that he had had an interview with Admiral Bligh, at Fort Royal, who received him with politeness, told him that, if he could find any impressed Americans on board the vessels then in port, they should be discharged, and sent his captain (Rutherford) with him on board the several vessels. But, previous to their leaving the Admiral's ship, Mr. Talbot informed him that he had the names of two Americans who were on board his ship. The Admiral immediately ordered them to be called into the cabin: when they came in, they produced certificates, from *the collector of the State of Georgia*, that they had sworn before him that they were citizens of the United States; but, on account of their distance from home, the regular proof could not be obtained; which was deemed insufficient, and they were ordered back to their duty. From the Resource Mr. Talbot procured the release of two Americans. He afterwards went on board a tender, which had, a few days before, impressed three men from on board an American brig. The captain of the tender refusing to deliver them up, Captain Rutherford took them to the Admiral. One of the men was an American, the second a Swede, and the third an Italian. It was with considerable difficulty the Admiral was prevailed upon to restore the American, as the protection with which he was furnished was from a notary public, in which kind of evidence of citizenship he said he could place no faith. The Swede was given up without the least hesitation. The Italian having entered, the Admiral thought he should have his choice, to stay in the King's service, or enter again the American brig. Mr. Talbot consenting to this, the man chose the former. From the Mermaid he procured the release of one seaman. On going on board the Quebec, the captain refused to see him, and he was obliged to leave her without effecting any thing. Having received information of three more Americans being on board the Resource, he applied to the captain for their release, who denied that he had any such men on board. Mr. Talbot now addressed himself to Admiral Bligh, to whom he related the manner in which he had been treated on board the Quebec, and the refusal of the captain of the Resource to deliver up the three Americans; whereupon, the captains of both those vessels were sent for, together with the men he wanted to see, and two of them were released.

A copy of his letter, dated at Cape Nicholas Mole, 21st January, 1797, is annexed, marked No. 2.

On the 28th January, 1797, he enclosed to Sir Hyde Parker a list of impressed American seamen, partly collected by himself, and partly furnished by the Department of State, accompanied by such proofs of the citizenship of some of them, as he was possessed of, and requested their release. In many cases, Mr. Talbot believed the proof to be complete. Nevertheless, nothing was done in consequence of it; and, on the 3d March following, Sir Hyde wrote him, that, "in no one instance, have proofs been produced, relative to the names of those you have been pleased to style citizens of America, sufficient to authorize me to discharge the individuals from His Majesty's service."

On the 4th March, 1797, Mr. Talbot writes from the Mole of St. Nicholas, that, for the two months he had been at St. Domingo, he had heard only of one real American being impressed, and he had not a protection; and that only one neutral subject had been impressed at that port, who had not been given up since his arrival.

Copies of his letters of the 22d April, 7th May, 4th July, 17th October, 9th November, and 12th December, 1797, are annexed, marked respectively from No. 3 to No. 8, inclusively.

A letter from Mr. Henry Craig, the agent at Martinique, dated on the 2d February, 1797, and an extract from another, dated 16th September, 1797, are annexed, marked respectively Nos. 9 and 10.

No. 1.

BASSETERRE, ST. CHRISTOPHER'S, *November* 19, 1796.

SIR:

I left Antigua the 16th, and the next day landed at Nevis, where I tarried one day, and then hired a small vessel to bring me to this island.

I have not yet had time to see the Commander-in-chief, as he lives at the distance of twelve miles from this place, which is the metropolis of the island.

There is not, at this time, any men of war at this island, or at Nevis; but, perhaps, some may return into port before I leave the place.

Previous to my leaving Antigua, I had an interview with Captain Metford, who is the commanding officer of the four ships that are now lying at English Harbor, at Antigua. The Commodore (as he is generally styled) told me that he had, some time since, received Admiral Harvey's orders to discharge every American, if any were on board his ship, and that similar orders from the Admiral had been received by the several captains under his immediate command. He gave me his word that there was not one American left on board his ship, and said that he had no reason to think but that the order had been strictly complied with on board the other ships; but, for greater certainty, and agreeable to my desire, he said he would immediately make an inquiry on board each ship, and, if any Americans were found on board (which he believed would not be the case) they should be discharged.

I have good reason to believe, sir, that the business relative to our seamen among the Windward Islands is now on a good footing; as I find that Admiral Harvey has sent forth his orders to the captains and commanders of His Majesty's ships and vessels of war, in every direction, to release all Americans which they may have on board, and not to impress any of them in future. The commander of a tender named Lady Bickerton, which is in the impress service, told me, on board the Bickerton, that his orders were, not to impress any American. I am confident that there has not been one American impressed since my arrival at Martinique, unless it may have been done by some of the ships at distant stations, which might not, at the time, have received the Admiral's orders on that subject. But, with all the inquiry I have been able to make, I have not heard of one that has been disturbed. I shall embrace the first opportunity of a passage to Jamaica.

I have the honor to be, sir, your obedient humble servant,

SILAS TALBOT.

Honorable TIMOTHY PICKERING, *Secretary of State.*

ST. NICHOLAS MOLE, *in the Island of St. Domingo, January* 21, 1797.

SIR:

My last letter to you, dated at Kingston, Jamaica, the 22d of December, will fully explain every circumstance of note, relative to my mission, after leaving the island of St. Christopher's. For want of a direct opportunity, the letter above alluded to, and a duplicate thereof, I put into the hands of a merchant in Kingston, to be forwarded to America, in different vessels. I took passage and sailed from Jamaica, the first of this month, in a vessel bound to Port-au-Prince, at which place Major General Forbes, the Commander-in-chief of His Majesty's land forces at this island, keeps his head quarters. The object of my going to Port-au-Prince was to see the General; but it so happened that, at the moment of my arrival there, the General was embarking for this place. Being thus disappointed, I procured another passage to this port, where I arrived the 18th instant. Soon after landing, I went to pay my respects to the Major General. But I have not as yet had time to prepare my business to lay before Admiral Sir Hyde Parker, therefore have nothing very material to communicate.

The law requires of me to render an account of all impressments and detentions whatever of our seamen to the Executive of the United States, and I make no doubt but that it may have been thought strange that no particular information of that kind has come to hand from me. But it is impossible for me to obtain the information in question, unless the several masters of the American vessels comply with the law on their part, in that of forwarding to me protests in cases where their men have been impressed, and which has never been the case but in one instance, and that since my last to you.

So many and so different have been the modes of giving our seamen protection, that it is not to be wondered at, if the British officers should be mistrustful of their authority or validity.

Protections have been given, and many are still produced, from judges of the several courts, notary publics, justices of the peace, mayors of cities, secretaries of the individual States, and of the United States, consuls abroad, governors of the several States, and lastly from the several collectors. The act authorizing the collectors, under certain restrictions, to give protections, does not have the salutary effect which was probably contemplated by Congress.

In short, I am inclined to think that it has done more hurt than good; because it has destroyed all respect for former protections; and the act requires such kind of proof to be made to the collectors as is frequently impossible for seamen to procure, in case they sail from any port in America distant from the place of their nativity; for instance, suppose a man was born in Hampshire, but sails out of Philadelphia, or some more southern port, in which case it is very likely he cannot produce to the collector such evidence as the law requires to enable him to obtain his protection, and therefore he ventures again and again with his old Notary Public's protection, or no protection at all, until at last he is impressed, and in that case the difficulty is great in obtaining his release, and perhaps insurmountable. If application is made for his discharge, and his protection offered as a proof of his citizenship, his Majesty's officers will very probably say, that, as your Congress have adopted a new mode of giving out protections, and requiring a proof of citizenship first to be produced, affords to us a conviction that the old protections ought not to be respected, which they say have been fraudulently obtained in more than four thousand instances. But while I am stating the difficulty in obtaining protections, agreeably to the last act, for that part of our seamen who sailed out of ports distant from the place of their nativity, yet I do not wish to be understood as recommending any change in the mode of obtaining them, because every such alteration would tend to destroy their credibility. But if any mode could be devised to prohibit the masters of American vessels from shipping any American citizens without protections, agreeably to the late act of Congress, it surely would be of great service. For it is much easier to prevent the evil in question, than to remedy it by any attempt to restore the unfortunate prisoners to their liberty. If masters were by law prohibited, under a heavy penalty, from carrying American citizens to sea without proper protections, all such of our seamen as could not obtain a protection, in a distant port, from the place where they were born or naturalized, they would, in a short time, for want of employ, return to the place of their nativity; and then suitable protections might be had; because they could undoubtedly produce the necessary proof required by law. I am aware that a measure of this kind would occasion some little trouble to a number of that class of our citizens; but it would be, in my opinion, infinitely better for them and the United States, that they should be thus restrained, than to be detained on board ships of war. To convince you, sir, how necessary it is to restrain this thoughtless class of our citizens, permit me to observe, that, at this day, it is not uncommon to find our vessels in these ports, the crews of which are absolutely born in the American States, and yet not one of them can produce a protection of any sort; and parts of the crews of other vessels are frequently found in like predicament; which shows that this useful class of our citizens ought to be taken care of, since they will not take care of themselves.

I am, sir, with perfect respect, your humble servant,

SILAS TALBOT.

No. 3.

KINGSTON, JAMAICA, 22*d April*, 1797.

SIR:

In my last letter, dated March the 4th, I informed you of all that passed between Admiral Sir Hyde Parker and myself at the Mole, relative to the detention of American seamen, and of my determination to leave that place and to repair to Jamaica, for the purpose of endeavoring to relieve our seamen, by writs of Habeas Corpus.

In pursuance of that plan of removing the Americans from ships of war, I left Cape St. Nichola Mole the 5th of March, and arrived at Kingston the 8th of the same month. There were then lying at Port Royal, several ships of war, and in a few days more came in, making in all nine sail; namely, the Canada, Hermione, Experiment, Ambuscade, Proselyte, La Tourterelle. Jamaica, Renommé, Laurel, and Montego Bay. Having already, and when at St. Domingo, made application, first to the captain, and then to Admiral Sir Hyde Parker, to have five Americans discharged that were detained on board the Hermione, and being refused by both, I did not hesitate to apply for

a writ of Habeas Corpus to serve on Captain Pigot of the Hermione, and at the same time obtained the like writs for the captains of the Renommé and La Tourterelle, for one American on board each ship. The writs were served, and the men produced before the judge that granted the writ. The King's Solicitor opposed their being released, but the judge discharged all of them. Having now free access to those men that were discharged, I learnt that there were still four Americans on board the Hermione. I therefore applied and obtained another writ, and had it served on the captain, and the four men were also discharged. Having now obtained a discharge for nine that were on board the Hermione, the other captains began to be somewhat alarmed, as I supposed, and they gave out that I need not take out writs against them, for that they would discharge all the Americans upon my application, and giving proof of their citizenship. Being informed of this, I went down to Port Royal for the purpose of visiting all the ships in port; and in the first place I attempted to go on board the Canada, of seventy-four guns, commanded by Commodore Bowen; but on my approaching the ship, they on board ordered me to keep off, and they did not then suffer me to come alongside. From the Canada they asked me what I wanted: I answered that I had business with the Commodore: they said he was not on board; I then requested of them to be so kind as to inform me where I might find him: they answered at the dockyard: on which I thanked them, and then went on shore at the dockyard, where I found the Commodore and introduced myself to him, and made known my business; he was perfectly polite to me, and immediately asked me to go on board the Canada with him: I accepted of the invitation, and after we were on board, the men that I wanted to see were ordered into the cabin; and after examination, the Commodore agreed to discharge all of them, they being six in number, and I am confident there were not any more on board that ship. During my stay every politeness was shown to me by the Commodore, and he insisted on my coming on board the next day to dine with him, adding that he was going to have a party on board at dinner, it being the 12th of April, which is the day that Admiral Rodney gained a victory over the French fleet, and which day is much celebrated at this island. Finding him so importunate, I engaged and dined with him accordingly.

Some days after my visit on board the Canada, I went on board the Montego Bay, and the captain of that vessel, after some conversation, gave me up all the Americans that he had on board, they being six in number. In two or three days after I went on board the La Tourterelle and the Renommé, and was well treated by the captains of those vessels; but I could not prevail on them to release the Americans on board their ships, alleging that they could not do it without Sir Hyde Parker's orders; and that they asked me to write to him on the subject, and that they would willingly join with me in my representation. I told them candidly that I could not think of applying to Sir Hyde for the release of the men in question; and I put the question to them whether they would release the men: they answered, that they were not warranted in doing it. I then took leave; and again had recourse to writs of Habeas Corpus; and by that means eleven men were brought before the chief judge, and ten of them were discharged: in one case we failed in evidence. Yesterday I went on board the Proselyte and Jamaica, and was perfectly well received by the captains of those ships; and they released all the men that I applied for. The whole number that I have caused to be discharged from his Britannic Majesty's ships of war, in this quarter, since the date of my last to you, are forty-seven, and whose names are contained in the enclosed list. I have received a letter from Mr. Henry Craig, my assistant agent at Martinique. He informs me that he has obtained the discharge of forty-three Americans: he does not mention their names, but states the names of the American vessels that they had been taken out of, and the number so impressed from each vessel. If we add the number released to the Windward to the number so set at liberty here, as before mentioned, it will make in the whole ninety men.

I shall enclose you a copy of Messrs. Farmer and Moore's account for transacting the legal business, by which you will be able to form an opinion of the propriety of pursuing the mode of taking out writs where the men cannot be removed otherwise.

I find that the whole amount of my account against the United States, up to this day, is about five hundred dollars.

I have and shall continue to be as economical as possible; but there is no moving or living here without very great expense; and so many of our men have been discharged of late, that there is not a sufficient number of American vessels to employ all of them immediately, so that some expense will accrue for their support. There are also a few Americans here that have been left on shore sick, and they are now in a miserable condition; all of whom implore assistance from me.

Soon after my arrival at Jamaica, I was informed that a letter that was directed to you, and found on board Captain Latimore, had been lodged in the Admiralty office; I therefore made application for it and obtained a copy of the letter, a duplicate of which is herewith enclosed.

I have the honor to be, &c.

SILAS TALBOT.

The Hon. TIMOTHY PICKERING, Esq. *Secretary of State.*

A list of American seamen released from His Britannic Majesty's ships of war at Jamaica, since the 6th of April.

Benjamin Brewster,	Charles Hake,	Joseph Brown,
William Jackson,	Nicolas Turdin,	Daniel Nugent,
Thomas Truman,	Old Hanson,	John Canada,
John Robertson,	Joseph Grant,	John Williams,
Joseph Myrick,	William Jones,	John Murray,
Alexander Beebe,	Thomas Wardan,	John Martin,
William M'Coy,	George Nucome,	William Hooper,
John Cranston,	Themias Hall,	Thomas Swain,
John Robertson, a negro,	William Willard,	George Longfield,
Robert Eames.	Joseph Smith,	John Hamilton,
George Elmslie,	John Evens,	Thomas H. Pearce,
Joshua Spooner,	John Tatcher,	Frederick Marshel,
Nathan Sutton,	George Adams,	Edward Burnham,
Levi Miover,	James Acome,	Henry King,
George Robertson,	Duncan Ferson,	Stanton Kilborn.
Samuel Daghtgreen,	William Cross,	(*Forty-seven.*)

No. 4.

KINGSTON, JAMAICA, *7th May*, 1797.

SIR:

I have the pleasure to acknowledge the receipt of your favor, dated March the 10th. The approbation you have been pleased to express of my conduct, in the mission which I have been honored with, affords me the highest satisfaction; and happy shall I be if my constant exertions may continue to meet your concurrence.

In my letter to you of the 22d of last month, was enclosed a list of Americans that I had caused to be released since my arrival at this island. Since the date of which I have obtained a discharge for eight more of our citizens, the names of whom shall be inserted at the bottom.

The business I am here entrusted with is perplexing beyond description, and requires all the fortitude and patience which I am capable of exercising. To the unspeakable difficulty I have almost daily to encounter with His Majesty's naval officers, (many of whom are not the most pleasant nor the most reasonable beings) I have great trouble with our seamen. Their applications to me are incessant, and I am employed both by night and day. It

seems as if nearly one half of our seamen come out from America without protections. When they arrive in these seas, then their fears come on them; and those that escape being impressed before they land, will not fail to apply to me for a protection the moment their foot is on shore, and my quarters are almost continually surrounded with them; and if they are denied a protection from me for want of proof, that same fear will urge their repeated applications, until I am almost sickened with their importunity.

I have the honor to be, &c.

SILAS TALBOT.

P. S. The names of those discharged since my last, are—

John White,	John Evans,	James Brown,
James Hines,	John Snow,	Peter Mommet.
Frederick Marshal,	Thomas Brown,	(*Eight.*)

No 5.

KINGSTON, JAMAICA, *4th July*, 1797.

SIR:

My letters of 22d April and 7th of May last will have informed you of my having recourse to writs of *habeas corpus* to release our seamen from British ships of war, and of the number so released by that means; to which five more may now be added, that have been, in like manner, discharged, making up the number of sixty, in all.

I have now to inform you that there is a total stop put to all the effectual means that I have been able to devise for the release of our citizens so impressed, and, from the appearance of things, I am of the opinion that no more seamen will be discharged during the time that Admiral Sir Hyde Parker may have the command in these seas.

Admiral Sir Hyde having gained information that my applications to the civil authority of this island to obtain the release of such American citizens as were found to be detained on board His Majesty's ships of war, had been attended with some success; he immediately issued a general order to all captains and commanders of ships and vessels of war, directing them not to obey any writ of *habeas corpus*, nor suffer any man to leave their ships in consequence of any such writ. Since the above mentioned order was issued, writs have been obtained against Captain Elphinstone, of the Tartar frigate, to produce three Americans, named in the writ, before the Chief Justice; and against Captain Foster of the Albicore, to produce four, and also against Captain Otway of the Ceres frigate, to produce twenty Americans in like manner, before the Chief Justice. All those writs were served, but no one of them was obeyed. Attachments against the said captains have been ordered by the court, and a writ of attachment against Captain Otway was taken out fifteen days since. But the Marshal has not been able, as he says, to serve it on Captain Otway; and from all that I can learn, there is not any probability, that he will serve the writ; so that the law in this island, it seems, cannot be administered to the relief of American citizens, who are held in British slavery, many of whom, as they write to me from on board Captain Otway's ship, have been brought to the gangway and whipped for writing to their agent to try to get them discharged.

It is thought that the admiral has wrote to the governor of this island on the foregoing subject, as it is a fact that the governor has so far interfered in the business, as to hold several conferences with the Chief Justice on the business, the result of which is not known to me. The officers of the navy now consider themselves above the law, and they yesterday came up into Kingston harbor in the day time, and impressed considerable numbers of Americans, and took them down to Port Royal, notwithstanding they were furnished with protections. Their petitions and letters reach me daily, and sorry I am to say, that I cannot render them the services they request of me, relative to obtaining their discharge.

I have the honor to be, sir, your most obedient humble servant,

SILAS TALBOT.

Honorable TIMOTHY PICKERING, Esq. *Secretary of State.*

No. 6.

KINGSTON, JAMAICA, *17th October*, 1797.

SIR:

In my last to you, of the 4th July, I mentioned the total stop that was put to the release of our seamen in this quarter, from British ships of war, by means of an order from Admiral Sir Hyde Parker, to the commanders of ships and vessels of war. I now enclose for your information, a copy of the order alluded to in said letter. There has not, however, been any very considerable cause of complaint, on account of impressing our seamen, for more than two months past, at this island. I have lately received a letter, under date of the 5th August, from Mr. Henry Craig, my assistant at Martinique, by which it appears that Admiral Harvey continues well disposed towards us: Mr. Craig's letter contains the following paragraph: "I am happy to inform you that I have been extremely fortunate in obtaining the release of many American sailors from British armed vessels; and indeed, in all cases where there was any probable cause to suppose that the person claimed was a citizen of the United States, they have been immediately released; and in all applications to Admiral Harvey, I have found the most cordial good wishes towards the Americans. We have several times petitioned for a convoy to protect the American trade through the islands, which was always readily granted."

I am under the necessity of drawing a bill of exchange of this date, for one thousand dollars, in favor of James Kent, esquire, of New York, which I trust you will be pleased to honor, at sight, and place to account of my salary. Having expended something more on the public account than the amount of one thousand dollars already received, I shall be obliged to draw for one thousand dollars more, so soon as I can find an opportunity to dispose of such a draft.

I have the pleasure to be, with great respect and esteem, sir, your obedient humble servant,

SILAS TALBOT.

Honorable TIMOTHY PICKERING, *Secretary of State of the United States.*

By Sir Hyde Parker, Knt. Vice Admiral of the Red, and Commander in Chief of His Majesty's ships and vessels employed at and about Jamaica.

Whereas the discharging of men from His Majesty's ships and vessels under my command, in consequence of writs of *habeas corpus*, is attended with the utmost inconvenience, and disadvantageous to the public service committed to my care.

You are hereby required and directed never in future to discharge any man from the ship you command, in consequence of any writ of *habeas corpus*, till such writ is referred to me as Commander-in-chief, (a rule observed by all the judges in England) and my orders given in consequence thereof.

Given on board the Queen, Cape Nichola Mole, 8th May, 1797.

H. PARKER.

To the Captains, Commanders, &c. of all His Majesty's ships that may at any time be at Jamaica.

By command of the Vice Admiral,

P. OSBORN.

N. B. This order to be kept in the storekeeper's office.

No. 7.

Extract of a letter from Silas Talbot, Esquire, to the Secretary of State, dated

KINGSTON, (Jamaica) *9th November*, 1797.

As to our seamen, I have not heard that any of them have been detained since my last. Some few have been laid hold of, but on producing their protections from me, they were immediately released. It is to be wished that they all might come out provided with suitable protections, because, in that case, I think they would not be interrupted in their lawful employ.

No. 8.

KINGSTON, JAMAICA, *December* 12, 1797.

SIR:

Nothing of moment has occurred in this quarter of the West Indies, relative to our seamen since my last to you, nor have I heard of one American seaman being impressed out of any vessel for the space of some months past. There was, however, not long ago, two of our men taken when on shore, at some sailor quarters in company with a number of British seamen, and carried on board the Maidstone frigate. On my receiving the information, I went to Captain Mathews, who commands that ship, and who was then on shore. After an explanation with the captain, I requested of him to release the said men, to which he readily consented, and he gave me his word that the men should be discharged on his going on board. The Maidstone sailed the next day, but whether the men were discharged I cannot say, nor was it easily to be ascertained, as the said men did not belong to any particular vessel, but were stragglers unknown to me personally, and myself unknown to them, as I suppose.

While I reflect, sir, with pleasure on the check that is put to impressing our seamen, and the total discharge of all that were formerly on board Admiral Harvey's division to windward; yet I feel great anxiety for those impressed a long time since, and who are still detained on board ships of war, that compose Admiral Parker's squadron on this station, more especially as there is not any appearance of probability of their being released, so long as Admiral Parker has the command in these seas. If Sir Hyde should be ordered off from this station, and the command devolve upon Admiral Bligh, I have reason to expect that in such case perfect justice would be done to our representations on the subject in question. Nor is it less distressing when we contemplate the hardship, the cruel and inhuman manner our seamen are frequently treated by the French. Every little while some of those of our unfortunate men are coming in like straggling soldiers after a battle and defeat, some of whom, when taken, are stripped naked, drubbed, and then put into a small boat to make the shore or perish in the sea; and some are retaken by British ships and brought in: others make their escape by one means or another; but in all cases they are miserably poor, both in purse and appearance.

I have the honor to be, with great respect, &c.

SILAS TALBOT.

The Hon. TIMOTHY PICKERING, Esq.
Secretary of State of the United States of America.

No. 9.

MARTINIQUE, *February* 2, 1797.

SIR:

Having been appointed by Colonel Talbot resident agent for the relief of impressed American citizens I now take the liberty to enclose you Captain Inchbald Goodrich's protest against Captain Newman of the Ceres frigate.

On the 22 ult. the Ceres anchored in this bay, and at three o'clock, A. M. commenced a severe impress among the shipping in this harbor. In this business they collected about 100 men, 50 of whom were Americans. I waited on Captain Newman, and urged the necessity of my seeing the men examined, which he finally agreed to, and they were all released, those named in the protest excepted.

I have written to Colonel Talbot at Jamaica, where the Ceres is stationed, and have no doubt but he will procure their release.

I have the honor to be, yours respectfully,

HENRY CRAIG.

To the Secretary of State.

[See the abstract of Captain Goodrich's protest, No. 2.]

No. 10.

Extract of a letter from Mr. Henry Craig, dated 16th September, 1797, to the Secretary of State.

When Colonel Talbot was in this colony, he requested, that, in order to carry the views of Government into effect, I would accept of the appointment of resident agent for the relief of American seamen, who were impressed or in any way destitute of the necessaries of life.

This being the rendezvous of the British navy, and my general acquaintance with the officers of that department, induced me to accept of this undertaking, hoping that I should be enabled to alleviate the distress of my unfortunate countrymen; nor have I been disappointed, having released more than one hundred from the different ships on this station.

I have always found the most decided compliance in Rear-Admiral Harvey to release any person who had any pretensions to citizenship of the United States.

Extracts from the correspondence of Rufus King, Esq. Minister Plenipotentiary of the United States, at London.

Extract of a letter from Mr. King to Mr. Pickering, Secretary of State, dated

LONDON, *September* 8, 1796.

"Mr. Trumbull's appointment as the fifth commission in the capture questions, has prevented his acceptance of the agency for the relief and protection of our seamen. His duties must devolve on me for the present.

"A practice has obtained among our consuls to grant certificates of citizenship, or protections, as they are called, to our seamen; and I am informed that they have been efficacious in securing those who possessed them from impressment. Some abuses were unavoidable, and it is said have been discovered; in consequence of which, these consular certificates have in some instances been disregarded; and in a late conference with Lord Grenville, he asked me, whether our laws, or the President's instructions, gave to our consuls authority to grant these certificates; observing that it was not within the ordinary functions of consuls to issue documents of this nature. I told his Lordship that I would inquire concerning the authority of our consuls, and give him an answer. As the practice of granting these certificates is not peculiar to our consuls, but common with the consuls of other nations, and as our

sailors are frequently found here without a certificate of citizenship, whereby they are exposed to impressment, I cannot take upon myself to instruct our consuls to discontinue the practice, though I should find no positive law or instruction that authorizes it."

Extract of a letter from Mr. Pickering, Secretary of State, to Mr. King, dated

OCTOBER 26, 1796.

"The general and uniform practice of our consuls to give certificates of citizenship, or protections, to our seamen, may I think be very well considered as sanctioned by our Government, by implication, if it has not been done explicitly. The practice is certainly necessary, and is strikingly proper in cases where the consul's interference has procured the release of our impressed seamen; for without such certificates they would be instantly exposed to a repetition of the evil. Besides, multitudes of our seamen have gone abroad without protections, or they have lost them; but still they were not to be abandoned: and who, in foreign countries, have it in their power so well to ascertain their citizenship as our consuls? The measure was natural and necessary; and hence was practised by the consuls of other nations as well as our own."

Extract from the instructions of David Lenox, Esq. agent under the act for the relief and protection of American seamen, residing in Great Britain, dated

MARCH 24, 1797.

"That our seamen once relieved may not be again exposed to impressment, they should be furnished with certificates, in a form, which the British officers and impress-gangs will respect. On this head you will consult the minister of the United States at London, by whom a recognition of the form by the British Government and a corresponding instruction to their officers may, if judged necessary, be obtained: observing, however, that although this kind of certificate is to be invariably respected, certificates of other kinds are not thereby to be disparaged."

[The same instruction was given to Mr Trumbull, and a similar one to Mr. Talbot in 1796.]

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *April 13th*, 1797.

It was before my arrival that Lord Grenville had expressed to Mr. Pinckney a dissatisfaction with the practice of granting protections to American seamen by our consuls.

Before I received your opinion on this subject, Lord Grenville had written me a letter, in which this branch of the consular power is denied, and notice given to us, that the practice must be discontinued; a copy of this letter and of mine transmitting it to our several consuls, I had the honor to send you with my letter of the 10th of December. Previous to the communication of this resolution of the British Government, it had been notified to Mr. Pinckney, that all applications for the discharge of American seamen impressed into the British service must in future come through the American minister, instead of coming from the American consuls, as had been customary. One consequence of this regulation has been, that the subject in all its details has come under my observation, and its importance, I confess, is much greater than I had supposed it: instead of a few, and those in many instances equivocal, cases I have, since the month of July past, made application for the discharge, from British men of war, of two hundred and seventy-one seamen, who, stating themselves to be Americans, have claimed my interference: of this number eighty-six have been ordered by the Admiralty to be discharged, thirty-seven more have been detained as British subjects or as American volunteers, or for want of proof that they are Americans; and to my applications for the discharge of the remaining one hundred and forty-eight, I have received no answer; the ships on board of which these seamen were detained having, in many instances, sailed before an examination was made in consequence of my applications.

It is certain, that some of those who have applied to me, are not American citizens, but the exceptions are in my opinion few, and the evidence, exclusive of certificates, has been such, as in most cases to satisfy me, that the applicants were real Americans, who have been forced into the British service, and who, with singular constancy, have generally persevered in refusing pay and bounty, though in some instances they have been in service more than two years. As the applications for my aid seemed to increase, after the suspension of the consular power to grant protections (owing to the exposed situation of our seamen, in consequence of the denial of this power) I judged it advisable, though I saw little prospect of any permanent agreement, to attempt to obtain the consent of this Government, that, under certain regulations, our consuls should again be authorized to grant certificates of citizenship to our seamen; my letter to Lord Grenville and his answer you have enclosed. I likewise send you the copy of another letter, to which I have received no answer, that I wrote to Lord Grenville, in order to expose the inconsistency with the laws and principles of British allegiance of a rule by which acknowledged Americans are detained in the British service.

LONDON, *December 10th*, 1796.

DEAR SIR:

My letter of the 8th September has given you information of what passed between Lord Grenville and me respecting the authority of our consuls to grant protections to seamen.

On the 3d of November I received the following letter from his lordship on that subject:

DOWNING STREET, *3d November*, 1796.

"SIR:

"The consuls of the United States, residing in His Majesty's dominions, have, for some time past, been in the habit of granting to seafaring persons, certificates under their consular seal, purporting that the bearers of them are citizens of the United States, and as such liable to be called upon for the service of their own country, and that they are therefore not to be interrupted or molested by any persons whatever. I have reason to believe that these certificates have frequently been granted on very slight and insufficient evidence, and in a great number of cases to persons who were in fact British seamen.

"But, independently of this abuse, I am under the necessity of representing to you, on the part of His Majesty's Government, the insuperable objections which apply to the principle of a jurisdiction in this respect, assumed and exercised within His Majesty's dominions by the consuls of a foreign nation. And I must remark to you, that the impropriety of a proceeding so much out of the ordinary line of the consular functions, and so liable to be abused for the worst purposes, is very much aggravated by the unwarranted assumption of a power in the consuls to administer oaths to His Majesty's subjects, and others resident within these realms, concerning the matter of the said certificates.

"I had the honor of writing to Mr. Pinckney upon this subject, on the 13th of July last, requesting that he would inform me whether the consuls of the United States are in any manner authorized or instructed by their own Government to grant such certificates, and in such case, whether any and what rule of evidence or discretion is prescribed to them for their guidance in a duty of so difficult and delicate a nature.

"I apprehend that Mr. Pinckney's departure prevented his answering my letter; but as I am persuaded that no such authority can in fact have been given, the frequent instances of this practice which have lately come within my knowledge, oblige me now to request that you will have the goodness to notify to the consuls that they are in future to abstain from a proceeding which far exceeds the limits of their office, which is neither sactioned by the law and usage of nations, nor by any treaty between the two countries, and the continuance of which must be considered as

an act on their part injurious to the authority of the King's Government. The earnest desire which I feel to avoid even the appearance of a misunderstanding between the two Governments, leads me to prefer this mode of notification, rather than to take any manner of signifying it to them more directly. And I avail myself, with pleasure, of this opportunity to assure you of the high consideration and esteem with which I have the honor to be, &c.

"GRENVILLE."

I thought it proper to communicate this letter to our consuls, which I did by copies accompanied with the following letter:

LONDON, *November* 18th, 1796.

SIR:

Enclosed I send you a copy of a letter from Lord Grenville to me, respecting the consular jurisdiction: hitherto I have not had leisure to consider the subject in the manner I wish to do, previous to the return of an answer. It has, however, appeared to me advisable to transmit to you a copy of the letter, in order that you should be informed of the decision of this Government on the points to which it refers. I am at present inclined to believe that the administration of oaths by our consuls, in these or any other cases, to British subjects, is neither necessary nor proper. The other point is more doubtful, as well as much more important, as it regards the security of our navigation and seamen. As we have no convention with this nation, defining the consular powers, they must be ascertained by the law of nations. General usage is evidence of this law, and some of its rules are to be found only in the existence of such usage. I have not discovered any thing explicit on the question in any work of reputation, and I shall be obliged to you to inquire, and as early as convenient to inform me, what is the practice on this subject of the consuls of other Powers resident in this nation. If you can procure and send me copies of similar certificates issued by the consuls of other nations, if such certificates are granted by any of them, I desire you to do so: though I would not be understood as giving a settled opinion on this point, I ought not to omit observing to you, that neither our laws respecting consuls, nor the late law for the relief and protection of American seamen, give to our consuls any authority to grant certificates of citizenship, and I have seen no instruction from the Executive that authorizes it. If the power exists, it must be derived from the law of nations. This Government denies that it can be deduced from that source, and notifies to us that we must abstain from the exercise of the power, since the same is deemed to be repugnant to the jurisdiction, and a continuance thereof will be considered as injurious to the authority of the King's Government.

With great respect, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

I do not consider myself authorized to instruct our consuls in this, or in any other instance. In cases in which they ask my advice, I readily give it according to my views of their privileges, and of the public welfare. So far as I have been informed, the consuls do not think it prudent, since this communication from Lord Grenville, to grant any more protections; and, in consequence thereof, I am frequently applied to by seamen on that subject.

I did not approve of that part of the late law for the relief and protection of seamen, which authorizes the collectors to grant protections. It appeared to me to be a measure of questionable policy; and I apprehend it has placed our seamen in a worse instead of a better situation, than that in which they were before.

One great evil of this regulation is, that every seaman who is without a certificate, and every one who has a certificate from any other officer than a collector, is considered as not having been able to procure a certificate from the collector, and is treated here as a British subject. The law ought to be repealed; or, what under present circumstances would be better, it might be amended by requiring every seaman who is a citizen, to prove the same in a safe and satisfactory manner, and to procure a certificate thereof from the collector. Another amendment should be added, to prohibit every other person except the collectors from granting certificates to seamen.

At present it is optional with a seaman to procure or not to procure a certificate of citizenship, or to procure it from the collector, or from any other officer. Hence these certificates are granted in a variety of forms, on different degrees of proof, and by almost every grade of magistrates; and the consequence thereof has been that they are all in some sort disregarded.

RUFUS KING.

Rufus King, Esquire, Minister, &c. to Lord Grenville.

GREAT CUMBERLAND PLACE, *January* 28, 1797.

MY LORD:

I have the honor to send your lordship the copy of a law of the United States, for the relief and protection of American seamen, likewise the copy of an instruction given by the President to the collectors of the several districts, which supplies an omission in this law, and prescribes the evidence on which alone certificates of citizenship may be granted by such collectors; and also a copy of the first section of the law of the United States prescribing an uniform rule of naturalization. I flatter myself that your lordship will perceive in these documents, the care and caution that the American Government have observed, in order that those only who are justly entitled, should obtain certificates of American citizenship. It is not my present purpose to enter into an examination of the precise limits of the consular jurisdiction and functions, which your lordship conceives do not extend to give a right to the American consuls to grant certificates of citizenship to the seamen of that nation, who come, or are brought within His Majesty's dominions; I think it, however, my duty to observe, that on careful inquiry I find it to have been the ancient practice of the consuls of the maritime nations, resident within His Majesty's dominions, *ex officio*, to grant certificates of this kind; and that this practice is still, as I am informed, pursued by the consuls of Denmark, Sweden, and Portugal, and probably by those of other nations. I ought also to add, that, from the best examination I have been able to give the subject, I cannot but be of opinion, with becoming deference for the statements of His Majesty's Government, that, under proper regulations, the exercise of this power is both an important, and especially between America and Great Britain, the most material portion of the consular rights. I make this observation, my lord, not to invite a discussion of the question, but for the sole purpose of precluding any inference that might result from its not having been made on this occasion.

The object of this communication is to represent to your lordship, that, in consequence of the relations of peace and friendship subsisting between America and Great Britain, which give, and of the fourteenth article of the treaty lately concluded between them, which confirms, to the people and inhabitants of the United States a right, securely to resort to, and to reside in, His Majesty's European dominions, great numbers of American citizens, and especially of the class which compose the seamen engaged in the American navigation, are, from time to time, arriving within, and in the prosecution of their lawful concerns, frequenting His Majesty's said European dominions, many of them have no certificates of citizenship, in some instances having omitted to obtain the same within the United States; and in others, the certificates which had been so obtained having, by the casualties of seafaring lives, been destroyed, these seamen, who cannot easily be distinguished by language or manners from those of Great Britain, are, while employed on board American ships and on shore, daily seized, and, contrary to their will, impressed into His Majesty's service, to the manifest injury of their personal rights, and to the material detriment and disadvantage of the American navigation and commerce. So long as our consuls were in the practice of granting protections to American seamen, these injuries and inconveniences were less frequent and more easily remedied. The laws of the United States authorize, but do not *compel*, their seamen to take out certificates of citizenship within the United States; and the practice is not uncommon that they omit to obtain such certificates, and place their dependence upon the assistance of the consuls in case of interruption in any of the ports of His Majesty's European dominions.

Some few irregularities, it is possible, may unintentionally have happened in the granting of protections by the American consuls, as no precise instructions for the regulation of their conduct, in this respect, have heretofore been given to them. To avoid similar irregularities in future, and to afford the protection which is indispensably due to the American seamen within His Majesty's European dominions—

I have the honor to submit to your lordship the following propositions: .

1. That the American consuls shall hereafter grant certificates of citizenship, in the form prescribed in the enclosed law, to such American seamen as shall prove themselves entitled to receive the same.

2. In order that no persons, except those who are so entitled, should receive such certificates, that an instruction similar to, and founded upon, that given by the President to the collectors, should be given by me to the several American consuls for the government of their conduct.

3. That instructions should be given by the proper department of His Majesty's Government, to His Majesty's naval officers, to respect such certificates issued by the American consuls.

Convinced of the disposition of His Majesty's Government to remove effectually, and as fast as possible, every cause of inquietude and discontent between the two countries, and to strengthen the good understanding and friendship which subsist between them, I persuade myself that your Lordship will see no objection sufficiently weighty to prevent the early adoption of these propositions which appear to me, my lord, to be essential to the security of the commerce and navigation of my country.

I cannot express to your lordship, in language too strong, my thorough conviction of the importance of this subject to the mutual harmony of the two countries, which it is my earnest desire should be uninterrupted and perpetual; nor can I cease to entertain the expectation that His Majesty's Government will, with as little delay as possible, meet the overtures of the United States, and proceed to those mutual discussions, which, it is believed, must lead to the permanent settlement of principles and rules, by which the seamen belonging to the respective nations, may, in all situations hereafter, be known and distinguished.

This done, the regulations that I have now the honor to submit to your lordship's consideration will cease to be necessary.

With high consideration, I have the honor to be, my lord, &c. &c.

RUFUS KING.

DOWNING STREET, *March 27th*, 1797.

SIR:

I have the honor of acknowledging the receipt of your letter of the 28th of January last. The desire of obtaining the most accurate information on the subject to which it relates, and the unavoidable pressure of other business, have prevented me from answering it at an earlier period.

It is, I am persuaded, unnecessary for me, on this occasion, to repeat the assurances which you have so frequently received of the sincere desire of His Majesty's Government to cultivate the strictest harmony and good understanding with the United States, or to express the concern which I must thence necessarily feel at any subject on which an essential difference of opinion may be likely to exist. Under this impression, I have considered the proposals, contained in your letter, relative to the discharge from His Majesty's service of seamen alleged to be American citizens, and I can, with the most perfect truth, assure you, that I have done so with every disposition to overlook difficulties of small importance, and to soften and smooth the way, as far as could depend on me, for the adjustment of the business in question, on terms mutually satisfactory, and with a spirit of conciliation and friendship.

But I am under the necessity of representing to you that those proposals appear to be liable to very great, and, as I fear, unsurmountable difficulties; and that it seems scarcely possible for the King's Government to accede to any arrangement grounded on such a basis, without risking the total sacrifice of that on which depends the whole maritime force of Great Britain.

I mention the importance of the subject in order that you may be satisfied that the difficulties raised upon your proposals, do not rest upon light or trivial considerations; and that if the question is, in some points of view, highly interesting to the feelings of individuals, and to the general conduct of government in the United States, it is, on other considerations, one in which the highest interests of the King's dominions are essentially concerned.

If it were possible at once to find an obvious and indisputable mode of ascertaining whether a seaman is really a subject of His Majesty's dominions, or a citizen of the United States, certainly the King's Government would not hesitate to accede to any regulations for applying that rule in the easiest, most expeditious, and most effectual manner. But you must be sensible that while the laws of Great Britain render all British sailors liable to be called upon to serve in the defence of their country, individuals, who may be desirous of exempting themselves from this duty, will too frequently endeavor to protect themselves under the pretence that they are American citizens; and that for this purpose they will derive very great facilities from the similarity of language, habits, and manners. The frequency of such attempts will naturally be increased by the circumstances in which America still finds herself, and in consequence of which a large proportion of the merchant ships of the United States now is, and must for many years continue to be, navigated by foreign seamen, and particularly by British.

If therefore any rule is to be laid down by the consent of the two Governments for ascertaining, by a sort of *prima facie* evidence, who are the persons to whom exemption shall be allowed on the ground of their being citizens of the United States, it must reasonably be expected by Great Britain, that each rule (though it could never be free from all objection, and certain in its application to every possible case) should, however, contain such general outlines of security as to afford a just foundation for the practice to be observed on a point of so much importance.

I am sorry to be obliged to say, that the proposals which you have been instructed to make on this head, not only do not fully answer this description, but that they do not appear to me to afford any security against the utmost extent and greatest possible latitude of abuse, and that a practice founded on these proposals would not differ at all in its effect and consequences, though in name and appearance it might, from a resolution to discharge at once every British seaman on his own assertion, that he is an American citizen.

With this view, I must request you to consider in detail the provisions of the act of Congress, and of the subsequent instructions respecting the certificates of citizenship which it is now proposed to allow the consuls of the United States to grant, with the intention that full faith shall be given to such documents so framed: and I would willingly appeal to your own candor, whether any Government could ever consent that, even in matters of internal regulation, any point of national concern, however trifling, should rest on a foundation of no better security than that which is now proposed as the only safeguard against evasions already so frequently practised, and which may prove so extensive in their operation, and so dangerous in their consequences.

I must first observe, that the act does not in any manner specify the nature of the proof on which these certificates are to be granted: although some provisions on this subject are therein expressly referred to as being contained in the act, and as making the indisputable condition of granting the certificate. The insertion of those provisions is indeed so essential to the whole of the subject matter which is in question, that the omission precludes all possibility of judging of the policy, or justice, or efficacy, of the law.

The President of the United States has indeed, in order to supply this deficiency, prescribed by his instructions, certain rules for the conduct of the officers of the Federal Government in respect of this act; but these instructions (supposing them in other respects adequate to their professed object) cannot even, with the utmost respect to the authority from which they proceed, be considered as having equal force, or affording to foreign nations equal security with those provisions which, according to the tenor of the act now in question, ought to be contained in the body of the act itself. It would, by no means, be my wish to raise or to discuss any doubtful question on the respective powers or functions of the component parts of a foreign Government, and if I err in the little I am about to say on this subject, your knowledge will at once enable you to correct any mistake into which I may be led. But when in

a new case the supreme legislative power of that Government does, in the very first provision it makes on the subject, announce its regulations on this point as a matter of legislative enactment, it is impossible for other Governments, deeply interested in these regulations, to avoid, at least, inquiring how far under the want of such enactment, any rules for the same purpose are likely to be effectually enforced by the sanction of any other authority: and to this remark I have only to add, that such a doubt will be found to apply with peculiar force to a case where no penalties have been, or as it is conceived could, under that sanction, be provided as a restraint on frauds, though carried to any extent. But the objections to the regulations themselves are still more important; so that even if the President's instructions were made law by any future act of Congress, or if a power now unquestionably exists, or should hereafter be expressly created in the executive Government of the United States to provide such regulations, and to enforce them by adequate penalties, we should still be compelled to say that they were insufficient for the object of affording to Great Britain that security against fraud which must be a principal object of her intention in any final settlement of this business.

The evidence which is required by those instructions, as a foundation for granting the certificates of citizenship, is such as would not be admitted in any other case of the most trifling civil or political right. Such evidence would not even afford a reasonable presumption of the fact of birth, residence, or naturalization, and still less do the instructions hold out any adequate security that the person to whom even this proof applies, shall be the same with him who may be described in the certificate, or with him who may afterwards become the bearer of it.

Thus in the first and most simple case to which the President's instructions relate, a British sailor might apply to the collector of the customs at Boston for a certificate of citizenship, and support his application either by an extract of a pretended register of births in Georgia, or any other distant State, purporting to be certified by the proper officer of some religious society there, and supported by an affidavit that the applicant is the person mentioned in the extract, or merely by an affidavit that the applicant was born in Georgia, and on this ground the certificate is to be granted of necessity, and without further inquiry.

The extract of such a register, and the signature thereto as described above, are so easily fabricated, and the fabrication is so impossible to be detected, that they can evidently give no security against fraud, and accordingly they are dispensed with in the instruction itself, which in express terms required the certificate to be granted on the simple affidavit of birth.

On this affidavit, therefore, the whole rests. It is not precisely specified in the instruction, whether the custom-house officer is himself to administer this oath, or whether he is to admit (as I imagine the practice is) any affidavit said to be sworn by a credible witness and before a magistrate of the United States, both perhaps residing at the distance of many hundred miles from the collector to whom the affidavit is produced, and the names of both being equally unknown to him. In the latter supposition he is, of course, wholly unable to verify the identity of the claimant, or the authenticity of the paper, or the signature; or indeed, the existence either of the magistrate or the witness. But even if all these were duly ascertained, or if the affidavit is to be sworn before the custom-house officer himself, the fact of birth will still rest on the deposition of one person only, and that taken without adverse parties, and with no interest or means in the person before whom it is sworn to detect a falsehood. And when the certificate has in this manner, and on these grounds, been granted, not the smallest security is provided that the person obtaining it shall not immediately transfer it into other hands, and if he pleases, apply again to the same or another collector for another similar certificate to be granted to him on the same grounds; so that putting an extreme case, five hundred such papers granted one day in strict conformity to the instructions, might the very next day be transferred to the whole crew of a British man of war. I have instanced this, because it is the first, the simplest, and the least objectionable of all the cases supposed in the instructions of the President; but if you will apply the same examination to the others, it cannot fail to strike you how utterly inadequate all these provisions are to the discovery of truth, or the prevention of fraud. It is a great additional difficulty in all these cases, that it is not required by the law for the relief and protection of American seamen, that the certificate should distinguish, or in any manner specify, the grounds upon which it is granted. Where so much latitude is open for abuse, even this restriction, inadequate as it is to the total prevention of frauds, might, in some degree, have operated to check them; but even this is omitted, and instances have already occurred to prove by fact what was naturally to be foreseen, that no faith whatever is due to certificates granted under the act in question.

To such an extent are the frauds already arrived, that very recently I have had occasion to be acquainted with the circumstances of a case, in which a seaman described in a certificate, granted by a collector in the United States, to be an American seaman and citizen, has since been proved to be a native of North Britain, and to have gone to America, for the first time, no longer ago than in the month of July, 1794.

I am further under the necessity of remarking, that both the laws in question and the President's instructions include some cases, (particularly with regard to the subjects of other Powers settling within the United States) to the principles of which this Government cannot accede. No British subject can, by such a form of renunciation as that which is prescribed in the American law of naturalization, divest himself of his allegiance to his sovereign. Such a declaration of renunciation made by any of the King's subjects would, instead of operating as a protection to them, be considered as an act highly criminal on their part; and, as in the proposed certificates there is no specification which can show what are the grounds of the protection claimed, it cannot be known whether, even supposing all the facts unquestionably true, the person to whom it was granted may not still be a British subject, liable, as such, to be called upon to serve his country, and incapable of receiving protection from any foreign State. I have hitherto reasoned on these provisions as applicable to the certificates granted by collectors in the United States; but it cannot escape your penetration and judgment, that every one of the objections before stated apply with additional force to the proposal of certificates to be granted by the consuls of the United States resident in Europe, who can hardly be supposed, in any single instance, to possess the means of investigating or ascertaining any one disputed point. And it is difficult to conceive how any such consul, if desirous of acting honestly in discharge of a duty of such high importance, could satisfy his own conscience as to the grounds on which he is to affirm and to certify to others a matter of fact, respecting which he can have so little cause or means of knowledge.

With respect to the practice which may have been adopted by the consuls of the foreign Powers residing in His Majesty's dominions, of granting such certificates to individuals of their respective nations, you, sir, must be sensible that the circumstance of language alone, independent of many other means of knowledge which do not exist as with respect to America, are, in a very great degree, if not wholly, sufficient to guard against deception in those cases: but in regard to British seamen, and those of the United States, the similarity of language, manners, and habits, and the undeniably large proportion of the American navigation which is carried on by British sailors, must, as I have already mentioned, present such difficulties as to render it impossible for such a trust to be correctly exercised to the satisfaction of either Government. For the reasons which I have here stated, the force of which I am confident no candid mind can dispute, I am under the necessity of declining, on the part of His Majesty's Government, to accede to the propositions contained in your letter. If any other proposals can be made less liable to objection, they will be considered with candor and liberality. It is not expected that, on so difficult and delicate a business, arrangements can at once be brought forward wholly free from all objections, or such as to supersede the necessity of frequent revisal, improvement, and addition, in order to meet the different means of evasion that may be resorted to; but it is certainly not too much to ask that the rules adopted in the first instance shall at least afford some security against the most extensive and the most dangerous consequences to the maritime power and safety of Great Britain. In the course of what I have said in this letter, I have adverted to two very material defects in the present system, both which might, as I think, be remedied by the Legislature of the United States. The first is the want of adequate penalties to enforce, in all the parties concerned, the strictest attention to prevent frauds in applying for and granting these certificates; the second is the inserting, in the body of the certificate, the nature and particulars of the proof on which it is granted. I am far from thinking that, even with these additions, the system would still be such as could admit of the adoption of your proposal; but I have mentioned these as improvements which have occurred to me. It is probable that your own knowledge of the subject may enable you to suggest others, or

that there may occur to the Government of the United States means of removing or lessening the objections here stated.

In the mean time, you may be assured that those facilities will be continued to you which you have hitherto experienced, in all your applications to His Majesty's Government, for the release of seamen alleged to be American citizens; and that every representation from you on that subject will be investigated with the utmost promptitude, and with those friendly dispositions, for the sincerity and effect of which I can with confidence appeal to your own experience since you have resided in this country.

I have the honor to be, sir, your most obedient humble servant,

GRENVILLE.

GREAT CUMBERLAND PLACE, *November 30th*, 1796.

MY LORD:

I have the honor to return the letter addressed to John Maxwell from his wife, which your lordship some time since transmitted to me, as containing evidence of improper conduct on the part of the American consul at Bristol. I sent this letter to Mr. Vanderhorst, the consul referred to, with a request that he would furnish such explanations relative to this case as should be in his power. From the communications I have received from Mr. Vanderhorst, extracts from which I take the liberty to enclose for your lordship's information, I flatter myself that it will appear that the unfavorable inferences which have been drawn from this letter, respecting the conduct of Mr. Vanderhorst, are not well founded.

In your lordship's letter of the 21st of September, in answer to my application for the discharge of Maxwell, an American citizen, impressed and detained on board His Majesty's ship Sandwich, the reason assigned against his discharge is, "that he is married and settled at Bristol;" and I understand that the orders of the Lords Commissioners of the Admiralty for the discharge of American seamen usually contain a proviso, that the discharge is not to operate in favor of any person who has entered on board any of His Majesty's ships, or who is married or settled within any of His Majesty's dominions. Without admitting or contesting, on this occasion, the rule of English law, that a subject cannot divest himself of his natural allegiance, I take the liberty to request your lordship's attention to the diversity of practice, so much to the disadvantage of the American citizens, that prevails in the application of this rule.

If Great Britain requires the acquiescence of foreign nations in this law, so far as regards the requisition of her subjects married and settled abroad, or voluntarily engaged in foreign service, is she not bound, in like manner, to observe it herself, in respect to the subjects of foreign Powers, under similar circumstances, in her service, or within her dominions? If to the demand of a foreigner in her service, by the nation to which he belongs, Great Britain answers that such foreigner cannot be delivered, because he has voluntarily engaged to serve His Majesty, or is married, or settled within His Majesty's dominions, is she not bound by her own principles to admit the validity of the same answer from such foreign nation, when she requires the surrender of British subjects found in a similar predicament in the service or within the territory of such foreign nation? Justice, which is always impartial, furnishes the proper answer to these questions.

Admitting, then, that the voluntary contract of an American citizen to serve on board a British ship, or the marriage or settlement of such citizen within His Majesty's dominions, is the foundation of a right in His Majesty's Government to refuse the requisition of the United States of America that such citizen should be discharged from His Majesty's service, do we not thereby establish a principle that at once condemns and puts an end to the practice of His Majesty's naval officers, in entering American ships in search of, and for the purpose of impressing British seamen, since all seamen found on board such ships are there of choice, and by voluntary contract, to serve in the American employ.

But if neither of these circumstances can be considered as justly giving a right to His Majesty's Government to refuse the discharge of American citizens, does it not result that the usual proviso connected with the orders for the discharge of such citizens, and which is assigned as a reason against the discharge of John Maxwell, is without any just foundation, and consequently operates to the disadvantage and injury of the American citizens?

With the highest consideration and esteem, I have the honor to be, my lord,

Your lordship's obedient and very humble servant,

RUFUS KING.

The Right Hon. LORD GRENVILLE, &c. &c. &c.

5th CONGRESS.] No. 136. [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, MARCH 5, 1798.

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

The first despatches from our envoys extraordinary, since their arrival at Paris, were received at the Secretary of State's office at a late hour the last evening. They are all in a character which will require some days to be deciphered, except the last, which is dated the 8th of January, 1798. The contents of this letter are of so much importance to be immediately made known to Congress, and to the public, especially to the mercantile part of our fellow citizens, that I have thought it my duty to communicate them to both Houses, without loss of time.

JOHN ADAMS.

No. 5.

PARIS, *January* 8, 1798.

DEAR SIR:

We embrace an unexpected opportunity to send you the 'Redacteur' of the 5th instant, containing the message of the Directory to the council of five hundred, urging the necessity of a law to declare, as good prizes, all neutral ships having on board merchandises and commodities, the production of England, or of the English possessions, that the flag, as they term it, may no longer cover the property. And declaring, further, that the ports of France, except in case of distress, shall be shut against all neutral ships, which, in the course of their voyage, shall have touched at an English port. A commission has been appointed to report on the message, and it is expected that a decree will be passed in conformity to it.

Nothing new has occurred since our last, in date of the 24th ultimo. We can only repeat that there exists no hope of our being officially received by this Government, or that the objects of our mission will be in any way accomplished. We have the honor to be, &c.

CHARLES C. PINCKNEY,
J. MARSHALL,
E. GERRY.

TIMOTHY PICKERING, Esq.

Postscript to a triplicate of the Envoys' letter, No. 5, received March 30, 1798.

The law above mentioned has been passed unanimously by the council of five hundred, and we enclose a journal containing the account. There is no doubt but that it will be adopted, without opposition, by the council of ancients.

Message to the Council of Five Hundred, of the 15th Nivose, 6th year, (January 4, 1798.)

CITIZEN REPRESENTATIVES:

On this day, the 15th Nivose, and at the very hour at which the Executive Directory addresses this message to you, the municipal administrators, the justices of the peace, the commissaries of the Directory, and the superintendents of the customs, are proceeding, in all the chief places of the departments, in all the ports, and in all the principal communes of the republic, to seize the English merchandise now in France, or introduced into its territory in contravention of the law of the 10th Brumaire, 5th year, (Oct. 31st, 1796.)

Such is the first act by which, now that peace is given to the continent, the war declared long since against England, is about to assume the real character which becomes it. The French will not suffer a power, which seeks to found its prosperity upon the misfortunes of other nations, to raise its commerce upon the ruin of that of other states, and which, aspiring to the dominion of the seas, wishes to introduce, every where, the articles of its own manufacture, and to receive nothing from foreign industry, any longer to enjoy the fruit of the guilty speculations.

The English Government has kept in pay, during the war, the coalesced forces, with the produce of its manufactures. It has violated all the principles of the law of nations, in order to shackle the relations of neutral powers; it has caused to be seized the provisions, corn, and commodities, which it supposed to be destined for France: it has declared contraband every thing which it thought could be useful to the republic: it desired to starve it. All the citizens call for vengeance.

When it had to fear the capture of vessels sailing under its flag, it corrupted foreign captains to induce it to take on board their vessels English merchandise, and thus to introduce it, by stratagem, by fraud, or otherwise, into other states, and especially into the French republic.

The neutral Powers should have perceived, that, by this conduct, their merchants took part in the war, and that they lent assistance to one of the belligerent powers.

We serve a party, as well when we procure for it the means of augmenting its forces, as when we unite ourselves to those which it has. The neutral Powers should have perceived, that England, by stopping the vessels of other Powers, laden in their respective ports, and destined for France, by permitting articles coming from her own manufactories alone to circulate, aimed at an exclusive commerce, and that it would be necessary to seek reparation for such an attempt.

The ordinance of the marine, and the regulation of 1794, have declared lawful prize the vessels and their cargoes in which is found English merchandise belonging to enemies. These provisions should be extended. The interest of Europe requires it.

The Directory thinks it urgent and necessary to pass a law, declaring that the character of vessels, relative to their quality of neutral or enemy, shall be determined by their cargo, and the cargo shall be no longer covered by the flag: in consequence, that every vessel found at sea, having on board English provisions and merchandise as her cargo, in whole or in part, shall be declared lawful prize, whosoever may be the proprietor of these provisions or merchandise; which shall be reputed contraband, for this cause alone, that they come from England or her possessions.

It would be useful to declare, at the same time, that except in the case of distress, the ports of the republic shall be shut to all foreign vessels which, in the course of their voyage, shall have entered those of England.

The Executive Directory requests you, citizens representatives, to adopt these measures. No neutral or allied Power can mistake their object, nor complain of them, unless it be already abandoned to England. The infallible effect of the measure is to enhance the value of the produce of their own soil and industry, to increase the prosperity of their commerce, to repel every thing that comes from England, and essentially to influence the conclusion of the war.

Such are the motives which induce the Executive Directory to invite you, citizens representatives, to take the objects of this message into the most prompt consideration.

P. BARRAS, *President.*
LAGARDE, *Secretary General.*

Plan of a Decree reported by M. Villers to the Council of Five Hundred, in its sitting of the 11th of January, 1798, translated from a Paris paper, entitled Journal du Soir, of the same day, enclosed in the triplicate of the Envoys' letter, No. 5, dated January 8, 1798.

"1st. The character of a vessel, relative to the quality of neuter or enemy, is determined by her cargo.

"In consequence, every vessel loaded, in whole or in part, with English merchandise, is declared lawful prize, whoever the owner of the said merchandise may be.

"2. Every foreign vessel which, in the course of her voyage, shall have entered an English port, shall not enter France, except in case of distress: she shall depart thence as soon as the causes of her entry shall have ceased."

This decree was immediately and unanimously adopted.

5th CONGRESS.] No. 137. [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, MARCH 19, 1798.

UNITED STATES, *March* 19, 1798.

Gentlemen of the Senate
and Gentlemen of the House of Representatives:

The despatches from the envoys extraordinary of the United States to the French republic, which were mentioned in my message to both Houses of Congress, of the 5th instant, have been examined and maturely considered.

While I feel a satisfaction in informing you that their exertions for the adjustment of the differences between the two nations have been sincere and unremitted, it is incumbent on me to declare that I perceive no ground of expectation that the objects of their mission can be accomplished on terms compatible with the safety, the honor, or the essential interests of the nation.

This result cannot, with justice, be attributed to any want of moderation on the part of this Government, or to any indisposition to forego secondary interests for the preservation of peace. Knowing it to be my duty, and believing it to be your wish, as well as that of the great body of the people, to avoid, by all reasonable concessions, any participation in the contentions of Europe, the powers vested in our envoys were commensurate with a liberal and pacific policy, and that high confidence which might justly be reposed in the abilities, patriotism, and integrity of the characters to whom the negotiation was committed. After a careful review of the whole subject, with the aid of all the information I have received, I can discern nothing which could have insured or contributed to success, that has been omitted on my part, and nothing further which can be attempted, consistently with maxims for which our country has contended, at every hazard, and which constitute the basis of our national sovereignty.

Under these circumstances I cannot forbear to reiterate the recommendations which have been formerly made, and to exhort you to adopt, with promptitude, decision, and unanimity, such measures as the ample resources of the country afford, for the protection of our seafaring and commercial citizens; for the defence of any exposed portions of our territory; for replenishing our arsenals, establishing foundries, and military manufactures; and to provide such efficient revenue as will be necessary to defray extraordinary expenses, and supply the deficiencies which may be occasioned by depredations on our commerce.

The present state of things is so essentially different from that in which instructions were given to the collectors to restrain vessels of the United States from sailing in an armed condition, that the principle on which those orders were issued has ceased to exist. I therefore deem it proper to inform Congress that I no longer conceive myself justifiable in continuing them, unless in particular cases, where there may be reasonable ground of suspicion, that such vessels are intended to be employed contrary to law.

In all your proceedings it will be important to manifest a zeal, vigor, and concert, in defence of the national rights, proportioned to the danger with which they are threatened.

JOHN ADAMS.

5th CONGRESS.] No. 138. [2d SESSION.

FRANCE.

REPORTED TO THE HOUSE OF REPRESENTATIVES, MARCH 26, 1798.

MR. SEWALL, from the committee to whom was referred so much of the President's message as relates to the protection of commerce and the defence of the country, submitted the following report:

That an English ship, the Oracabissa, in October last, being at anchor within the bar of the harbor of Charleston, in South Carolina, where she had come in distress, was attacked by the crew of an armed vessel called the Vertitude, or Fortitude, commanded by a Captain Jourdain, and said to be a French privateer from Cape François, and was there seized, plundered, and burnt, in violation of the peace and neutrality of the United States, and in contempt of their jurisdictional limits. Strenuous exertions were made, under the orders of the Governor of South Carolina, to repel this daring outrage, and to afford a suitable protection to the vessel of a nation in amity with us, which had peaceably entered a harbor of the United States. The exertions, unhappily, were without effect. The English vessel was completely destroyed, and the privateer escaped with impunity. On the next day the same privateer captured two American vessels, the ship Pallas, of Charleston, and the brigantine Mary, of Savannah, when near the same harbor, which they were endeavoring to enter.

After stating these facts, fully supported, as the committee apprehend, by the documents referred to them, it is scarcely necessary to observe that a regard to our national character, thus insulted, and to the safety of those ports and harbors of the United States which are more immediately exposed to their violations, requires a continued attention to the defence of our jurisdictional limits. In addition to the provisions already authorized and recommended, the committee are of opinion that several extensive inlets and important harbors, especially in Georgia and South Carolina, may be most effectually defended by galleys or floating batteries, and therefore recommend the following resolution:

Resolved, That the President of the United States be authorized, by law, to provide, arm, and equip, not exceeding —— galleys, or floating batteries, and to cause the same to be stationed and employed where he shall judge most conducive to the public safety and defence.

5th CONGRESS.] No. 139. [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, APRIL 3, 1798.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

In compliance with the request of the House of Representatives, expressed in their resolution of the second of this month, I transmit, to both Houses, those instructions to, and despatches from, the envoys extraordinary of the United States to the French republic, which were mentioned in my message of the 19th of March last, omitting only some names, and a few expressions, descriptive of the persons.

I request that they may be considered in confidence, until the members of Congress are fully possessed of their contents, and shall have had opportunity to deliberate on the consequences of their publication; after which time I submit them to your wisdom.

JOHN ADAMS.

UNITED STATES, *April* 3, 1798.

LETTERS OF CREDENCE FOR MESSRS. PINCKNEY, MARSHALL, AND GERRY, ENVOYS TO FRANCE.

John Adams, President of the United States of America, to the Executive Directory of the French republic.

CITIZENS DIRECTORS:

Desirous of terminating all differences between the United States of America and the French republic, and of restoring that harmony and good understanding, and that commercial and friendly intercourse, which, from the commencement of their political connexion, until lately, have so happily subsisted; I have nominated, and, by and with the advice and consent of the Senate of the United States, appointed Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, distinguished citizens of these States, jointly and severally, envoys extraordinary and ministers plenipotentiary to the French republic, for the purpose of accomplishing the great objects above mentioned: Wherefore, I pray you, citizens Directors, to give full credence to what they, and each of them, shall say to you in these respects, in behalf of the United States, and also when they shall assure you of the sincerity of our wishes for the welfare of the French republic.

Given under my hand and the great seal of the United States of America, at Philadelphia, the thirteenth day of July, in the year 1797, and of the independence of the United States the twenty-second.

JOHN ADAMS.

By the President of the United States.

TIMOTHY PICKERING, *Secretary of State.*

FULL POWERS TO MESSRS. PINCKNEY, MARSHALL, AND GERRY, ENVOYS TO FRANCE.

John Adams, President of the United States of America, to all whom these presents shall concern—Greeting:

Know ye, that for the purpose of terminating all differences between the United States of America and the French republic, and of restoring and confirming perfect harmony and good understanding, and re-establishing a commercial and friendly intercourse between them, and reposing especial trust and confidence in the integrity, prudence, and abilities, of Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, citizens of the United States, I have nominated, and, by and with the advice and consent of the Senate, appointed the said Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, jointly and severally, envoys extraordinary and ministers plenipotentiary of the United States to the French republic, hereby giving and granting to them, and any and each of them, full power and authority, and also a general and special command, for, and in the name of, the United States, to meet and confer with the ministers, commissioners, or deputies, of the French republic, being furnished with the like full powers, whether separately, or jointly, and with them to treat, consult, and negotiate, of and concerning all claims, and all matters, and causes of difference, subsisting between the United States and the French republic, for the purpose of satisfying and terminating the same in a just and equitable manner; and also of and concerning the general commerce between the United States and France, and all other the dominions of the French republic; and to conclude and sign a treaty or treaties, convention or conventions, touching the premises; transmitting the same to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand, at the City of Philadelphia, the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-seven, and of the independence of the United States of America, the twenty-first.

JOHN ADAMS.

By the President of the United States.

TIMOTHY PICKERING, *Secretary of State.*

Instructions to Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esquires, Envoys Extraordinary and Ministers Plenipotentiary from the United States of America to the French republic.

DEPARTMENT OF STATE, *July* 15, 1797.

GENTLEMEN:

It is known to you, that the people of the United States of America entertained a warm and sincere affection for the people of France, ever since their arms were united in the war with Great Britain, which ended in the full and formal acknowledgment of the independence of these States. It is known to you that this affection was ardent, when the French determined to reform their Government, and establish it on the basis of liberty; that liberty in which the people of the United States were born, and which, in the conclusion of the war above mentioned, was finally and firmly secured. It is known to you that this affection rose to enthusiasm, when the war was kindled between France and the Powers of Europe, which were combined against her for the avowed purpose of restoring the monarchy; and every where vows were heard for the success of the French arms. Yet, during this period, France expressed no wish that the United [States should depart from their neutrality. And while no duty required us to enter into the war, and our best interests urged us to remain at peace, the Government determined to take a neutral station: which being taken, the duties of an impartial neutrality became indispensably binding. Hence the Government early proclaimed to our citizens the nature of those duties, and the consequences of their violation.

The minister of France, Mr. Genet, who arrived about this time, by his public declarations, confirmed the idea that France did not desire us to quit the ground we had taken. His measures, however, were calculated to destroy our neutrality and to draw us into the war.

The principles of the proclamation of neutrality, founded on the law of nations, which is the law of the land, were afterwards recognized by the National Legislature, and the observance of them enforced by specific penalties in the act of Congress, passed the 5th of June, 1794. By these principles and laws the acts of the Executive, and the decisions of the courts of the United States were regulated.

A Government, thus fair and upright in its principles, and just and impartial in its conduct, might have confidently hoped to be secure against formal official censure; but the United States have not been so fortunate. The acts of their Government in its various branches, though pure in principle and impartial in operation, and conformable to their indispensable rights of sovereignty, have been assigned as the cause of the offensive and injurious measures of the French republic. For proofs of the former, all the acts of the Government may be vouched; while the aspersions so freely uttered by the French ministers, the refusal to hear the ministers of the United States specially charged to enter on amicable discussions on all the topics of complaint, the decrees of the Executive Directory and of their agents, the depredations on our commerce, and the violences against the persons of our citizens, are evidences of the latter. These injuries and depredations will constitute an important subject of your discussions with the Government of the French republic; and for all these wrongs you will seek redress.

In respect to the depredations on our commerce, the principal objects will be, to agree on an equitable mode of examining and deciding the claims of our citizens, and the manner and periods of making them compensation. As to the first, the 7th article of the British, and the 21st of the Spanish treaty, present approved precedents to be adopted with France. The proposed mode of adjusting those claims, by commissioners appointed on each side, is so perfectly fair, we cannot imagine that it will be refused. But when the claims are adjusted, if payment in specie cannot be obtained, it may be found necessary to agree, in behalf of our citizens, that they shall accept public securities, payable with interest at such periods as the state of the French finances shall render practicable. These periods you will endeavor as far as possible to shorten.

Not only the recent depredations, under color of the decrees of the Directory of the 2d of July, 1796, and the 2d of March, 1797, or under the decrees of their agents, or the illegal sentences of their tribunals, but all prior ones, not already satisfactorily adjusted, should be put in this equitable train of settlement. To cancel many or all of the last mentioned claims, might be the effect of the decree of the Executive Directory of the 2d of March last, reviving the decree of the 9th of May, 1793; but this being an *ex post facto* regulation, as well as a violation of the treaty between the United States and France, cannot be obligatory on the former. Indeed, the greater part, probably nearly all the captures and confiscations in question have been committed in direct violation of that treaty or of the law of nations. But the injuries arising from the capture of enemies' property, in vessels of the United States, may not be very extensive; and if for such captured property the French Government will, agreeably to the law of nations, pay the freight and reasonable demurrage, we shall not, on this account, any further contend. But of ship timber and naval stores taken and confiscated by the French, they ought to pay the full value; because our citizens continued their traffic in those articles, under the faith of the treaty with France. On these two points we ought to expect that the French Government will not refuse to do us justice: and the more, because it has not, at any period of the war, expressed its desire that the commercial treaty should in these respects be altered.

Besides the claims of our citizens for depredations on their property, there are many arising from express contracts made with the French Government or its agents, or founded on the seizure of their property in French ports. Other claims have arisen from the long detention of a multitude of our vessels in the ports of France. The wrong hereby done to our citizens was acknowledged by the French Government, and, in some, perhaps in most of the cases, small payments towards indemnifications have been made: the residue still remains to be claimed.

All these just demands of our citizens will merit your attention. The best possible means of compensation must be attempted. These will depend on what you shall discover to be practicable in relation to the French finances. But an exception must be made in respect to debts due to our citizens by the contracts of the French Government and its agents, if they are comprehended in any stipulation; and an option reserved to them, jointly or individually, either to accept the means of payment which you shall stipulate, or resort to the French Government, directly, for the fulfilment of its contracts.

Although the reparation for losses sustained by the citizens of the United States, in consequence of irregular or illegal captures or condemnations, or forcible seizures or detentions, is of very high importance, and is to be pressed with the greatest earnestness, yet it is not to be insisted on as an indispensable condition of the proposed treaty.

You are not, however, to renounce these claims of our citizens, nor to stipulate that they may be assumed by the United States as a loan to the French Government.

In respect to the alterations of the commercial treaty with France, in the two cases which have been principal subjects of complaint on her part, viz: enemies' property in neutral ships, and the articles contraband of war; although France can have no right to claim the annulling of stipulations at the moment when, by both parties, they were originally intended to operate; yet, if the French Government press for alterations, the President has no difficulty in substituting the principles of the law of nations, as stated in the 17th and 18th articles of our commercial treaty with Great Britain, to those of the 23d and 24th articles of our commercial treaty with France: and, in respect to provisions and other articles not usually deemed contraband, you are to agree only on a temporary compromise, like that in the 18th article of the British treaty, and of the same duration. If, however, in order to satisfy France, *now she is at war,* we change the two important articles before mentioned, then the 14th article of the French treaty, which subjects the property of the neutral nation found on board enemies' ships to capture and condemnation, must of course be abolished.

We have witnessed so many erroneous constructions of the treaty with France, even in its plainest parts, it will be necessary to examine every article critically, for the purpose of preventing, as far as human wisdom can prevent, all future misinterpretations. The kind of documents necessary for the protection of the neutral vessels should be enumerated and minutely described; the cases in which a sea-letter should be required may be specified; the want of a sea-letter should not of itself be a cause of confiscation, where other reasonable proof of property is produced; and, where such proof is furnished, the want of a sea-letter should go no further than to save the captor from damages for detaining and bringing in the neutral vessel. The proportion of the vessel's crew which may be foreigners should be agreed on. Perhaps it will be expedient to introduce divers other regulations conformably to the marine laws of France. Whenever these are to operate on the commerce of the United States, our safety requires that, as far as possible, they be fixed by treaty. And it will be desired to stipulate against any *ex post facto* law or regulation, under any pretence whatever.

Great Britain has often claimed a right, and practised upon it, to prohibit neutral nations carrying on a commerce with her enemies which had not been allowed in time of peace. On this head, it will be desirable to come to an explicit understanding with France, and, if possible, to obviate the claim by an express stipulation.

Such extensive depredations have been committed on the commerce of neutrals, and especially of the United States, by the citizens of France, under pretence that her enemies (particularly Great Britain) have done the same things, it will be desirable to have it explicitly stipulated that the conduct of an enemy towards the neutral Power shall not authorize or excuse the other belligerent Power in any departure from the law of nations or the stipulations of the treaty; especially that the vessels of the neutral nation shall never be captured or detained, or their property confiscated or injured, because bound to or from an enemy's port, except the case of a blockaded port, the entering into which may be prevented according to the known rule of the law of nations. And it may be expedient to define a blockaded place or port to be one actually invested by land or naval forces, or both, and that no *declaration* of a blockade shall have any effect without such actual investment. And no commercial right whatever should be abandoned which is secured to neutral Powers by the European law of nations.

The foregoing articles being those which the French Government has made the ostensible grounds of its principal complaints, they have naturally been first brought into view. But the proposed alterations and arrangements

suggest the propriety of revising all our treaties with France. In such revision, the first object that will attract your attention is the reciprocal guaranty, in the 11th article of the treaty of alliance. This guaranty we are perfectly willing to renounce. The guaranty by France of the liberty, sovereignty, and independence of the United States, will add nothing to our security; while, on the contrary, our guaranty of the possessions of France in America will perpetually expose us to the risk and expense of war, or to disputes and questions concerning our national faith.

When Mr. Genet was sent as the minister of the French republic to the United States, its situation was embarrassed, and the success of its measures problematical. In such circumstances, it was natural that France should turn her eye to the mutual guaranty; and, accordingly, it was required, in Mr. Genet's instructions, to be "an essential clause in the new treaty," which he was to propose, and on the ground "that it nearly concerned the peace and prosperity of the French nation, that a people whose resources increase beyond all calculation, and whom nature has placed so near their rich colonies, should become interested, by their own engagements, in the preservation of those islands." But, at this time, France, powerful by her victories, and secure in her triumphs, may less regard the reciprocal guaranty with the United States, and be willing to relinquish it. As a substitute for the reciprocal guaranty, may be proposed a mutual renunciation of the same territories and possessions that were subjects of the guaranty and renunciation in the 6th and 11th articles of the treaty of alliance. Such a renunciation on our part would obviate the reason assigned in the instruction to Mr. Genet before cited, *of future danger from the rapidly growing power of the United States.* But if France insists on the mutual guaranty, it will be necessary to aim at some modification of it.

The existing engagement is of that kind which, by writers on the law of nations, is called a general guaranty; of course the *casus fœderis* can never occur except in a *defensive* war. The nature of this obligation is understood to be that, when a war *really* and *truly defensive* exists, the engaging nation is bound to furnish an *effectual and adequate defence*, in co-operation with the power attacked: whence it follows that the nation *may* be required, in some circumstances, to bring forward its whole force. The nature and extent of the succors demandable not being ascertained, engagements of this kind are dangerous on account of their uncertainty. There is always hazard of doing too much or too little, and, of course, in being involved in involuntary rupture.

Specific succors have the advantage of certainty, and are less liable to occasion war. On the other hand, a general guaranty allows a latitude for the exercise of judgment and discretion.

On the part of the United States, instead of troops or ships of war, it will be convenient to stipulate for a moderate sum of money, or quantity of provisions, at the option of France; the provisions to be delivered at our own ports in any future *defensive* wars. The sum of money, or its value in provisions, ought not to exceed two hundred thousand dollars a year, during any such wars. The reciprocal stipulation on the part of France may be to furnish annually the like sum of money, or an equivalent in military stores and clothing for troops, at the option of the United States, to be delivered in the ports of France.

Particular caution, however, must be used in discussing this subject, not to admit any claims on the ground of the guaranty, in relation to the existing war; as we do not allow that the *casus fœderis* applies to it. And if the war should continue after your arrival in France, and the question of the guaranty should not be mentioned on her part, you may yourselves be silent on the subject, if you deem it most prudent.

It will be proper here to notice such articles of the treaty of amity and commerce between the United States and France, as have been differently construed by the two Governments, or which it may be expedient to amend or explain.

Art. II. The assent of the United States, in their treaty with Great Britain, to the doctrine of the law of nations respecting enemies' property in neutral ships, and ship timber and naval stores, and, in some cases, provisions, as contraband of war, the French Government has chosen to consider as a voluntary *grant of favors*, in respect to commerce and navigation, to Great Britain, and that, consequently, the same favors have become common to France. This construction is so foreign from our ideas of the meaning and design of this article, it shows the necessity of reviewing all the articles, and however clear they may appear, of attempting to obviate future misconstructions, by declaratory explanations or a change of terms.

Art. V. France has repeatedly contended that the imposition of fifty per cent. per ton, on French vessels arriving in the United States, is contrary to the fifth article of the treaty. The arguments in support of this pretension are unknown; but it is presumed to be unfounded. The reciprocal right of laying "duties or imposts of what nature soever," equal to those imposed on the most favored nations, and without any other restrictions, seems to be clearly settled by the 3d and 4th articles. The 5th article appears to have been intended merely to define or qualify the rights of American vessels in France. It is, however, desirable that the question be understood, and all doubt concerning it removed. But the introduction of a principle of discrimination between the vessels of different foreign nations, and in derogation of the powers of Congress to raise revenue by uniform duties on any objects whatever, cannot be hazarded. The naturalization of French vessels will, of course, be considered as inadmissible.

Art. VIII. The stipulation of doing us good offices, to secure peace to the United States with the Barbary powers, has never yet procured us any advantage. If, therefore, the French Government lays any stress on this stipulation, as authorizing a claim for some other engagement from us in favor of France, it may be abandoned; and especially if its abrogation can be applied as a set-off against some existing French claim.

Art. XIV. If the alterations already proposed are made in the 23d or 24th articles, then the 14th article, as before observed, must be abolished.

Art. XVII. The construction put on this article by the Government of the United States is conceived to be reasonable and just, and is, therefore, to be insisted on. The tribunals of the respective countries will consequently be justified in taking cognizance of all captures made within their respective jurisdictions, or by illegal privateers; and those of one country will be deemed illegal which are fitted out in the country of the other remaining neutral; seeing to permit such arming would violate the neutral duties of the latter.

It will be expedient to fix explicitly the reception to be given *to public ships of war* of all nations. The French ministers have demanded that the public ships of the enemies of France, which at any time, and in any part of the world, had made prize of a French vessel, should be excluded from the ports of the United States, although they brought in no prize with them. In opposition to this demand, we have contended that they were to be excluded only when they came in with French prizes. And the kind of asylum to be afforded in all other circumstances is described in Mr. Jefferson's letter to Mr. Hammond, dated the 9th of September, 1793, in the following words: "Thus, then, *the public ships of war* of both nations (English and French) enjoy a perfect equality in our ports; first, in cases of urgent necessity; second, in cases of comfort or convenience; and third, in the time they choose to continue." And such shelter and accommodation are due to the public ships of all nations, on the principle of hospitality among friendly nations.

It will also be expedient explicitly to declare that the right of asylum stipulated for the armed vessels of France and their prizes gives no right to make sale of those prizes.

But when prize ships are so disabled as to be incapable of putting to sea again, until refitted, and when they are utterly disabled, some provision is necessary relative to their cargoes. Both cases occurred last year. The Government permitted, though with hesitation and caution, the cargoes to be unloaded, one of the vessels to be repaired, and part of the prize goods sold to pay for the repairs, and the cargo of the vessel that was found unfit even to go to sea again, was allowed to be exported as *prize goods*, even in neutral bottoms. The doubts on these occasions arose from the 24th article of the British treaty, forbidding the sale of the prizes of privateers, or the exchanging of the same in any manner whatever. But as French prizes were entitled to an asylum in our ports, it was conceived to be a reasonable construction of it, to allow of such proceedings as those above mentioned, to prevent the total loss of vessels and cargoes. The 25th article of the British treaty demands attention; as it is therein stipulated that no future treaty shall be made that shall be inconsistent with that or the 24th article. Another doubt arose, whether the British treaty did not, in good faith, require the prohibition of the sale of prizes made by the *national ships* of France, as well as of those made by her privateers, especially seeing our treaty with France gave her no right to sell any prizes whatever; but, upon the whole, it was conceived that the United States

having before allowed the sale of such prizes, and the prohibition in the 24th article of the treaty being distinctly pointed against the sale of the prizes of *privateers*, it was thought proper to permit the former practice to continue, until the Executive should make and publish a prohibition of the sale of all prizes, or that Congress should pass a prohibitory law.

ART. XXII. If in new modelling the treaty with France, the total prohibition of the sale of prizes in the ports of the party remaining neutral should not be agreed on, at least the right of each power to make at its pleasure such prohibition, whether they are prizes of national ships or privateers, should be acknowledged, for the reason more than once suggested—to prevent a repetition of claims upon unfounded constructions; such as, under the present article, that a *prohibition* to an *enemy* of either party is a *grant* to the *other* of the thing forbidden.

ART. XXIII and XXIV. These have been already considered, and the alterations proposed have been mentioned.

There have been so many unjust causes and pretences assigned for capturing and confiscating American vessels, it may, perhaps, be impossible to guard against a repetition of them in any treaty which can be devised. To state the causes and pretences that have been already advanced by the Government of France, its agents, and tribunals, as the grounds of the capture and condemnation of American vessels and cargoes, would doubtless give pain to any man of an ingenuous mind, who should be employed on the part of France to negotiate another treaty, or a modification of the treaties which exist. It is not desired, therefore, to go further into detail on these matters than shall be necessary to guard, by explicit stipulations, against future misconstructions and the mischiefs they will naturally produce.

Under pretence that certain ports were surrendered to the English by the treachery of the French and Dutch inhabitants, Victor Hugues and Lebas, the special agents of the Executive Directory, at Guadaloupe, have declared that all neutral vessels bound to or from such ports, shall be good prize.

Under the pretence that the British were taking all neutral vessels bound to or from French ports, the French agents at St. Domingo, (Santhonax and others) decreed that all American vessels bound to or from English ports, should be captured; and they have since declared such captured vessels to be good prize. The French consuls in Spain have, on the same ground, condemned a number of American vessels, merely because they were destined to, or coming from, an English port.

Under the pretence that the sea-letters or passports prescribed by the commercial treaty, for the mutual advantage of the merchants and navigators of the two nations, to save their vessels from detention and other vexations, when met with at sea, by presenting so clear a proof of the property, are an indispensable document to be found on board, the French confiscate American vessels destitute of them, even when they acknowledge the property to be American.

Because horses and their military furniture, when destined to any enemy's port, are, by the 24th article of the commercial treaty, declared contraband, and as such by themselves only liable to confiscation, Hugues and Lebas decreed all *neutral vessels*, having horses or any other contraband goods on board, should be good prize; and they accordingly condemned vessels and cargoes.

The ancient ordinances of the French monarchs required a variety of papers to be on board neutral vessels, the want of any one of which is made a cause of condemnation; although the 25th article of the commercial treaty mentions what certificate shall accompany the merchant vessels and cargoes of each party, and which, by every reasonable construction, ought to give them protection.

It will therefore be advisable to guard against abuses by descending to particulars: to describe the ship's papers which shall be required, and to declare that the want of any other shall not be a cause for confiscation: to fix the mode of manning vessels as to the officers, and the proportion of the crews who shall be citizens; endeavoring to provide, in respect to American vessels, that more than one-third may be foreigners. This provision will be important to the southern States, which have but few native seamen.

The marine ordinances of France will show what regulations have been required to be observed by allied as well as neutral Powers in general, to ascertain and secure the property of neutrals. Some of these regulations may be highly proper to be adopted; while others may be inconvenient and burthensome. Your aim will be to render the documents and formalities as few and as simple as will consist with a fair and regular commerce.

ART. XXV and XXVII. These two articles should be rendered conformable to each other. The 27th says that, after the exhibition of the *passport*, the vessel shall be allowed to pass without molestation or search, without giving her chase, or forcing her to quit her intended course. The 25th requires that besides the *passport*, vessels shall be furnished with certain *certificates*, which of course must also be exhibited. It will be expedient to add that, if in the face of such evidence, the armed vessel will carry the other into port, and the papers are found conformable to treaty, the captors shall be condemned in all the charges, damages, and interest thereof, which they shall have caused. A provision of this nature is made in the 11th article of our treaty with the United Netherlands.

ART. XXVIII. The prohibited goods here mentioned have no relation to contraband, but merely to such as *by the laws of the country are forbidden to be exported*. Yet in the case of exporting horses from Virginia, which no law prohibited, in the winter of 1796, this article was applied by the French minister to *horses*, which by the French treaty are contraband of war. And a letter from the minister to Victor Hugues and Lebas, informing them that the American Government refused to prevent such export of horses by the British, is made one ground for their decree above mentioned.

ART. XXX. The vessels of the United States ought to be admitted into the ports of France in the same manner as the vessels of France are admitted into the ports of the United States. But such a stipulation ought not to authorize the admission of vessels of either party into the ports of the other, into which the admission of all foreign vessels shall be forbidden by the laws of France and of the United States, respectively. With this restriction, the principles of the 14th article of the treaty with Great Britain afford a liberal and unexceptionable precedent. A restriction like that here referred to, will be found in the first paragraph of the third article of the British treaty.

The commerce to the French colonies in the East and West Indies, will doubtless be more or less restricted, according to the usage of other European nations. Yet on account of the disarranged condition of the French navigation, probably a larger latitude of trade with their colonies will be readily permitted for a term of years: and perhaps the mutual advantages thence resulting will be found so great as to induce afterwards a prolongation of that term, to which the course of habit or business may contribute.

While between the United States and France there shall subsist a perfect reciprocity in respect to commerce, we must endeavor to extend our trade to her colonies to as many articles as possible. Of these the most important are provisions of all kinds, as beef, pork, flour, butter, cheese, fish, grain, pulse, live stock, and every other article serving for food, which is the produce of the country, horses, mules, timber, planks, and wood of all kinds, cabinet ware and other manufactures of the United States; and to obtain in return all the articles of the produce of those colonies, without exception, at least to the value of the cargoes carried to those colonies.

There have been different constructions of the consular Convention. The French have contended for the execution of their consular decisions, by the marshal or other officer of the United States; and their minister of justice has formally stated in a report to the minister of foreign affairs, that the judicial sentences of the American consuls in France will be executed by certain officers of justice in that country. The legal opinion of the law officers of the United States, which the Government has adopted, opposes such a construction. The French have also contended that deserters from French vessels ought to be apprehended by the judicial officers of the United States, upon other evidence than the original shipping paper, or *rôle d'équipage;* whereas the district judges have insisted that the consular Convention requires the original rôle to be produced. This claim was lately revived by the consul general of the French republic. The correspondence on this occasion will be joined to the other documents which accompany these instructions.

The United States cannot consent to the erecting of foreign tribunals within their jurisdiction. We consider the judicial authority of consuls, as described in the consular Convention, to be voluntary, not compulsory, in the country where they reside; and that their decisions, if not obeyed by the parties respectively, must be enforced by the

laws of their proper country; and such a provision you will see has been made in France, where a penalty of fourteen hundred livres is imposed on the citizen who refuses obedience to a consular decision in a foreign state.

The consular Convention will expire in about four years; and if any great difficulties arise in settling the terms of a new one, that which exists must take its course: but if the French Government should be silent on the subject of the consular Convention, silence may be observed on your part.

The ports of the United States being frequented by the vessels of different belligerent Powers, it became necessary to regulate the times of their sailing. The President, therefore, adopted what was understood to be the received rule in Europe; and ordered that, after the sailing of a vessel of one of the belligerent Powers, twenty-four hours should elapse before an armed vessel of an enemy of the former should set sail. This rule has not been duly respected by the armed vessels of France and Great Britain.

As the tranquillity of the United States requires that no hostile movements be commenced within their jusisdiction, and the interests of commerce demand an entire freedom to the departure of vessels from their ports, it may be expedient expressly to recognize the above mentioned rule.

It will also be expedient to agree on the extent of territorial jurisdiction on the seacoast, and in what situations bays and sounds may be said to be land-locked, and within the jurisdiction of the sovereign of the adjacent country.

On the supposition that a treaty will be negotiated to alter and amend the treaties which now exist between France and the United States, the following leading principles, to govern the negotiation, are subjoined:

1. Conscious integrity authorizes the Government to insist, that no blame or censure be directly, or indirectly, imputed to the United States. But, on the other hand, however exceptionable in the view of our own Government, and in the eyes of an impartial world, may have been the conduct of France, yet she may be unwilling to acknowledge any aggressions, and we do not wish to wound her feelings, or to excite resentment. It will therefore be best to adopt, on this point, the principle of the British treaty, and "terminate our differences in such manner, as, without referring to the merits of our respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding."
2. That no aid be stipulated in favor of France during the present war.
3. That no engagement be made inconsistent with the obligations of any prior treaty.
4. That no restraint on our lawful commerce with any other nation be admitted.
5. That no stipulation be made, under color of which tribunals can be established within our jurisdiction, or personal privileges claimed by French citizens incompatible with the complete sovereignty and independence of the United States, in matters of policy, commerce, and government.

It will be expedient to limit the duration of the treaty to a term of from ten to twenty years. Such changes in the circumstances of the two parties are likely to happen within either of those periods, as to give one or both good reason to desire a change in the conditions of the treaty. From this limitation may be excepted such articles as are declaratory of a state of peace, or as are intended to regulate the conduct of the two nations at the commencement of, or during a state of war, or which are founded in morality and justice, and are, in their nature, of perpetual obligation. Of this kind may be considered the tenth article of the treaty with Great Britain; which therefore may very properly be introduced into the treaty with France.

Finally, the great object of the Government being to do justice to France and her citizens, if in any thing we have injured them; to obtain justice for the multiplied injuries they have committed against us, and to preserve peace; your style and manner of proceeding will be such as shall most directly tend to secure these objects. There may be such a change of men and measures in France as will authorize, perhaps render politic, the use of strong language in describing the treatment we have received. On the other hand, the French Government may be determined to frustrate the negotiation, and throw the odium on this country; in which case, any thing like warmth and harshness would be made the pretext. If things remain in their present situation the style of representation will unite, as much as possible, calm dignity with simplicity, force of sentiment with mildness of language, and be calculated to impress an idea of inflexible perseverance, rather than of distrust or confidence.

With these instructions you will receive the following documents:

1. The printed state papers, containing the correspondence between the Secretary of State and the French minister, Mr. Genet.
2. The letter, dated January 16th, 1797, from the Secretary of State to General Pinckney, and the documents therein referred to, in which all the known complaints of the French Government, since the recall of Mr. Genet, are exhibited and discussed.
3. A report from the Secretary of State to the House of Representatives, dated the 27th of February, 1797, exhibiting the state of American claims which had been presented to the French Government, (but few of which had been satisfied) together with some further information relative to the depredations by the officers and people of that nation on the commerce of the United States.
4. A report made by the Secretary of State to the President of the United States, on the 21st of June, 1797, and by him laid before Congress on the 22d.
5. Certain original depositions, protests, and other papers relative to the French spoliations on the commerce, and personal insults and injuries to the citizens of the United States.
6. The documents laid before the House of Representatives, the 17th of May, 1797, relative to General Pinckney's mission to Paris, and comprehending some papers relative to the capture and condemnation of American vessels by the French.
7. The correspondence with the French Consul General, Létombe, relative to the consular convention.

TIMOTHY PICKERING, *Secretary of State.*

DEPARTMENT OF STATE, *April* 3, 1798.

The names designated by the letters W. X. Y. Z. in the following copies of letters from the envoys of the United States to the French republic, are, in the originals, written at full length, in ciphers. For the same reason that single letters are thus taken to designate certain persons named in the letters, other words descriptive of them are omitted.

TIMOTHY PICKERING.

DESPATCHES FROM THE ENVOYS TO THE SECRETARY OF STATE.

No. 1.

PARIS, *October* 22, 1797.

DEAR SIR:

All of us having arrived at Paris on the evening of the 4th instant, on the next day we verbally, and unofficially, informed the Minister of Foreign Affairs therewith, and desired to know when he would be at leisure to receive one of our secretaries with the official notification. He appointed the next day at two o'clock, when Major Rutledge waited on him with the following letter:

CITIZEN MINISTER: The United States of America being desirous of terminating all differences between them and the French republic, and of restoring that harmony and good understanding, and that commercial and friendly

intercourse, which from the commencement of their political connexion until lately have so happily subsisted, the President has nominated, and, by and with the advice and consent of the Senate, has appointed us, the undersigned, jointly and severally, envoys extraordinary and ministers plenipotentiary to the French republic, for the purpose of accomplishing these great objects. In pursuance of such nomination and appointment, and with such view, having come to Paris, we wish, citizen minister, to wait on you at any hour you will be pleased to appoint, to present the copy of our letters of credence; and whilst we evince our sincere and ardent desire for the speedy restoration of friendship and harmony between the two republics, we flatter ourselves with your concurrence in the accomplishment of this desirable event. We request you will accept the assurances of our perfect esteem and consideration,

CHARLES COTESWORTH PINCKNEY,
JOHN MARSHALL,
ELBRIDGE GERRY.

PARIS, *October 6, in the 22d year of American Independence.*

To this letter the minister gave a verbal answer, that he would see us the day after the morrow, (the 8th) at one o'clock. Accordingly, at that hour and day we waited on the minister at his house, where his office is held, when, being informed he was not at home, the Secretary General of the department told Major Rutledge that the minister was obliged to wait on the Directory, and requested we would suspend our visit till three o'clock; at which hour we called. The minister we found was then engaged with the Portuguese minister, who retired in about ten minutes, when we were introduced and produced the copy of our letters of credence, which the minister perused and kept. He informed us, "that the Directory had required him to make a report relative to the situation of the United States with regard to France, which he was then about, and which would be finished in a few days, when he would let us know what steps were to follow." We asked if cards of hospitality were in the mean time necessary? He said they were, and that they should be delivered to us; and he immediately rung for his secretary, and directed him to make them out. The conversation was carried on by him in French, and by us in our own language.

The next day cards of hospitality were sent to us and our secretaries, in a style suitable to our official character.

On Saturday, the 14th, Major Mountflorence informed General Pinckney that he had had a conversation with Mr. Osmond, the private and confidential secretary of the Minister of Foreign Affairs, who told him that the Directory were greatly exasperated at some parts of the President's speech, at the opening of the last session of Congress, and would require an explanation of them from us. The particular parts were not mentioned. In another conversation, on the same day, the secretary informed the major that the minister had told him it was probable we should not have a public audience of the Directory till such time as our negotiation was finished; that probably persons might be appointed to treat with us, but they would report to him, and he would have the direction of the negotiation. The major did not conceal from Mr. Osmond his intention to communicate these conversations to us.

In the morning of October the 18th, Mr. W., of the house of ——, called on General Pinckney and informed him that a Mr. X., who was in Paris, and whom the General had seen, * * * * * was a gentleman of considerable credit and reputation, * * * * * and that we might place great reliance on him.

In the evening of the same day, Mr. X. called on General Pinckney, and after having sat some time, * * * whispered him that he had a message from M. Talleyrand to communicate when he was at leisure. General Pinckney immediately withdrew with him into another room; and, when they were alone, Mr. X. said that he was charged with a business in which he was a novice; that he had been acquainted with M. Talleyrand, * * * * and that he was sure he had a great regard for [America] and its citizens; and was very desirous that a reconciliation should be brought about with France; that, to effectuate that end, he was ready, if it was thought proper, to suggest a plan, confidentially, that M. Talleyrand expected would answer the purpose. General Pinckney said he should be glad to hear it. M. X. replied that the Directory, and particularly two of the members of it, were exceedingly irritated at some passages of the President's speech, and desired that they should be softened; and that this step would be necessary previous to our reception. That, besides this, a sum of money was required for the pocket of the Directory and ministers, which would be at the disposal of M. Talleyrand; and that a loan would also be insisted on. M. X. said if we acceded to these measures, M. Talleyrand had no doubt that all our differences with France might be accommodated. On inquiry, M. X. could not point out the particular passages of the speech that had given offence, nor the quantum of the loan, but mentioned that the douceur for the pocket was twelve hundred thousand livres, about fifty thousand pounds sterling. General Pinckney told him, his colleagues and himself, from the time of their arrival here, had been treated with great slight and disrespect; that they earnestly wished for peace and reconciliation with France; and had been entrusted by their country with very great powers, to obtain these ends on honorable terms; that, with regard to the propositions made, he could not even consider of them before he had communicated them to his colleagues; that, after he had done so, he should hear from him. After a communication and consultation had, it was agreed that General Pinckney should call on M. X. and request him to make his propositions to us all; and, for fear of mistake or misapprehension, that he should be requested to reduce the heads into writing. Accordingly, on the morning of October 19, General Pinckney called on M. X., who consented to see his colleagues in the evening, and to reduce his propositions to writing. He said his communication was not immediately with M. Talleyrand, but through another gentleman in whom M. Talleyrand had great confidence. This proved afterwards to be M. Y.

At six in the evening, M. X. came and left with us the first set of propositions, which, translated from the French, are as follows: "A person who possesses the confidence of the Directory, on what relates to the affairs of America, convinced of the mutual advantages which would result from the re-establishment of the good understanding between the two nations, proposes to employ all of his influence to obtain this object. He will assist the commissioners of the United States in all the demands which they may have to make from the Government of France, inasmuch as they may not be contradictory to those which he proposes himself to make, and of which the principal will be communicated confidentially. It is desired that in the official communications there should be given a softening turn to a part of the President's speech to Congress, which has caused much irritation. It is feared that, in not satisfying certain individuals in this respect, they may give way to all their resentment. The nomination of commissioners will be consented to on the same footing as they have been named in the treaty with England, to decide on the reclamations which individuals of America may make on the Government of France, or on French individuals. The payment which, agreeably to the decisions of the commissioners, shall fall to the share of the French Government, are to be advanced by the American Government itself. It is desired that the funds which, by this means, shall enter again into the American trade, should be employed in new supplies for the French colonies. Engagements of this nature, on the part of individuals reclaiming, will always hasten, in all probability, the decisions of the French commissioners; and perhaps it may be desired that this clause should make a part of the instructions which the Government of the United States should give to the commissioners they may choose. The French Government desires, besides, to obtain a loan from the United States; but so that that should not give any jealousy to the English Government, nor hurt the neutrality of the United States. This loan shall be masked by stipulating, that the Government of the United States consents to make the advances for the payment of the debts contracted by the agents of the French Government with the citizens of the United States, and which are already acknowledged, and the payment ordered by the Directory, but without having been yet effectuated. There should be delivered a note to the amount of these debts. Probably this note may be accompanied by ostensible pieces, which will guarantee to the agents the responsibility of the United States, in case any umbrage should cause an inquiry. There shall also be first taken from this loan certain sums for the purpose of making the customary distributions in diplomatic affairs." The person of note mentioned in the minutes, who had the confidence of the Directory, he said, before us all, was M. Talleyrand. The amount of the loan he could not ascertain precisely, but understood it would be according to our ability to pay. The sum which would be considered as proper, according to diplomatic usage, was about twelve hundred thousand livres. He could not state to us what parts of the President's speech were excepted to, but said he would inquire and inform us. He agreed to breakfast with Mr. Gerry the morning of the 21st, in order to make such explanations as we had then requested, or should think proper to request; but, on

the morning of the 20th, M. X. called, and said that M. Y., the confidential friend of M. Talleyrand, instead of communicating with us through M. X. would see us himself and make the necessary explanations. We appointed to meet him the evening of the 20th at seven o'clock, in General Marshall's room. At seven, M. Y. and M. X. entered; and the first mentioned gentleman, being introduced to us as the confidential friend of M. Talleyrand, immediately stated to us the favorable impressions of that gentleman towards our country—impressions which were made by the kindness and civilities he had personally received in America. That impressed by his solicitude to repay these kindnesses, he was willing to aid us in the present negotiation by his good offices with the Directory, who were, he said, extremely irritated against the Government of the United States, on account of some parts of the President's speech, and who had neither acknowledged nor received us, and consequently have not authorized M. Talleyrand to have any communications with us. The minister therefore could not see us himself, but had authorized his friend M. Y. to communicate to us certain propositions, and to receive our answers to them; and to promise, on his part, that if we would engage to consider them as the basis of the proposed negotiation, he would intercede with the Directory to acknowledge us, and to give us a public audience. M. Y. stated to us, explicitly and repeatedly, that he was clothed with no authority; that he was not a diplomatic character; that he was not * * * he was only the friend of M. Talleyrand, and trusted by him; that, with regard to himself, he had * * * * * * and that he earnestly wished well to the United States. He then took out of his pocket a French translation of the President's speech, the parts of which, objected to by the Directory, were marked, agreeably to our request to M. X., and are contained in the exhibit A. Then he made us the second set of propositions, which were dictated by him and written by M. X. in our presence, and delivered to us, and which, translated from the French, are as follows: "There is demanded a formal disavowal in writing, declaring that the speech of the citizen president, Barras, did not contain any thing offensive to the Government of the United States, nor any thing which deserved the epithets contained in the whole paragraph. Secondly, reparation is demanded for the article by which it shall be declared, that the decree of the Directory there mentioned did not contain any thing contrary to the treaty of 1778, and had none of those fatal consequences that the paragraph reproaches to it. Thirdly, it is demanded that there should be an acknowledgment, in writing, of the depredations exercised on our trade by the English and French privateers. Fourthly, the Government of France, faithful to the profession of public faith, which it has made not to intermeddle in the internal affairs of foreign Governments with which it is at peace, would look upon this paragraph as an attack upon its loyalty, if this was intended by the President. It demands, in consequence, a formal declaration that it is not the Government of France, nor its agents, that this paragraph meant to designate. In consideration of these reparations, the French republic is disposed to renew with the United States of America a treaty which shall place them reciprocally in the same state that they were in 1778. By this new treaty, France shall be placed, with respect to the United States, exactly on the same footing as they stand with England, in virtue of the last treaty which has been concluded between them. A secret article of this new treaty would be a loan to be made by the United States to the French republic; and, once agreed upon the amount of the loan, it would be endeavored to consult the convenience of the United States with respect to the best method of preventing its publicity."

On reading the speech M. Y. dilated very much upon the keenness of the resentment it had produced, and expatiated largely on the satisfaction he said was indispensably necessary as a preliminary to negotiation. "But, said he, gentlemen, I will not disguise from you, that this satisfaction being made, the essential part of the treaty remains to be adjusted; il faut de l'argent—il faut beaucoup d'argent;" *you must pay money, you must pay a great deal of money.* He spoke much of the force, the honor, and the jealous republican pride of France; and represented to us strongly the advantages which we should derive from the neutrality thus to be purchased. He said that the receipt of the money might be so disguised as to prevent its being considered as a breach of neutrality by England; and thus save us from being embroiled with that power. Concerning the twelve hundred thousand livres little was said; that being completely understood, on all sides, to be required for the officers of Government, and, therefore, needing no further explanation. These propositions, he said, being considered as the admitted basis of the proposed treaty, M. Talleyrand trusted that, by his influence with the Directory, he could prevail on the Government to receive us. We asked whether we were to consider it as certain, that, without a previous stipulation to the effect required, we were not to be received. He answered that M. Talleyrand himself was not authorized to speak to us the will of the Directory, and consequently could not authorize him. The conversation continued until half after nine, when they left us; having engaged to breakfast with Mr. Gerry the next morning.

October the 21st, M. X. came before nine o'clock; M. Y. did not come until ten: he had passed the morning with M. Talleyrand. After breakfast the subject was immediately resumed. He represented to us, that we were not yet acknowledged or received; that the Directory were so exasperated against the United States, as to have come to a determination to demand from us, previous to our reception, those disavowals, reparations, and explanations, which were stated at large last evening. He said that M. Talleyrand and himself were extremely sensible of the pain we must feel in complying with this demand; but that the Directory would not dispense with it; that, therefore, we must consider it as the indispensable preliminary to obtain our reception, unless we could find the means to change their determination in this particular; that if we satisfied the Directory in these particulars, a letter would be written to us to demand the extent of our powers, and to know whether we were authorized to place them precisely on the same footing with England; whether, he said, our full powers were really and substantially full powers; or, like those of Lord Malmesbury, only illusory powers; that, if to this demand our answer should be affirmative, then France would consent that commissioners should be appointed to ascertain the claims of the United States, in like manner as under our treaty with England; but from their jurisdiction must be withdrawn those which were condemned for want of a rôle d'équipage; that being a point on which Merlin, while minister of justice, had written a treatise, and on which the Directory were decided. There would, however, be no objection to our complaining of these captures in the course of the negotiation; and if we could convince Merlin by our reasoning, the minister would himself be satisfied with our so doing. We required an explanation of that part of the conversation, in which M. Y. had hinted at our finding means to avert the demand concerning the President's speech. He answered, that he was not authorized to state those means, but that we must search for them and propose them ourselves. If, however, we asked his opinion as a private individual, and would receive it as coming from him, he would suggest to us the means which, in his opinion, would succeed. On being asked to suggest the means, he answered, money; that the Directory were jealous of its own honor and of the honor of the nation; that it insisted on receiving from us the same respect with which we had treated the King; that this honor must be maintained in the manner before required, unless we substituted, in the place of those reparations, something, perhaps, more valuable, that was money. He said further, that if we desired him to point out the sum which he believed would be satisfactory, he would do so. We requested him to proceed; and he said that there were thirty-two millions of florins, of Dutch inscriptions, worth ten shillings in the pound, which might be assigned to us at twenty shillings in the pound; and he proceeded to state to us the certainty that, after a peace, the Dutch Government would repay us the money; so that we should ultimately lose nothing, and the only operation of the measure would be, an advance from us to France of thirty-two millions, on the credit of the Government of Holland. We asked him whether the fifty thousand pounds sterling, as a douceur to the Directory, must be in addition to this sum. He answered in the affirmative. We told him that, on the subject of the treaty, we had no hesitation in saying that our powers were ample; that, on the other points proposed to us, we would retire into another room, and return in a few minutes with our answer.

We committed immediately to writing the answer we proposed, in the following words: "Our powers respecting a treaty are ample; but the proposition of a loan, in the form of Dutch inscriptions, or in any other form, is not within the limits of our instructions; upon this point, therefore, the Government must be consulted; one of the American ministers will, for the purpose, forthwith embark for America; provided the Directory will suspend all further captures on American vessels, and will suspend proceedings on those already captured, as well where they have been already condemned, as where the decisions have not yet been rendered; and that where sales have been made, but the money not yet received by the captors, it shall not be paid until the preliminary questions, proposed to the ministers of the United States, be discussed and decided:" which was read as a verbal answer; and we told

them they might copy it if they pleased. M. Y. refused to do so; his disappointment was apparent; he said we treated the money part of the proposition as if it had proceeded from the Directory; whereas, in fact, it did not proceed even from the minister, but was only a suggestion from himself, as a substitute to be proposed by us, in order to avoid the painful acknowledgment that the Directory had determined to demand of us. It was told him that we understood that matter perfectly; that we knew the proposition was in form to be ours; but that it came substantially from the minister. We asked what had led to our present conversation? And General Pinckney then repeated the first communication from M. X. (to the whole of which that gentleman assented) and we observed that those gentlemen had brought no testimonials of their speaking any thing from authority; but that, relying on the fair characters they bore, we had believed them when they said they were from the minister, and had conversed with them, in like manner, as if we were conversing with M. Talleyrand himself; and that we could not consider any suggestion M. Y. had made as not having been previously approved of; but yet, if he did not choose to take a memorandum in writing of our answer, we had no wish that he should do so; and further, if he chose to give the answer to his proposition the form of a proposition from ourselves, we could only tell him that we had no other proposition to make, relative to any advance of money on our part; that America had sustained deep and heavy losses by French depredations on our commerce, and that France had alleged so [many] complaints against the United States, that on those subjects we came fully prepared, and were not a little surprised to find France unwilling to hear us; and making demands upon us which could never have been suspected by our Government, and which had the appearance of our being the aggressing party. M. Y. expressed himself vehemently on the resentment of France; and complained that, instead of our proposing some substitute for the reparations demanded of us, we were stipulating certain conditions to be performed by the Directory itself; that he could not take charge of such propositions; and that the Directory would persist in its demand of those reparations which he at first stated. We answered that we could not help it; it was for the Directory to determine what course its own honor and the interests of France required it to pursue; it was for us to guard the interest and honor of our country. M. Y. observed that we had taken no notice of the first proposition, which was, to know whether we were ready to make the disavowal, reparations, and explanations, concerning the President's speech. We told him that we supposed it to be impossible that either he, or the minister, could imagine that such a proposition could require an answer; that we did not understand it as being seriously expected; but merely as introductory to the subjects of real consideration.

He spoke of the respect which the Directory required, and repeated, that it would exact as much as was paid to the ancient kings. We answered that America had demonstrated to the world, and especially to France, a much greater respect for her present government than for her former monarchy; and that there was no evidence of this disposition which ought to be required, that we were not ready to give. He said that we should certainly not be received; and seemed to shudder at the consequences. We told him, that America had made every possible effort to remain on friendly terms with France; that she was still making them: that if France would not hear us, but would make war on the United States, nothing remained for us but to regret the unavoidable necessity of defending ourselves.

The subject of our powers was again mentioned; and we told him, that America was solicitous to have no more misunderstandings with any republic, but especially with France; that she wished a permanent treaty, and was sensible that no treaty could be permanent, which did not comport with the interests of the parties; and, therefore, that he might be assured, that our powers were such as authorized us to place France on equal ground with England, in any respects in which an equality might be supposod to exist at present between them, to the disadvantage of France. The subject of the rôle d'équipage was also mentioned; and we asked what assurance we could have, if France insisted on the right of adding to the stipulations of our treaty, or of altering them by municipal regulations, that any future treaty we could make should be observed. M. Y. said that he did not assert the principle of changing treaties by municipal regulations; but that the Directory considered its regulation concerning the rôle d'équipage as comporting with the treaty. We observed to him, that none of our vessels had what the French termed the rôle d'équipage, and that if we were to surrender all the property which had been taken from our citizens in cases where their vessels were not furnished with such a rôle, the Government would be responsible to its citizens for the property so surrendered; since it would be impossible to undertake to assert, that there was any plausibility in the allegation, that our treaty required a rôle d'équipage.

The subject of disavowals, &c. concerning the President's speech was again mentioned; and it was observed that the constitution of the United States authorized and required our President to communicate his ideas on the affairs of the nation; that, in obedience to the constitution, he had done so; that we had not power to confirm or invalidate any part of the President's speech ; that such an attempt could produce no other effect than to make us ridiculous to the Government and to the citizens at large of the United States; and to produce, on the part of the President, an immediate disavowal and recall of us as his agents: that, independent of this, all America was acquainted with the facts stated by the President; and our disavowing them would not change the public sentiment concerning them.

We parted with mutual professions of personal respect, and with full indications on the part of M. Y. of his expectation that we should immediately receive the threatened letter.

The nature of the above communication will evince the necessity of secrecy; and we have promised Messrs. X. and Y. that their names shall, in no event, be made public.

We have the honor to be, &c.

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

P. S. October 27th, 1797. The definitive articles of peace are signed between the French republic and the emperor: the particulars you will find in the public prints. The Portuguese minister is ordered to quit France, as the treaty with Portugal has not been yet ratified by the Queen. The treaty itself is declared by the Directory to be void. Since our arrival in Paris the tribunal of cassation has rejected captain Scott's petition complaining of the condemnation of his vessel by the civil tribunal for the want of a rôle d'équipage. Mr. ***** in behalf of the owners of the American vessels, who have appealed in the last resort to the tribunal of cassation, informs, that notwithstanding all the arguments ***** made use of ***** to put off the hearing of the Rosanna, as a diplomatic case, till the issue of our negotiations is known, that case is set down for hearing, and will come on the 29th or 30th instant. The same ***** also says, that it is obvious, that the tribunal have received instructions from the officers of the Government to hasten their decisions, and that it was hardly worth while to ***** for all our petitions in cassation would be rejected. Our advocates ***** decline giving their sentiments on this subject ***** under an apprehension of committing themselves.

Col. PICKERING, *Secretary of the United States.*

Paragraphs of the President's Speech, referred to in Letter No. 1, *under title of Exhibit A.*

1. With this conduct of the French Government it will be proper to take into view the public audience given to the late minister of the United States, on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities against the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them, that they have different affections, principles, and interests, from those of their fellow-citizens, whom they themselves have chosen to manage their common concerns; and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision, which shall convince France and the world, that we are not a degraded people, humiliated under a colonial spirit of fear, and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest.

II. The diplomatic intercourse between the United States and France being at present suspended, the Government has no means of obtaining official information from that country; nevertheless there is reason to believe that the Executive Directory passed a decree on the 2d of March last, contravening, in part, the treaty of amity and commerce of 1778, injurious to our lawful commerce, and endangering the lives of our citizens. A copy of this decree will be laid before you.

III. While we are endeavoring to adjust all our differences with France, by amicable negotiation, the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of affairs, render it my indispensable duty to recommend to your consideration effectual measures of defence.

IV. It is impossible to conceal from ourselves, or the world, what has been before observed, that endeavors have been employed to foster and establish a division between the Government and people of the United States. To investigate the causes which have encouraged this attempt is not necessary. But to repel, by decided and united councils, insinuations so derogatory to the honor, and aggressions so dangerous to the constitution, union, and even independence of the nation, is an indispensable duty.

Answer of M. Barras, President of the Executive Directory, to the speech of Mr. Monroe, on taking leave, to which the speech of the President of the United States refers.

M. le ministre plénipotentiare des Etats Unis d'Amérique.

En présentant aujourd'hui au Directoire Exécutif vos lettres de rappel, vous donnez à l'Europe un spectacle bien étrange.

La France, riche de sa liberté, entourée du cortège de ses victoires, forte de l'estime de ses alliés, ne s'abaissera pas a calculer les suites de la condescendance du gouvernement Américain pour les suggestions de ses anciens tyrans. La république Française espère, au surplus, que les successeurs de Colombus, Ramhiph* et Penn, toujours fiers de leur liberté, n'oublieront jomais qu'ils la doivent à la France. Ils péseront dans leur sagesse la magnanime bienveillance du peuple Français avec les astucieuses caresses de quelques perfides qui méditent de le ramener à son antique esclavage. Assurez, M. le ministre, le bon peuple Américain que, comme lui, nous adorons la liberté; que toujours il aura notre estime, et qu'il trouvera das le peuple Français, la générosité républicaine qui sait accorder la paix comme elle sait faire respecter sa souveraineté.

Quant à vous, M. le ministre plénipotentiaire, vous avez combattu pour les vrais intérêts de votre patrie. Partez avec nos regrets. Nous rendons en vous un représentant à l'Amérique, et nous retenons le souvenir du citoyen dont les qualités personelles honoraient ce titre.

Mr. minister plenipotentiary of the United States of America.

By presenting to-day your letters of recall to the Executive Directory, you give to Europe a very strange spectacle.

France, rich in her liberty, surrounded by a train of victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of her former tyrants. Moreover, the French republic hopes, that the successors of Columbus, Ramhiph,* and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom, the magnanimous benevolence of the French people with the crafty caresses of certain perfidious persons who meditate bringing them back to their former slavery. Assure the good American people, sir, that, like them, we adore liberty; that they will always have our esteem, and that they will find in the French people, republican generosity, which knows how to grant peace, as it does to cause its sovereignty to be respected.

As to you, Mr. minister plenipotentiary, you have combated for principles; you have known the true interests of your country. Depart with our regret. In you we give up a representative to America, and retain the remembrance of the citizen whose personal qualities did honor to that title.

No. 2.

PARIS, *November* 8, 1797.

DEAR SIR:

We now enclose you, in thirty-six quarto pages of cipher, and in eight pages of ciphered exhibits, the sequel to the details commenced in No. 1, dated the 22d of last month, and have the honor to be, &c.

C. C. PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel PICKERING.

OCTOBER, 27, 1797.

About twelve we received another visit from M. X. He immediately mentioned the great event announced in the papers, and then said, that some proposals from us had been expected on the subject on which we had before conversed: that the Directory were becoming impatient, and would take a decided course with regard to America, if we could not soften them. We answered, that on that subject we had already spoken explicitly, and had nothing further to add. He mentioned the change in the state of things which had been produced by the peace with the emperor, as warranting an expectation of a change in our system; to which we only replied, that this event had been expected by us, and would not, in any degree, affect our conduct. M. X. urged, that the Directory had, since this peace, taken a higher and more decided tone with respect to us, and all other neutral nations, than had been before taken; that it had been determined, that all nations should aid them, or be considered and treated as their enemies. We answered, that such an effect had already been contemplated by us, as probable, and had not been overlooked when we gave to this proposition our decided answer; and further, that we had no powers to negotiate for a loan of money; that our Government had not contemplated such a circumstance in any degree whatever; that if we should stipulate a loan, it would be a perfectly void thing, and would only deceive France, and expose ourselves. M. X. again expatiated on the power and violence of France: he urged the danger of our situation, and pressed the policy of softening them, and of thereby obtaining time. The present men, he said, would very probably not continue long in power, and it would be very unfortunate if those who might succeed, with better dispositions towards us, should find the two nations in actual war. We answered, that if war should be made on us by France, it would be so obviously forced on us, that, on a change of men, peace might be made with as much facility as the present differences could be accommodated. We added, that all America deprecated a war with France; but that our present situation was more ruinous to us than a declared war could be; that at present our commerce was plundered unprotected; but that if war was declared, we should seek the means of protection. M. X. said, he hoped we should not form a connexion with Britain; and we answered, that we hoped so too; that we had all been engaged in our Revolutionary war, and felt its injuries; that it had made the deepest impression on us; but that if France should attack us, we must seek the best means of self-defence. M. X. again returned to the subject of money: Said he, gentlemen, you do not speak to the point; it is money: it is expected that you will offer money. We said that we had spoken to that point very explicitly: we had given an answer. No, said he, you have not: what is your answer? We replied, it is no; no; not a sixpence. He again called our attention to the dangers which threatened our country, and asked, if it would not be prudent, though we might not make a loan to the nation, to interest an influential friend in our favor. He said we ought to consider what men we had to treat with; that they disregarded the justice of our claims, and the reasoning with which we might support them; that they disregarded their own

* Probably intended for Raleigh.

colonies, and considered themselves as perfectly invulnerable with respect to us; that we could only acquire an interest among them by a judicious application of money, and it was for us to consider, whether the situation of our country did not require that these means should be resorted to. We observed, that the conduct of the French Government was such as to leave us much reason to fear, that should we give the money, it would effect no good purpose, and would not produce a just mode of thinking with respect to us. Proof of this must first be given us. He said, that when we employed a lawyer, we gave him a fee, without knowing whether the cause would be gained or not; but it was necessary to have one, and we paid for his services, whether those services were successful or not: so, in the present state of things, the money must be advanced for the good offices the individuals were to render, whatever might be the effect of those good offices. We told him there was no parallel in the case; that a lawyer, not being to render the judgment, could not command success; he could only endeavor to obtain it; and consequently, we could only pay him for his endeavors; but the Directory could decide on the issue of our negotiation. It had only to order, that no more American vessels should be seized, and to direct those now in custody to be restored, and there could be no opposition to the order. He said, that all the members of the Directory were not disposed to receive our money: that Merlin, for instance, was paid from another quarter, and would touch no part of the douceur which was to come from us. We replied, that we had understood that Merlin was paid by the owners of the privateers: and he nodded an assent to the fact. He proceeded to press this subject with vast perseverance. He told us that we paid money to obtain peace with the Algerines, and with the Indians; and that it was doing no more to pay France for peace.

To this it was answered, that when our Government commenced a treaty with either Algiers or the Indian tribes, it was understood that money was to form the basis of the treaty, and was its essential article; that the whole nation knew it, and was prepared to expect it as a thing of course; but that in treating with France, our Government had supposed, that a proposition, such as he spoke of, would, if made by us, give mortal offence. He asked if our Government did not know, that nothing was to be obtained here without money? We replied, that our Government had not even suspected such a state of things. He appeared surprised at it, and said, that there was not an American in Paris who could not have given that information. We told him, that the letters of our minister had indicated a very contrary temper in the Government of France; and had represented it as acting entirely upon principle, and as feeling a very pure and disinterested affection for America. He looked somewhat surprised; and said briskly to General Pinckney, Well, sir, you have been a long time in France and in Holland; what do you think of it? General Pinckney answered, that he considered M. X. and M. Y. as men of truth, and, of consequence, he could have but one opinion on the subject. He stated, that Hamburg, and other States of Europe, were obliged to buy a peace; and that it would be equally for our interest to do so. Once more he spoke of the danger of a breach with France, and of her power, which nothing could resist. We told him that it would be in vain for us to deny her power, or the solicitude we felt to avoid a contest with it; that no nation estimated her power more highly than America, or wished more to be on amicable terms with her; but that one object was still dearer to us than the friendship of France, which was our national independence: that America had taken a neutral station: she had a right to take it: no nation had a right to force us out of it: that to lend a sum of money to a belligerent power, abounding in every thing requisite for war but money, was to relinquish our neutrality, and take part in the war; to lend this money, under the lash and coercion of France, was to relinquish the government of ourselves, and to submit to a foreign Government imposed upon us by force: that we would make at least one manly struggle before we thus surrendered our national independence: that our case was different from that of one of the minor nations of Europe; they were unable to maintain their independence, and did not expect to do so: America was a great, and, so far as concerned her self-defence, a powerful nation—she was able to maintain her independence; and must deserve to lose it, if she permitted it to be wrested from her—that France and Britain had been at war for near fifty years of the last hundred, and might probably be at war for fifty years of the century to come; that America had no motives which could induce her to involve herself in those wars; and that if she now preserved her neutrality and her independence, it was most probable that she would not in future be afraid, as she had been for four years past—but if she now surrendered her rights of self-government to France, or permitted them to be torn from her, she could not expect to recover them, or to remain neutral in any future war. He said that France had lent us money during our revolutionary war, and only required that we should now exhibit the same friendship for her. We answered, that the cases were very different; that America solicited a loan from France, and left her at liberty to grant or refuse it: but that France demanded it from America, and left us no choice on the subject. We also told him that there was another difference in the cases; that the money was lent by France for great national and French objects; it was lent to maim a rival and an enemy whom she hated; that the money, if lent by America, would not be for any American objects, but to enable France to extend still further her conquests. The conversation continued for nearly two hours; and the public and private advance of money was pressed and re-pressed in a variety of forms. At length M. X. said that he did not blame us; that our determination was certainly proper, if we could keep it; but he showed decidedly his opinion to be that we could not keep it. He said that he would communicate, as nearly as he could, our conversation to the minister, or to M. Y. to be given by him to the minister; we are not certain which. We then separated. On the 22d of October, M. Z. a French gentleman of respectable character, informed Mr. Gerry, that M. Talleyrand, Minister of Foreign Relations, who professed to be well disposed towards the United States, had expected to have seen the American ministers frequently in their private capacities; and to have conferred with them individually on the objects of their mission; and had authorized M. Z. to make this communication to Mr. Gerry. The latter sent for his colleagues; and a conference was held with M. Z. on the subject; in which General Pinckney and General Marshall expressed their opinions, that not being acquainted with M. Talleyrand, they could not, with propriety, call on him; but that, according to the custom of France, he might expect this of Mr. Gerry, from a previous acquaintance in America. This Mr. Gerry reluctantly complied with on the 23d, and with M. Z. called on M. Talleyrand, who, not being then at his office, appointed the 28th for the interview. After the first introduction, M. Talleyrand began the conference. He said that the Directory had passed an arrêt, which he offered for perusal, in which they had demanded of the envoys an explanation of some parts, and a reparation for others, of the President's speech to Congress, of the 16th of May last: he was sensible, he said, that difficulties would exist on the part of the envoys relative to this demand; but that by their offering money, he thought he could prevent the effect of the arrêt. M. Z. at the request of Mr. Gerry, having stated that the envoys have no such powers, M. Talleyrand replied, they can in such case take a power on themselves; and proposed that they should make a loan. Mr. Gerry then addressed M. Talleyrand distinctly in English, which he said he understood, and stated, that the uneasiness of the Directory resulting from the President's speech was a subject unconnected with the objects of the mission: that M. Barras, in his speech to Mr. Monroe, on his recall, had expressed himself in a manner displeasing to the Government and citizens of the United States; that the President, as the envoys conceived, had made such observations on M. Barras's speech as were necessary to vindicate the honor of the United States; that this was not considered by our Government as a subject of dispute between the two nations; that having no instructions respecting it, we could not make any explanations or reparations relating to it; and that M. Talleyrand himself was sufficiently acquainted with the constitution of the United States, to be convinced of the truth of these observations. Mr. Gerry further stated, that the powers of the envoys, as they conceived, were adequate to the discussion and adjustment of all points of real difference between the two nations; that they could alter and amend the treaty; or, if necessary, form a new one; that the United States were anxiously desirous of removing all causes of complaint between themselves and France, and of renewing their former friendship and intercourse, on terms which should be mutually honorable and beneficial to the two nations; but not on any other terms; that as to a loan, we had no powers whatever to make one; that if we were to attempt it, we should deceive himself and the Directory likewise, which, as men of honor, we could not do; but that we could send one of our number for instructions on this proposition, if deemed expedient, provided that the other objects of the negotiation could be discussed and adjusted; that as he had expressed a desire to confer with the envoys individually, it was the wish of Mr. Gerry that such a conference should take place, and their opinions thus be ascertained, which he conceived corresponded with his own in the particulars mentioned. M. Talleyrand, in answer said, he should be glad to confer with the other

envoys individually, but that this matter about the money must be settled directly, without sending to America; that he would not communicate the arrêt for a week; and that if we could adjust the difficulty respecting the speech, an application would nevertheless go to the United States for a loan. A courier arriving at this moment from Italy, and M. Talleyrand appearing impatient to read the letters, Mr. Gerry took leave of him immediately. He followed to the door, and desired M. Z. to repeat to Mr. Gerry, what he, M. Talleyrand, had said to him. Mr. Gerry then returned to his quarters with M. Z. took down the particulars of this interview, as before stated, sent for Generals Pinckney and Marshall, and read it to them in the presence of M. Z. who confirmed it. Generals Pinckney and Marshall then desired M. Z. to inform M. Talleyrand that they had nothing to add to this conference, and did not wish that the arrêt might be delayed on their account.

October 29.

M. X. again called on us. He said, M. Talleyrand was extremely anxious to be of service to us, and had requested that one more effort should be made to induce us to enable him to be so. A great deal of the same conversation which had passed at our former interviews was repeated. The power and the haughtiness of France was again displayed to us. We were told that the destruction of England was inevitable; and that the wealth and arts of that nation would naturally pass over to America, if that event should find us in peace. To this observation we replied, that France would probably forbid America to receive them, in like manner as she had forbid Switzerland to permit the residence, in its country, of a British minister. We told him also, that we were sensible of the value of peace, and therefore sought it, unremittingly, but that it was real peace we sought for, and real peace only which could be desirable.

The sum of his proposition was, that if we would pay, by way of fees, (that was his expression) the sum of money demanded for private use, the Directory would not receive us: but would permit us to remain at Paris as we now were; and we should be received by M. Talleyrand, until one of us could go to America and consult our Government on the subject of the loan. These were the circumstances, he said, under which the minister of Portugal had treated. We asked him if, in the mean time, the Directory would order the American property, not yet passed into the hands of the privateersmen, to be restored? He said, explicitly, that they would not. We asked him, whether they would suspend further depredations on our commerce? He said they would not: but M. Talleyrand observed, that on this subject we could not sustain much additional injury; because the winter season was approaching, when few additional captures could be made. We told him that France had taken violently from America more than fifteen millions of dollars, and treated us, in every respect, as enemies, in return for the friendship we had manifested for her; that we had come to endeavor to restore harmony to the two nations, and to obtain compensation for the injuries our countrymen had sustained; and that in lieu of this compensation, we were told, that if we would pay twelve hundred thousand livres, we might be permitted to remain in Paris; which would only give us the benefit of seeing the plays and operas of Paris for the winter, that we might have time to ask from our country to exhaust her resources for France, whose depredations would be continued. He again stated, that by this procedure we should suspend a war; and that perhaps in five or six months power might change hands.

We told him that what we wished to see in France was a temper sincerely friendly to the United States, and really disposed to do us justice; that if we could perceive this, we might not so much regard a little money, such as he stated to be usual, although we should hazard ourselves by giving it; but that we saw only evidences of the most extreme hostility towards us: war was made upon us so far as France could make it in the present state of things; and it was not even proposed, that on receiving our money this war should cease; we had no reason to believe that a possible benefit could result from it; and we desired him to say that we would not give a shilling, unless American property unjustly captured was previously restored, and further hostilities suspended; and that unless this was done, we did not conceive that we could even consult our Government concerning a loan; that if the Directory would receive us and commence negotiations, and any thing occurred which rendered a consultation of the Government necessary, one of us would return to America for that purpose. He said that without this money we should be obliged to quit Paris; and that we ought to consider the consequences: the property of the Americans would be confiscated, and their vessels in port embargoed. We told him that unless there was a hope of a real reconciliation, these evils could not be prevented by us; and the little delay we might obtain would only increase them; that our mission had induced many of our countrymen to trust their vessels in the ports of France, and if we remained at Paris, that very circumstance would increase the number; and consequently the injury which our countrymen would sustain, if France could permit herself so to violate her own engagements and the laws of nations. He expressed a wish, that M. Y. should see us once more. We told him that a visit from M. Y., as a private gentleman, would always be agreeable to us; but if he came only with the expectation that we should stipulate advances of money, without previously establishing a solid and permanent reconciliation, he might save himself the trouble of the application, because it was a subject we had considered maturely, and on which we were immoveable. He parted with us, saying, if that was the case, it would not be worth while for M. Y. to come. In the evening, while General Pinckney and General Marshall were absent, M. Y. and M. X. called, and were invited by Mr. Gerry to breakfast with us the next morning.

October 30.

Immediately after breakfast the subject was resumed. M. Y. spoke without interruption for near an hour. He said that he was desirous of making a last effort to serve us, by proposing something which might accommodate the differences between the two nations; that what he was now about to mention, had not, by any means, the approbation of the Directory; nor could M. Talleyrand undertake further than to make from us the proposition to the Directory, and use his influence for its success; that last week M. Talleyrand could not have ventured to have offered such propositions; but that his situation had been very materially changed by the peace with the Emperor; by that peace he had acquired, in a high degree, the confidence of the Directory, and now possessed great influence with that body; that he was also closely connected with Bonaparte and the generals of the army in Italy, and was to be considered as firmly fixed in his post, at least for five or six months; that, under these circumstances, he could undertake to offer, in our behalf, propositions which, before this increase of influence, he could not have hazarded. M. Y. then called our attention to our own situation, and to the force France was capable of bringing to bear upon us. He said that we were the best judges of our capacity to resist, so far as depended on our own resources, and ought not to deceive ourselves on so interesting a subject. The fate of Venice was one which might befall the United States. But he proceeded to observe it was probable we might rely on forming a league with England. If we had such a reliance it would fail us. The situation of England was such as to compel Pitt to make peace on the terms of France. A variety of causes were in operation, which made such an effect absolutely certain. To say nothing of the opposition in England to the minister and to the war, an opposition which the fears of the nation would increase; to say nothing of a war against England which was preparing in the north—an army of one hundred and fifty thousand men, under the command of Bonaparte, spread upon the coast of France, and aided by all the vast resources of his genius, would, most probably, be enabled to invade England; in which event their Government would be overturned. But should this invasion not be absolutely effected, yet the alarm it would spread through the nation, the enormous expense it must produce, would infallibly ruin them, if it was to be continued, and would drive them to save themselves by a peace; that, independent of this, France possessed means which would infallibly destroy their Bank and their whole paper system. He said he knew very well it was generally conjectured that Bonaparte would not leave Italy, and the army which had conquered under him, and which adored him; he assured [us that] nothing could be more unfounded than the conjecture; that Bonaparte had for more than ten days left Italy for Rastadt, to preside over the Congress which was formed for adjusting the affairs of the empire. He said that Pitt himself was so confident of the absolute necessity of peace, that, after the naval victory over the Dutch, he had signified his readiness to treat on the same terms which he had offered before that action. We could not then rely on the assistance of England. What, he asked, would be our situation, if peace should be made with England

before our differences with France would be accommodated? But, he continued, if even England should be able to continue the war, and America should unite with her, it would not be in our power to injure France. We might indeed wound her ally, but if we did it would be so much the worse for us. After having stated the dangers attending us, if we should engage in the war, he proceeded to the advantages we might derive from a neutral situation, and insisted at large on the wealth which would naturally flow into our country from the destruction of England. He next proceeded to detail the propositions which are, in substance, in the paper annexed, marked A, except that he insisted that we should engage to use our influence with our Government for the loan. He stated, expressly, that the propositions were to be considered as made by us; that M. Talleyrand would not be responsible for the success of any one of them; he would only undertake to use his influence with the Directory in support of them. The proposition, he said, concerning a suspension of hostilities on the part of France, was one which proceeded entirely from himself; M. Talleyrand had not been consulted upon it, and he could not undertake to say that that gentleman would consent even to lay it before the Directory. The propositions for an advance to the Government of France of as much money as was due from it to our citizens on contract, and as might be determined to be due for vessels improperly captured and condemned, was, he said, indispensable, unless we made that it was unnecessary to make any other: for the others would not be received. He expatiated on the vast advantages we should derive from delay; it was, he said, absolutely to gain our cause. He returned to the danger of our situation and the policy of making with France any accommodation which France would assent to. Perhaps, said he, you believe that, in returning and exposing to your countrymen the unreasonableness of the demands of this Government, you will unite them in their resistance to those demands; you are mistaken; you ought to know that the diplomatic skill of France, and the means she possesses in your country, are sufficient to enable her, with the French party in America, to throw the blame which will attend the rupture of the negotiations on the federalists, as you term yourselves, but on the British party, as France terms you; and you may assure yourselves this will be done. He concluded with declarations of being perfectly disinterested, and declared that his only motives for speaking thus freely, were his friendship for M. Talleyrand, and his wish to promote the interests and peace of the United States. We told him that the freedom with which he had spoken, and which was agreeable to us, would induce us to speak freely also: and for once to accompany our view of the present state of things with a retrospect of the past: that America was the only nation upon earth which felt and had exhibited a real friendship for the republic of France; that among the empires round her which were compelled to bend beneath her power and to obey her commands, there was not one which had voluntarily acknowledged her Government, or manifested for it, spontaneously, any mark of regard. America alone had stepped forward and given the most unequivocal proofs of a pure and sincere friendship, at a time when almost the whole European world, when Austria, Germany, Prussia, Russia, Spain, Sardinia, Holland, and Britain, were leagued against France; when her situation was, in truth, hazardous, and it was dangerous to hold even friendly intercourse with her, America alone stood forward and openly and boldly avowed her enthusiasm in favor of the republic, and her deep and sincere interest in its fate. From that time to the present, the Government and people of the United States have uniformly manifested a sincere and ardent friendship for France, and have, as they conceive, in no single instance, given to this republic just cause of umbrage; if they have done so, they wish it to be pointed out to them. After the determination of France to break off all regular intercourse with them, they have sent three envoys extraordinary to endeavor to make such explanations as might produce reconciliation; these envoys are prepared to investigate, and wish to investigate any measures which may have given offence, and are persuaded that they can entirely justify the conduct of their Government. To this distant, unoffending, friendly republic, what is the language and the conduct of France? Wherever our property can be found, she seizes and takes it from us; unprovoked, she determines to treat us as enemies, and our making no resistance produces no diminution of hostility against us; she abuses and insults our Government, endeavors to weaken it in the estimation of the people, recalls her own minister, refuses to receive ours, and when extraordinary means are taken to make such explanations as may do away misunderstandings, and such alterations in the existing relations of the two countries as may be mutually satisfactory, and may tend to produce harmony, the envoys who bear these powers are not received; they are not permitted to utter the amicable wishes of their country, but, in the haughty style of a master, they are told that, unless they will pay a sum to which their resources scarcely extend, that they may expect the vengeance of France, and, like Venice, be erased from the list of nations; that France will annihilate the only free republic upon earth, and the only nation in the universe which has voluntarily manifested for her a cordial and real friendship! What impression must this make on the mind of America, if, without provocation, France was determined to make war upon us, unless we purchased peace? We could not easily believe that even our money would save us; our independence would never cease to give offence, and would always furnish a pretext for fresh demands. On the advantages of neutrality it was unnecessary to say any thing; all the efforts of our Government were exerted to maintain it, and we would never willingly part with it. With respect to a political connexion with Britain, we told him that America had never contemplated it. Whether the danger he represented that Government to be in was or was not real, we should not undertake to decide. Britain, we believed, had much reason to wish for peace, and France had much reason to wish for peace also; if peace already existed it would not change the course America would pursue. M. Y. manifested the most excessive impatience; he interrupted us and said: This eloquent dissertation might be true; America might have manifested, and he believed had manifested great friendship for France, and had just complaints against her; but he did not come to listen to those complaints. The minister would, on our request, make for us certain propositions to the Directory; he had stated them to us, and all the answer he wished was, yes or no; did we or did we not solicit the minister to make the propositions for us? We told him that, without going further into the discussion, we chose to remark one or two things; they were, that the existing treaty gave to France certain advantages, which were very essential: that, especially, the American coast afforded a protection near two thousand miles in extent to the prizes made by France on her enemies, and refused that protection to the prizes taken from her; that she might be assured that in case of war these advantages would be lost for ever. We also told him we were convinced that France miscalculated on the parties in America; that the extreme injustice offered to our country would unite every man against her. M. X. informed us that M. Talleyrand would not consent even to lay this proposition before the Directory, without previously receiving the fifty thousand pounds, or the greater part of it. M. Y. left in writing his propositions, and we returned the answer annexed, and marked B.

NOVEMBER 1.

It was at length agreed that we should hold no more indirect intercourse with the Government.

NOVEMBER 3.

M. X. called on us, and told General Pinckney and General Marshall, (Mr. Gerry not being within) that M. Y. wished once more to see us. We answered, that we should at any time be glad to see M. Y. as a private gentleman; but that if his object was only to repeat his propositions for money, it was perfectly unnecessary to do so; because, on that subject, it was impossible for us to change the answer we had already given. We told him further, that we considered it as degrading our country to carry on further such an indirect intercourse as we had for some time submitted to, and had determined to receive no propositions, unless the persons who bore them had acknowledged authority to treat with us. He said, that perhaps M. Y. might have written powers from the minister, and we replied, that if he had we should receive his communications with pleasure. He spoke of a probable peace with England, and having requested us to be at home in the afternoon, left us.

About three o'clock he came, and, after some conversation, in which we repeated in substance what is stated above, he showed us a paper, which he said was a copy of a letter prepared for us by M. Talleyrand, requesting an explanation of part of the President's speech, and which he said would be sent, unless we came into the propositions which had been made us. We wished to take a copy of it, which he declined permitting, saying he was forbidden to allow it. We spoke of the letter coming to us as a measure we had no expectation of preventing; and he said he

could not understand that we wished it delayed. To which we answered, that the delay of a few days could not be desired, unless a hope existed that the Directory might become more friendly to our country. He said that intelligence had been received from the United States, that if Colonel Burr and Mr. Madison had constituted the mission, the differences between the two nations would have been accommodated before this time. He added, as a fact he was not instructed to communicate, that M. Talleyrand was preparing a memorial to be sent out to the United States, complaining of us as being unfriendly to an accommodation with France. We replied to his intelligence from the United States, that the minister's correspondents in America took a good deal on themselves, when they undertook to say how the Directory would have received Colonel Burr and Mr. Madison; and that with respect to the memorial of M. Talleyrand, it would not be easy for him to convince our countrymen that the statements we should make were untrue: if, however, we were confident that our conduct would be condemned, M. Talleyrand might be assured that the fear of censure would not induce us to deserve it: but that we should act in a manner which our own judgments and consciences would approve of; and we trusted we should be supported by the great body of candid and honest men. In this conversation we again stated, that America had taken a neutral position; that she had faithfully sought to preserve it; that a loan of money to one of the belligerent Powers was directly to take part in the war; and that to take part in the war against her own judgment and will, under the coercion of France, was to surrender our independence.

Exhibit A, enclosed in the Envoys' letter, No. 2, dated November 8, 1797.

I. The American envoys shall remain here for six months, in the same manner, and upon the same footing, with regard to etiquette, as did M. D'Aranjo, the envoy of Portugal.

II. There shall be named a commission of five members, agreeably to a form to be established, for the purpose of deciding upon the reclamations of the Americans, relative to the prizes made on them by the French privateers.

III. The American envoys will engage that their Government shall pay the indemnifications, or the amount of the sums already decreed to the American creditors of the French republic, and those which shall be adjudged to the claimants by the commissioners. This payment shall be made under the name of an advance to the French republic, who will repay it in a time and manner to be agreed upon.

IV. One of the American envoys shall return to America, to demand of his Government the necessary powers to purchase, for cash, the thirty-two millions of Dutch rescriptions, belonging to the French republic, in case the envoys should conclude a treaty which shall be approved by the two nations.

V. In the interval, the definitive treaty shall proceed for the termination of all differences existing between the French republic and the United States, so as that the treaty may be concluded immediately on the return of the deputy.

VI. The question of the rôle d'équipage shall remain suspended until the return of the deputy, and the commission shall not pronounce upon any reclamation where this point shall be in question.

VII. During the six months granted for the going and returning of the deputy, hostilities against the Americans shall be suspended, as well as the process for condemnation before the tribunals; and the money of the prizes already condemned, in the hands of the civil officers of the nation, shall remain there without being delivered to the privateers-men, until the return of the deputy.

Exhibit B, received with the Envoys' letter, No. 2, dated November 8, 1797.

The envoys extraordinary and ministers plenipotentiary of the United States cannot avoid observing the very unusual situation in which they are placed, by the manner in which they are alone permitted to make communications on the objects of their mission: they are called upon to pledge their country to a very great amount, to answer demands which appear to them as extraordinary as they were unexpected, without being permitted to discuss the reason, the justice, or the policy on which those demands are founded, and not only without assurances that the rights of the United States will, in future, be respected, but without a document to prove that those to whom they are required to open themselves without reserve, and at whose instance they are called on to sacrifice so much, are empowered, even by the minister, to hold any communication with them: yet such is the anxious and real solicitude of the envoys to seize any occasion which may afford a hope, however distant, of coming to those explanations which they so much wish to make with this republic, that they pass over the uncommon and informal modes which have been adopted, and will only consider the propositions themselves.

I. The ministers of the United States will permit no personal considerations to influence their negotiations with the French republic. Although they expected that the extraordinary means adopted by their Government to reconcile itself to that of France would have been received with some degree of attention, yet they are too solicitous to enter upon the important and interesting duty of their mission, to permit themselves to be restrained by forms or etiquette.

II. On this article it is believed there can be no disagreement.

III. This article, as explained, would oblige the United States to advance, not to their own citizens, but to the Government of France, sums equivalent to the depredations made by the corsairs of the republic on the American commerce, and to the contracts made with their citizens by France; and this advance, instead of benefitting the citizens of the United States, would leave them precisely what they now are, the creditors of the French republic: the more extensive the depredations, and the more considerable the contracts uncomplied with, the more would the Government of France receive from the United States. Independent of these objections, the ministers of the United States cannot engage to assume, in any form, the debts due from France to their fellow-citizens; they have no such power.

IV. If the negotiations be opened, and the propositions for a loan, or any other propositions, exceeding the powers of the ministers, be made, the Government of the United States will be consulted thereon with expedition.

V. This, or any proposition having for its object the claims of the two nations on each other, or an accommodation of differences, will be embraced with ardor by the ministers of the United States.

VI. It cannot escape notice, that the question of the rôle d'équipage may involve in it every vessel taken from the United States: the ministers, however, consider it, and wish to take it up, as a subject of negotiation.

VII. On this article it is only to be observed, that the season of the year is such as probably to render a return, within six months, of the envoy, who might sail to the United States, impracticable: provision should be made for such an event.

If the difficulties attending the propositions for a loan, and a compensation for past injuries be such as to require time for their removal, the ministers of the United States propose that the discussions on the relative situation of the two countries, may commence in the usual forms; that the relation to each other may be so regulated as to obviate future misunderstandings; and that the adjustment of the claims of the citizens of the United States, whose vessels have been captured, may be made after a decision on the point first mentioned.

No diplomatic gratification can precede the ratification of the treaty.

No. 3.

PARIS, *November* 27, 1797.

DEAR SIR:

On the 11th instant we transmitted the following official letter to the Minister of Foreign Affairs:

"PARIS, *Nov.* 11, *in the 22d year of American independence.*

"CITIZEN MINISTER: The undersigned envoys extraordinary and ministers plenipotentiary of the United States of America to the French republic, had the honor of announcing to you, officially, on the 6th of October, their arrival at Paris, and of presenting to you, on the 8th, a copy of their letters of credence. Your declaration at that time, that a report on American affairs was then preparing, and would in a few days be laid before the Directory, whose decision thereon should, without delay, be made known, has hitherto imposed silence on them. For this communication they have waited with that anxious solicitude which so interesting an event could not fail to excite, and with that respect which is due to the Government of France. They have not yet received it; and so much time has been permitted to elapse, so critical is the situation of many of their countrymen, and so embarrassing is that of the undersigned, both as it respects themselves and the Government they represent, that they can no longer dispense with the duty of soliciting your attention to their mission.

"The United States, citizen minister, at an epoch which evinced their sincerity, have given incontestable proofs of their ardent friendship, of their affection for the French republic. These were the result, not of her unparalleled prowess and power, but of their confidence in her justice and magnanimity; and in such high estimation was the *reciprocity* of her friendship held by them, as to have been a primary object of national concern. The preservation of it was dear to them, the loss of it a subject of unfeigned regret, and the recovery of it, by every measure which shall consist with the rights of an independent nation, engages their constant attention. The Government of the United States, we are authorized to declare, has examined, with the most scrupulous justice, its conduct towards its former friend. It has been led to this by a sincère desire to remove, of itself, every just cause of complaint; conceiving that, with the most upright intentions, such cause may possibly exist; and although the strictest search has produced no self-reproach, although the Government is conscious that it has uniformly sought to preserve with fidelity its engagements to France, yet far from wishing to exercise the privilege of judging for itself, on its own course of reasoning, and the lights in its own possession, it invites fair and candid discussion; it solicits a reconsideration of the past; it is persuaded its intentions, its views, and its actions, must have been misrepresented and misunderstood; it is convinced that the essential interests of both nations will be promoted by reconciliation and peace; and it cherishes the hope of meeting with similar dispositions on the part of the Directory.

"Guided by these sentiments, the President of the United States has given it in charge to the undersigned to state to the Executive Directory the deep regret which he feels at the loss or suspension of the harmony and friendly intercourse which subsisted between the two republics, and his sincere wish to restore them; to discuss candidly the complaints of France, and to offer frankly those of the United States. And he has authorized a review of existing treaties, and such alterations thereof as shall consist with the mutual interest and satisfaction of the contracting parties.

"This task the undersigned are anxious to commence; and truly happy will they be, if their exertions can in any degree contribute to restore that friendship, that mutual interchange of good offices, which it is alike their wish and their duty to effect between the citizens of the two republics.

"The undersigned pray you, citizen minister, to present this communication to the Executive Directory, and to receive the assurances of their most perfect consideration.

"CHARLES COTESWORTH PINCKNEY,
"J. MARSHALL,
"ELBRIDGE GERRY.

"To the MINISTER OF FOREIGN AFFAIRS *of the French republic.*"

No answer having been given to it on the 21st instant, we requested Major Rutledge to wait on the minister, and inquire of him whether he had communicated the lettter to the Directory, and whether we might expect an answer. He replied, that he had submitted our letter to them, and that they would direct him what steps to pursue, of which we should be informed. We have not, however, hitherto received any official intimation relative to this business: we are not yet received; and the condemnation of our vessels, for want of a rôle d'équipage, is unremittingly continued. Frequent and urgent attempts have been made to inveigle us again into negotiation with persons not officially authorized, of which the obtaining of money is the basis: but we have persisted in declining to have any further communication relative to diplomatic business with persons of that description; and we mean to adhere to this determination. We are sorry to inform you that the present disposition of the Government of this country appears to be as unfriendly towards ours as ever, and that we have very little prospect of succeeding in our mission.

We have the honor to be, &c.

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel PICKERING.

No. 4.

PARIS, *December* 24, 1797.

DEAR SIR:

We have not yet received any answer to our official letter to the Minister of Foreign Affairs, dated the 11th of ast month, and mentioned in No. 3; but reiterated attempts have been made to engage us in negotiation with persons not officially authorized; and you will find, by the exhibits marked A, B, and C, herewith sent, some important information relative to the views and intentions of the French Government with respect to ours. We are all of opinion that, if we were to remain here for six months longer, without we were to stipulate the payment of money, and a great deal of it, in some shape or other, we should not be able to effectuate the objects of our mission, should we be even officially received; unless the projected attempt on England was to fail, or a total change take place in the persons who at present direct the affairs of this Government. In this situation of matters, we are determined, by the 10th of next month, should they remain as they are, to transmit another letter to the minister, representing, as far as may be expedient, the views of our Government.

We have the honor to be, &c.

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel PICKERING, *Secretary of State.*

Exhibit A, enclosed in the Envoys' letter, No. 4.

On the 14th of December, M. X. called on me, in order, as he said, to gain some information relative to some lands in * * *, purchased by * * *, for whom * * *. Soon afterwards, General Marshall came in, and then Mr. Gerry's carriage drove into the yard. Here is Mr. Gerry, said General Marshall. I am glad of it, said M. X., for I wished to meet all of you gentlemen, to inform you that M. Y. had another message to you from M. Talleyrand. I

immediately expressed my surprise at it, as M. Talleyrand, M. Y., and he, all knew our determination to have no further communication on the subject of our mission with persons not officially authorized. He replied, that determination was made six weeks ago; and it was presumed that we had changed our opinion. I said that I had not; and I did not believe that my colleagues had. At that moment, Mr. Gerry entered the room, and I privately acquainted him with the object of M. X.'s visit. General Marshall, Mr. Gerry, and myself, then withdrew into another room, and immediately agreed to adhere to our former resolution. M. X. was then called in; when I acquainted him, in a few words, with our determination; and Mr. Gerry expatiated more at large on the propriety of our acting in this manner, and on the very unprecedented way in which we had been treated since our arrival.

On the 20th of December, a lady, who is well acquainted with M. Talleyrand, expressed to me her concern that we were still in so unsettled a situation; but, adds she, why will you not lend us money? If you would but make us a loan, all matters would be adjusted: and, she added, when you were contending for your revolution, we lent you money. I mentioned the very great difference there was between the situation of the two countries at that period and the present, and the very different circumstances under which the loan was made us, and the loan was now demanded from us. She replied, we do not make a demand; we think it more delicate that the offer should come from you: but M. Talleyrand has mentioned to me (who am surely not in his confidence) the necessity of your making us a loan; and I know that he has mentioned it to two or three others; and that you have been informed of it: and I will assure you that, if you remain here six months longer, you would not advance a single step further in your negotiations without a loan. If that is the case, I replied, we may as well go away now. Why that, possibly, said she, might lead to a rupture, which you had better avoid: for we know we have a very considerable party in America, who are strongly in our interest. There is no occasion to enter into a further detail of the conversation. I have only noted this part of it as expressive of what I believe (as far as relates to the loan and a party in America in their favor) to be the sentiments of the French Government with regard to us.

CHARLES COTESWORTH PINCKNEY.

DECEMBER 21, 1797.

Exhibit B, enclosed in the Envoys' letter No. 4.

Extract from General Marshall's Journal.

December 17, 1797. I stepped into Mr. Gerry's apartment, where I saw M. Y. He expressed his regret at having been disabled to dine with us at M. de Beaumarchais' by an inveterate tooth-ache. He then asked me whether I had seen M. de Beaumarchais lately? I told him not since he dined with us; and that he had left us, much indisposed. He then observed that he had not known until lately that I was the advocate for that gentleman in his cause against the State of Virginia; and that M. de Beaumarchais, in consequence of that circumstance, had expressed sentiments of high regard for me. I replied, that M. de Beaumarchais' cause was of great magnitude, and very uncertain issue; and, consequently, that a portion of the interest he felt in it would very naturally be transferred to his advocate. He immediately said (low and apart) that M. de Beaumarchais had consented, provided his claim could be established, to sacrifice fifty thousand pounds sterling of it, as the private gratification which had been required of us; so that the gratification might be made without any actual loss to the American Government. I answered, that a gratification on any terms, or in any form, was a subject which we approached with much fear and difficulty, as we were not authorized by our Government to make one; nor had it been expected that one would be necessary: that I could not undertake to say whether my colleagues would consent to it, in any state of things; but I could undertake to say no one of us would consent to it, unless it was preceded or accompanied by a full and entire recognition of the claims of our citizens, and a satisfactory arrangement on the objects of our mission. He said it was in the expectation of that event only that he mentioned it. We parted; and I stated the conversation to General Pinckney, who was disinclined to any stipulation of the sort, and considered it as a renewal of the old reprobated system of indirect unauthorized negotiation.

Having been originally the counsel of M. de Beaumarchais, I had determined, and so I had informed General Pinckney, that I would not, by my voice, establish any agreement in his favor; but that I would positively oppose any admission of the claim of any French citizen, if not accompanied with the admission of the claims of the American citizens for property captured and condemned for want of a rôle d'équipage. My reason for conceiving that this ought to be stipulated expressly was a conviction that, if it was referred to commissioners, it would be committing absolutely to chance as complete a right as any individuals ever possessed. General Pinckney was against admitting the claim at any rate.

After my return, Mr. Gerry came into my room, and told me that M. Y. had called on him, to accompany him on a visit to M. Talleyrand; that he proposed seeing M. Talleyrand, and returning the civility of the dinner; and endeavoring to bring about some intercourse between him and us.

December 18. General Pinckney and Mr. Gerry met in my room; and Mr. Gerry detailed to us the conversations mentioned in our public letter. The proposition relative to the claim of M. de Beaumarchais is entirely different from my understanding of it, in the very brief statement made to me by M. Y. We resolved that we would rigidly adhere to the rule we had adopted, to enter into no negotiation with persons not formally authorized to treat with us. We came also to the determination to prepare a letter to the minister of foreign relations, stating the object of our mission, and discussing the subjects of difference between the two nations, in like manner as if we had been actually received; and to close the letter with requesting the Government to open the negotiation with us, or to grant us our passports.

Exhibit C, enclosed in the Envoys' letter, No. 4.

December 13. Mr. Gerry accidentally calling on General Pinckney, found M. X. and was soon informed that his object was to obtain another interview between the ministers and M. Y. on the affairs of their mission. General Marshall happening also to be there, we retired into another room, and immediately agreed to adhere to our former determination, not to have any more informal communications. M. X. having been called in, General Pinckney briefly communicated our determination: and Mr. Gerry observed that he was much hurt by this proposition; that the ministers had already proceeded further in this mode of communication than, perhaps, they could justify; that they had refused six weeks ago to renew it; and that some regard ought to be paid to their feelings, which had been sufficiently mortified; that the proposition was disrespectful to the envoys, as it betrayed a belief that they had lost the sense of their dignity, and were, indeed, incompetent to their office; that, had there been but one envoy extraordinary, he ought to have had an audience in a few days; and that, for three to remain between two and three months in this situation was too humiliating, too debasing, for any nation to submit to it; that, for his own part, had he been sent to any other nation in Europe, with two other envoys, he would not have consented to have remained in such a state ten days; that, knowing the great desire of the Government and nation of the United States to be at peace with France, he had, with his colleagues, submitted to this indignity, at the risk of the severe censure of the former. Having also inquired of M. X. at what time M. Talleyrand could be seen, the former said he would inquire of M. Y. who, on the 16th, in the evening, sent, in Mr. Gerry's absence from his lodgings, a billet, as follows: "M. Y. has the honor to present his respects to Mr. Gerry, and to inform him that he will have the honor to wait on him tomorrow morning, at ten o'clock, to go together to the Minister of Foreign Relations. He is, with respect," &c. On the morning of the 17th, M. Y. came in while Mr. Gerry was at breakfast, not having received an answer to his note; and Mr. Marshall coming in, M. Y. took him aside, and conferred with him a considerable time; after which, the former and the rest of the family left the room: and M. Y. and Mr. Gerry being together, Mr. Gerry told him that his object in seeing M. Talleyrand was to return a civility, by requesting him to fix a day for dining with Mr.

G. who intended to invite his colleagues; by this interview to promote, if possible, a better understanding between the minister and the American envoys. And Mr. G. also proposed to confer with the minister on the disagreeable situation the envoys were in, and to state to him some reports which appear to be founded, respecting a proposition before the Directory for sending off all Americans in a short period; but Mr. Gerry added that he could not hear a word on the subject of the mission, or the preliminaries to a negotiation, as the envoys had determined unanimously against any informal communications on the subject. M. Y. in answer, said that Mr. Marshall had just heard him on a subject of this kind, and that we might consider it, as he did, merely as a conversation between ourselves. He then stated that two measures, which M. Talleyrand proposed, being adopted, a restoration of friendship between the republics would follow immediately: the one was a gratuity of fifty thousand pounds sterling, the other a purchase of thirty-two millions of the Dutch rescriptions; that, as to the first, M. de Beaumarchais had recovered, in a cause depending in Virginia, between that State and himself, one hundred and forty-five thousand pounds sterling; that there was an appeal from the judgment; that he would sign an act to relinquish forty-five thousand pounds, if the whole should be finally recovered, leaving only one hundred thousand pounds for himself; that the forty-five thousand pounds might accrue to the United States, who would, in that case, lose but a small part of the fifty thousand pounds; that the purchase of sixteen millions of rescriptions would amount to but one million, three hundred and thirty-three thousand [pounds,] six shillings, and eight pence sterling, which, with an interest of five per cent. would be certainly paid by the Government of Holland to the United States, and leave them without any loss; that more than half the sum may now be hired in Holland, on the credit of the rescriptions, and an easy arrangement be made for payment, by short instalments, which might be obtained also by a loan; that it was worthy the attention of the envoys to consider, whether by so small a sacrifice they would establish a peace with France, or whether they would risk the consequences; that, if nothing could be done by the envoys, arrangements would be made forthwith to ravage the coasts of the United States by frigates from St. Domingo; that small States, which had offended France, were suffering by it; that Hamburgh, and other cities in that quarter, would, within a month or two, have their Governments changed; that Switzerland would undergo the same operation; and that Portugal would probably be in a worse predicament; that the expedition against England would be certainly pursued; and that the present period was the most favorable, if we wished to adopt any measure for a pacification. Mr. Gerry, in answer, said that, if the French were disposed to pursue with vengeance the United States, they might, perhaps, ravage their coasts, and injure them in this way, but they never could subdue them: the measure he thought utterly impracticable, even if attempted by France and her allies. To which M. Y. assented. Mr. Gerry observed further, that the ravages alluded to would undoubtedly closely connect the United States and Great Britain, and prevent the former from returning to the friendship which they have ever had for France; that, as to the propositions, he should express no opinion on them; that his situation, and that of his colleagues, was extremely difficult; that the Directory were exclusively prejudiced against the Government of the United States, and considered them as the friends of Great Britain; that, if the envoys could have an opportunity of being heard, they could remove such impressions, and show that the Government were the friends of France as much as of Great Britain: but that the envoys were now in the most painful situation; that they were treated, in the eyes of all Europe, and of the American Government and nation, with the utmost contempt, and were submitting to indignities which they could not reconcile to their feelings, or justify to their constituents. M. Y. said that the observations were just, but that the American envoys had not experienced worse treatment than other ministers, nor indeed as bad; that the envoy of Portugal was again ordered to depart; and that but little ceremony was observed to the envoys in general. M. Y. and Mr. Gerry then took a ride to M. Talleyrand's bureau, who received them politely; and after being seated, Mr. Gerry observed to M. Talleyrand, in English, slowly, that M. Y. had stated to him that morning some propositions as coming from M. Talleyrand, respecting which Mr. Gerry could give no opinion; that his object at this interview was to request of him information whether he would fix a time for taking a dinner with Mr. Gerry, at which he proposed to invite his colleagues; that he wished for more frequent interviews of some kind or other between himself and the envoys, conceiving that many imaginary difficulties which obstructed the negotiation would vanish by this means, and that those which were real would be surmounted; that, conceiving the delicate part which the minister of France had to act at this time, he did not wish M. Talleyrand to accept the invitation, if it would subject him to inconveniences; that he wished to speak on another subject, and it was painful to him to acknowledge that the precarious situation of the envoys was such, as to render it impossible for them to take measures for decent arrangements; that, a short time since, he had supposed measures were taking a favorable turn, but that lately he had received, from various quarters, information of a report made by the minister of the interior, and under the consideration of the Directory, for sending all Americans from Paris in twenty-four hours; that he could not be responsible for the truth of the information, but it appeared to him, as well from the various quarters from which it came, as from the intelligence of the person who gave it, to be highly probable; that, if this was the case, it was unnecessary for the Directory, as he conceived, to pass any arret, as it respected the envoys, for that they would depart from Paris whenever it was hinted as the wish of the Directory; that, for his own part, he should feel more at ease, until we were received, to reside in a city of some other nation than that of France; and to return to Paris on notice that the Directory were disposed to open the negotiation. M. Talleyrand appeared to be very uneasy at this declaration, but avoided saying a word on it. He said that the information M. Y. had given me was just, and might always be relied on, but that he would reduce to writing his propositions, which he accordingly did; and after he had shown them to Mr. Gerry, he burnt the paper. The substance was as follows. [See No. 1. below.]

He then said that he accepted of the invitation; that he would dine with him the decade after the present, in which he was engaged.

Mr. Gerry did not repeat all that he had said to M. Y. having no doubt he would communicate the whole to M. Talleyrand: and after expressing a friendship for the French republic, and a warm desire to renew the former attachment of the two republics, which M. Talleyrand warmly reciprocated, Mr. Gerry bade M. Talleyrand adieu, leaving with him M. Y.

No. 1.

That the envoys should come forward generally, and say:

"France has been serviceable to the United States, and now they wish to be serviceable to France. Understanding that the French republic has sixteen millions of Dutch rescriptions to sell, the United States will purchase them at par, and will give her further assistance when in their power.

"The first arrangement being made, the French Government will take measures for reimbursing the equitable demands of America arising from prizes, and to give free navigation to their ships in future."

5th CONGRESS.] No. 140. [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, MAY 4, 1798.

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

I now transmit to Congress copies of all the communications from our envoys extraordinary, received since their arrival in Paris, excepting those before presented by me to both Houses.

JOHN ADAMS.

No. 6.

PARIS, *February* 7, 1798.

DEAR SIR:

We transmit to you, in this enclosure, our last letter to the Minister of Foreign Relations. Though dated the 17th ult. it was not, on account of the time taken to translate so long a letter, delivered till the 31st. In our communications here, although we have, agreeably to your instructions, written in our own language, we have at the same time taken the precaution, lest our meaning should be misrepresented or misunderstood, to accompany them with an accurate translation. We have not yet received any answer to this communication, and should no notice be taken of it in a few days, we shall apply in a more explicit manner for our passports.

The councils have passed the decree mentioned in No. 5, as having been recommended by the Directory, to capture and condemn all neutral vessels laden in part, or in whole, with the manufactures or productions of England, or its possessions. We enclose you the official copy of the report on that subject, and shall represent to this Government the injustice and injury which it must inevitably occasion us.

We have the honor to be, &c.

CHARLES C. PINCKNEY,
J. MARSHALL,
E. GERRY.

Colonel PICKERING, *Secretary of the United States.*

To the Minister of Foreign Affairs of the French republic.

CITIZEN MINISTER:

The undersigned, ministers plenipotentiary and envoys extraordinary from the United States of America to the French republic, have been hitherto restrained, by the expectation of entering on the objects of their mission in the forms usual among nations, from addressing to the Executive Directory, through you, those explanations and reclamations with which they are charged by the Government they represent. If this expectation is to be relinquished, yet the unfeigned wish of the United States to restore that harmony between the two republics, which they have so unremittingly sought to preserve, renders it the duty of the undersigned to lay before the Government of France, however informal the communication may be deemed, some considerations, in addition to those heretofore submitted, relative to the subsisting differences between the two nations.

Openly and repeatedly have France and America interchanged unequivocal testimonials of reciprocal regard. These testimonials were given by the United States, with all the ardor and sincerity of youth. It is still believed that, on the part of France, they were likewise the offspring of real esteem. They were considered on the other side of the Atlantic as evidencing a mutual friendship, to be as durable as the republics themselves. Unhappily the scene is changed, and America looks round in vain for the ally or the friend. The contrast, both of language and of conduct, which the present so avowedly exhibits to a portion of the past, has been repeatedly attributed by France to a disposition alleged to exist in the Government of the United States, unfriendly to this republic, and partial towards its enemies.

That Government, astonished at a reproach so unfounded in fact, so contradicted by its declarations and its conduct, could scarcely consider the charge as serious, and has ever cherished the hope, that a candid review of its conduct founded on the documents, and aided by the arguments with which the Executive Directory has been furnished, would have rescued it from the injurious suspicion. This hope seems not to have been realized. The undersigned, therefore, deem it proper to precede their application for that justice which they claim from France, by an effort to remove the cause which is alleged to have produced the injuries of which they complain. With this view, they pray the attention of the Executive Directory to a serious and candid reconsideration of the leading measures adopted by the Government of the United States, and they persuade themselves that, however various and multiplied the channels may be through which misinformation, concerning the dispositions of that Government, may have been received, yet this reconsideration must remove unfounded prejudices, and entirely exculpate the American nation from an accusation it knows to be unfounded, and believes to be supported by no single fact.

When that war which has been waged with such unparalleled fury, which, in its vast vicissitudes of fortune, has alternately threatened the very existence of the conflicting parties, but which, in its progress, has surrounded France with splendor, and added still more to her glory than to her territory; when that war first involved those nations with whom the United States were in habits of friendly intercourse, it became incumbent on their Government to examine their situation, their connexions, and their duties. America found herself at peace with all the belligerent Powers; she was connected with some of them by treaties of amity and commerce, and with France by a treaty of alliance also. These several treaties were considered with the most serious attention, and with a sincere wish to determine, by fair construction, the obligations which they really imposed. The result of this inquiry was a full conviction, that her engagements by no means bound her to take part in the war, but left her so far the mistress of her own conduct, as to be at perfect liberty to observe a system of real neutrality. It is deemed unnecessary to analyze those treaties, in order to support the propriety of this decision, because it is not recollected ever to have been questioned, and is believed not to admit of doubt.

Being bound by no duty to enter into the war, the Government of the United States conceived itself bound by duties the most sacred to abstain from it. Contemplating man, even in a different society, as the natural friend of man, a state of peace, though unstipulated by treaty, was considered as imposing obligations not to be wantonly violated.

These obligations, created by the laws of nature, were in some instances strengthened by solemn existing engagements, of which good faith required a religious observance.

To a sense of moral right, other considerations of the greatest magnitude were added, which forbade the Government of the United States to plunge them unnecessarily into the miseries of the bloody conflict then commencing. The great nations of Europe, either impelled by ambition, or by existing or supposed political interests, peculiar to themselves, have consumed more than a third of the present century in wars. Whatever causes may have produced so afflicting an evil, they cannot be supposed to have been entirely extinguished, and humanity can scarcely indulge the hope, that the temper or condition of man is so altered as to exempt the next century from the ills of the past.

Strong fortifications, powerful navies, immense armies, the accumulated wealth of ages, and a full population, enable the nations of Europe to support those wars in which they are induced to engage, by motives which they deem adequate, and by interests exclusively their own. In all respects different is the situation of the United States: possessed of an extensive unsettled territory, on which bountiful nature has bestowed, with a lavish hand, all the capacities for future legitimate greatness, they indulge no thirst for conquest, no ambition for the extension of their limits. Encircled by no dangerous Powers, they neither fear, nor are jealous of their neighbors, and are not, on that account, obliged to arm for their own safety. Separated from Europe by a vast and friendly ocean, they are but remotely, if at all, affected by those interests which agitate and influence this portion of the globe. Thus circumstanced, they have no motive for a voluntary war: on the contrary, the most powerful considerations urge them to avoid it. An extensive and undefended commerce, peculiarly necessary to a nation which does not manufacture for itself, which is, and for a long time to come will be, almost exclusively agricultural, would have been its immediate and certain victim. The surplus produce of their labor must have perished on their hands, and that increase of population so essential to a young country, must, with their prosperity, have sustained a serious check. Their exertions, too, would not have been considerable, unless the war had been transferred to their own bosom.

Great as are the means and resources of the United States for self-defence, it is only in self-defence that those resources can be completely displayed. Neither the genius of the nation, nor the state of its finances, admit of calling its citizens from the plough, but to defend their own liberty and their own fire sides. How criminal must have been that government which could have plunged its constituents into a war, to which they were neither impelled by duty nor solicited by interest; in which they committed so much to hazard; in which they must suffer, in order to act efficiently, and could only display their energy in repelling invasion? But motives still more powerful than the calamities of the moment have influenced the Government of the United States.

It was perhaps impossible to have engaged voluntarily in the existing conflict, without launching into the almost boundless ocean of European politics; without contracting habits of national conduct, and forming close political connexions which must have compromitted the future peace of the nation, and have involved it in all the future quarrels of Europe. A long train of armies, debts, and taxes, checking the growth, diminishing the happiness, and perhaps endangering the liberty of the United States, must have followed the adoption of such a system. And for what purpose should it have been adopted? For what purpose should America thus burthen herself with the conflicts of Europe? Not to comply with any engagements she has formed; not to promote her own views, her own objects, her own happiness, or her own safety; but to move as a satellite around some greater planet, whose laws she must of necessity obey. In addition to these weighty considerations, it was believed that France would derive more benefit from the neutrality of America than from her becoming a party in the war.

The determination, then, of the Government of the United States to preserve that neutral station, in which the war found them, far from manifesting a partiality for the enemies of France, was only a measure of justice to itself and to others, and did not even derogate from that predilection for this republic which it has so repeatedly expressed and displayed. Having avowed this determination, increased motives of honor and of duty commanded its faithful observance. It is not a principle which remains now to be settled, that a fraudulent neutrality is no neutrality at all; and that the nation, which would be admitted to its privileges, must also perform the duties it enjoins. Had the Government of the United States declared itself neutral, indulged its partialities by granting favors unstipulated by treaty, to one of the belligerent powers which it refused to another, it could no longer have claimed the immunities of a situation of which the obligations were forgotten; it would have become a party to the war as certainly as if war had been openly and formally declared, and it would have added to the madness of wantonly engaging in such a hazardous conflict, the dishonor of insincere and fraudulent conduct: it would have attained, circuitously, an object which it could not plainly avow or directly pursue, and would have tricked the people of the United States into a war which it could not venture openly to declare.

It was matter of real delight to the Government and people of America, to be informed that France did not wish to interrupt the peace they enjoyed.

The undersigned have been induced to rest upon this first necessary and decisive step, taken by their Government, although its propriety may not be controverted, from a conviction, that if the right of the United States, to observe a fair and honest neutrality be established, the general charges of an unfriendly disposition, made against them by France, must be relinquished, because the facts, by which those charges are supported, will be found to have grown inevitably out of that situation.

This measure was accompanied by another, which, in repelling so astonishing a charge as partiality for the enemies of France, deserves to be noticed. Soon after the Government of the United States had notified to its citizens the duties which its neutrality enjoined, Mr. Genet, the first minister from this republic, arrived at Philadelphia: although his conduct had been such as to give cause for serious alarm; although before he was even acknowledged as a minister, or had reached the authority which could inspect his credentials, he had assumed the functions of the Government to which he was deputed, yet that Government resolved to see in him, only the representative of a republic, to which it was sincerely attached, gave him the same warm and cordial reception which he had experienced from its citizens, without a single exception, from Charleston to Philadelphia. The then situation of France deserves to be remembered.

While the recollection adds, citizen minister, to the glory with which your nation is encircled, it establishes the sincerity of the United States.

The most formidable combination the world had ever seen, threatened the extermination of this republic. Austria, Germany, Prussia, Britain, Spain, Holland, and Sardinia, were in arms against France, and Russia was leagued in the coalition. Nor was this all. The republic, distracted by internal divisions, contained numerous enemies within its own bosom, and a considerable portion of its proper force was arrayed against itself. In such a state of things, the most sanguine might fear, and the most ardent hesitate. Confident in their strength, and relying on success, the coalesced Powers sought to arm, in their cause, the residue of the world, and deemed it criminal to acknowledge the sovereignty of the republic. The nations of Europe, even those who had not entered into the contest, were either themselves unwilling to acknowledge this sovereignty, or were deterred by fear from doing so. Had the partialities of America been against France, this example would have been followed. According to the rules of ordinary calculation, the measure would have been safe, and consequently a Government, feeling the attachments now so unjustly attributed to that of the United States, would have indicated those attachments by its adoption. Far from pursuing such a system, the United States, unawed by the strength of the coalition, received with open arms the minister of this republic, acknowledged with enthusiasm the Government which had deputed him, overlooked his extraordinary attacks on their sovereignty, and manifested a cordial friendship for his nation, and a sincere wish for its success.

Scarcely were the first ceremonies of his reception over, when Mr. Genet displayed a disposition to usurp and exercise, within the United States, the choicest and most important duties and powers of sovereignty. He claimed the privileges of arming and embodying the citizens of America within their own territory, to carry on from thence expeditions against nations with whom they were at peace; of fitting out and equipping, within their limits, privateers, to cruise on a commerce destined for their ports; of erecting within their jurisdiction, an independent judiciary, and of arraigning their Government at the bar of the people. The undersigned will not ask in what manner France would have treated any foreign minister, who should have dared so to conduct himself towards this republic? But in what manner would the American Government have treated such a minister, if the representative of a nation it viewed with coldness, or even indifference? In what manner would it have treated him, had he been the representative of any other nation than France? No man acquainted with that Government can doubt how these inquiries ought to be answered. From the minister of France alone could this extraordinary conduct be borne with temper. To have continued to bear it, without perceiving and feeling its extreme impropriety, would have been to have merited the contempt as well of France as of the other Powers of the earth. The Government of the United States did feel it; but far from transferring to his nation that resentment, which such conduct could not fail to excite, it distinguished strongly between the Government and its minister, and the representations it made were in the lan-

guage of a friend afflicted, but not irritated, by the injuries it complained of. The recall of that minister was received with universal joy, as a confirmation that his whole system of conduct was attributable only to himself; and not even the publication of his private instructions could persuade the American Government to ascribe any part of it to this republic.

At the same time the exertions of the United States to pay up the arrearages of their debt to France, which had been unavoidably permitted to accumulate, their disinterested and liberal advances to the sufferers of St. Domingo, thrown suddenly upon them, without provisions or money, whose recommendation was, that they were Frenchmen and unfortunate; the perseverance with which they apologized for and ascribed any occasional injuries they sustained to the force of circumstances; the interest which they continued openly to take in all the fortunes of this republic, manifested partialities of a very different sort from those which have been so unjustly attributed to them.

At this period too, a great principle was brought into discussion, the dispassionate consideration of which is essential to the fair estimate of the charges made by France against the Government of the United States. The property of French citizens was taken by British cruisers and ships of war, out of American bottoms, and the American Government submitted to the practice. The propriety of submitting to it, depends entirely on the naked right of the captors, under the existing circumstances of the case, to exercise such a power. The circumstances were these: In the treaty of commerce made between France and the United States in February, 1778, it was stipulated in substance, that neither party should take out of the vessels of the other, the goods of its enemy, but that the character of the bottom should be imparted to its cargo. With England the United States had made no stipulation on the subject.

It follows, then, that the rights of England, being neither diminished nor increased by compact, remained precisely in their natural state, and were to be ascertained by some pre-existing acknowledged principle.

This principle is to be searched for in the law of nations. That law forms, independent of compact, a rule of action by which the sovereignties of the civilized world consent to be governed. It prescribes what one nation may do without giving just cause of war, and what, of consequence, another may and ought to permit, without being considered as having sacrificed its honor, its dignity, or its independence.

What then is the doctrine of the law of nations on this subject? Do neutral bottoms of right, and independent of particular compact, protect hostile goods? The question is to be considered on its mere right, uninfluenced by the wishes or the interests of a neutral or belligerent Power.

It is a general rule, that war gives to a belligerent Power a right to seize and confiscate the goods of his enemy. However humanity may deplore the application of this principle, there is, perhaps, no one to which man has more universally assented, or to which jurists have more uniformly agreed. Its theory and its practice have unhappily been maintained in all ages. This right, then, may be exercised on the goods of an enemy wherever found, unless opposed by some superior right. It yields by common consent to the superior right of a neutral nation to protect, by virtue of its sovereignty, the goods of either of the belligerent Powers, found within its jurisdiction. But can this right of protection, admitted to be possessed by every Government within its mere limits, in virtue of its absolute sovereignty, be communicated to a vessel navigating the high seas?

It is supposed that it cannot be so communicated; because the ocean being common to all nations, no absolute sovereignty can be acquired in it. The rights of all are equal, and must necessarily check, limit, and restrain each other. The superior right, therefore, of absolute sovereignty, to protect all property within its own territory, ceases to be superior when the property is no longer within its own territory, and may be encountered by the opposing acknowledged right of a belligerent Power to seize and confiscate the goods of his enemy. If the belligerent permits the neutral to attempt, without hazard to himself, thus to serve and aid his enemy, yet he does not relinquish the right of defeating that attempt whenever it shall be in his power to defeat it. Thus it is admitted that an armed vessel may stop and search at sea a neutral bottom, and may take out goods which are contraband of war, without giving cause of offence, or being supposed in any degree to infringe neutral rights. But this practice could not be permitted within the rivers, harbors, or other places of a neutral, where its sovereignty was complete. It follows, then, that the full right of affording protection to all property whatever, within its own territory, which is inherent in every Government, is not transferred to a vessel navigating the high seas. The right of a belligerent over the goods of his enemy within his reach, is as complete as his right over contraband of war; and it seems a position not easily to be refuted, that a situation that will not protect the one, will not protect the other. A neutral bottom, then, does not, of right, in cases where no compact exists, protect from his enemy the goods of a belligerent Power.

To this reasoning, the practice of nations has conformed, and the common understanding of mankind seems to have assented. Vattel, b. 3. § 115, says, positively, "that effects belonging to an enemy, found on board a neutral ship, are seizable by the rights of war."

Vattel is believed to be supported by the most approved writers on the same subject. It is deemed unnecessary to multiply citations to this point, because France herself is supposed to have decided it. In her maritime ordonnance of the year 1744, which is considered as having been in force in 1778, enemy goods in neutral bottoms, generally, are declared liable to seizure and confiscation. From the operation of this rule are excepted the vessels of Denmark and the United Provinces, to whom special treaties secured the exception. In the ordonnance, too, of the 26th July, 1778, the first article of which is considered as forbidding the cruisers of France to stop and bring into port neutral vessels, having on board the goods of an enemy, a power is reserved to revoke the privilege granted to neutrals by that article, if the enemy should not grant the same privilege within six months from the publication of that regulation. This clearly indicates a conviction, that the exemption from the capture of the goods of an enemy, which should be found on board the vessel of a neutral power, not having stipulated such exemption by treaty, was a privilege granted by the ordonnance, and that the mere revocation of the ordonnance would abolish the privilege, and restore the ancient rule. It will not be contended that France continued in a long course of practice and of legislation opposed to her own opinion of the law of nations. It must, then, be considered as the opinion of France that, under that law, neutral bottoms afford no protection to the goods of an enemy. This principle, thus admitted to have been established, is supposed by some to have been changed by the armed neutrality. A new law of nations, it is contended, was introduced by that confederation. But who were the parties to that federation, and what was its object? The northern maritime Powers of Europe united to protect, by force, in their own bottoms, during the then existing war, the goods of either and of all the belligerent Powers. The compact in its own nature was confined with respect to its object and its duration. It did not purport to change, nor could it change permanently and universally, the rights of nations not becoming parties to it. It did indeed hold forth the promise of future, more permanent, and more general engagements for the same object, but such engagements were never formed. How then can this temporary and partial convention be considered as altering, radically and generally, principles which have been universally adopted, and in the modification of which all have an interest? Would France herself admit that a combination, such as that which constituted the armed neutrality, may rightfully change the law of nations, and establish a new code of universal obligation? It is believed that no nation on earth would more perseveringly oppose such an invasion of its sovereignty.

There seems, then, to be no solid ground for maintaining that the general law of nations has been at all varied by the armed neutrality.

It remains to inquire whether the treaties between France and the United States, pledge either nation to assert and establish the principle, that free bottoms make free goods.

The treaty of amity and commerce, concluded the 6th February, 1778, stipulates reciprocally for the right of trading with, and protecting the goods of, the enemy of either party in the vessels of the other, and in turn surrenders its own goods found in the vessels of an enemy, but it contains no clause imposing on either party the duty of extending the principle, or of supporting its application to other nations. The stipulations of that treaty are negative as well as affirmative. They specify as well the disabilities intended to be created, and the duties to be imposed, as the privileges designed to be granted. Had it been intended that either nation should have been bound to maintain this principle in its intercourse with others, or should have been in any degree incapacitated from prosecuting freely that intercourse, without the previous admission of the principle, a stipulation to that effect would have

been made. No such stipulation having been made, the parties cannot be presumed to have intended it. Indeed it would have been madness in the United States, under their actual circumstances, to have formed such an agreement. There being no express stipulation to this effect, it cannot be supposed to have been implied. Nations forming a solemn compact, which ought to regulate their conduct towards each other, which is to be resorted to as the standard for adjusting their differences, do not leave to implication such delicate and important points. Indeed, if a great principle not mentioned is permitted to be implied, the object of a written agreement, which is itself to evidence all the obligation it creates, is totally defeated. But who is to make the implication, and to what extent is implication to be allowed? It is very easy to perceive, that the doctrine of implying in contracts stipulations never formed, would destroy all certainty of construction, and open a boundless field of controversy to the contracting parties.

It results from the very nature of a contract which affects the rights of the parties, but not of others, and from the admission of a general rule of action, binding independent of compact, which may be changed by consent, but is only changed so far as that consent is actually given, that a treaty between any two nations must leave to all others those rights which the law of nations acknowledges; and must leave each of the contracting parties subject to the operation of such rights. For the truth of this position, believed to be so clear in itself, and which it is supposed the history of all Europe will illustrate, the ordonnance of 1744, already quoted, is considered as furnishing an unequivocal authority. By that ordonnance the law of nations is applied to all those neutrals with whom France had not stipulated that the equality of their bottoms should be imparted to their cargoes, while those with whom such stipulations had been made are exempted from the application of the law.

The desire of establishing universally the principle that neutral bottoms shall make neutral goods, is, perhaps, felt by no nation on earth more strongly than by the United States. Perhaps no nation is more deeply interested in its establishment. It is an object they keep in view, and which, if not forced by violence to abandon it, they will pursue in such manner as their own judgment may dictate as being best calculated to attain it; but the wish to establish a principle is essentially different from a determination that it is already established. The interests of the United States could not fail to produce the wish: their duty forbid them to indulge it when deciding on a mere right. However solicitous America might be to pursue all proper means, tending to obtain for this principle the assent of all or any of the maritime Powers of Europe, she never conceived the idea of obtaining that consent by force.

The United States will only arm to defend their own rights: neither their policy nor their interests permit them to arm, in order to compel a surrender of the rights of others. These and other considerations, which have been submitted to the Government of France, produced, on the part of the United States, a decision, that their bottoms could not of right protect the goods of a belligerent Power from an enemy not bound to respect the principle. This decision was founded on the most perfect conviction that it was enjoined by the law of nations; and that good faith, respect for truth, and for the duties of an upright and honest judgment, rendered it indispensable. This conviction remains unshaken. If those articles, which still appear conclusive to the American Government, have not the same operation on the judgment of France, they must at least be sufficient to evince the sincerity with which that Government has acted, and to prove that its conduct, in this respect, was produced by a sense of duty, and not by any partiality for a nation, against which it was, at that time, considerably irritated by other causes.

The undersigned, citizen minister, rely too implicitly on your candor and discernment, to apprehend that you will estimate improperly the motives which, on this essential point, have influenced and guided the United States.

The early decision of the American Government on this subject was immediately avowed, openly and amply supported by Mr. Jefferson, the then Secretary of State, in his letter to Mr. Genet, dated the 24th July, 1793; and in his letter to Mr. Morris, dated 16th August in the same year. The arguments, which those letters contain, were supposed to have satisfied the Government of France, since its ministers in the United States no longer controverted the principle they supported. Indeed, those arguments appeared too conclusive to permit a doubt concerning the success which would attend them.

In August, 1794, when Mr. Monroe, the then minister of the United States to this republic, was received into the bosom of the Convention, France obviously did not consider the acknowledgment of this established principle of the law of nations as indicating a partiality towards her enemy. The language used on the occasion could only have been used to the minister of a nation, whose friendship was valued, and whose conduct had evinced the sincerity of its professions. It was then declared "that the sweetest, the frankest fraternity united in effect the two republics," and that "their union would be for ever indissoluble." These declarations, made long after America had avowed its neutrality, and had avowed its acquiescence, under the principle that a belligerent Power, unrestrained by particular treaty, may of right take out of the bottoms of a neutral, the goods of its enemy, demonstrate that neither that neutrality nor that acquiescence induced the want of a proper regard for France. The Government of the United States still cherishes the hope that this true and fair estimate then made of its conduct, may be soon resumed by a nation, whose friendship it has assiduously and unremittingly cultivated by all those means which good faith and justice could permit it to use.

After the discussion of this interesting question was supposed to have been closed, and France was believed to have been entirely content with that system in which the United States found themselves bound to persevere, some complaints were made, not against the principles adopted by the Government, but against the application of those principles to particular cases, supposed not to come within them. The neutrality of the United States could not permit prize to be made of those vessels belonging to nations with whom they were at peace, within their jurisdiction, or by privateers fitted out in their own ports. Regulations to this effect were necessarily made; and to enforce the observance of those regulations was a duty not to be dispensed with. The right of one of the belligerent Powers to obtain the release of a vessel, captured under such circumstances, was as sacred as the right of the captor to a vessel taken on the high seas, and which, according to the usages of war, was lawful prize. The United States were bound to respect the rights of both. To do so, it was necessary to examine the facts; for which purpose, a tribunal, in which both parties might be fairly heard, was unavoidable. Some complaints were made of particular vexations, and each complaint has heretofore been particularly attended to. It is believed to be unnecessary to review these several cases, because the undersigned are entirely persuaded that explanations already given, must have been completely satisfactory. Should any of them be still considered as furnishing subject for complaint, the undersigned will proceed to its investigation, with the most sincere desire to attain truth, and to redress the wrong, if any has been committed.

During this period, the causes of complaint against France, on the part of the United States, were by no means inconsiderable. Their commerce was not exempt from depredations, believed to be entirely unwarrantable, made upon it by the cruisers of this republic.

On the 9th of May, 1793, the National Convention passed a decree relative to the commerce of neutrals—the first article of which is in these words: "The French ships of war and privateers may stop and bring into the ports of the republic such neutral vessels as are loaded, in whole or in part, either with provisions belonging to neutrals, and destined for enemy's ports, or with merchandise belonging to enemies." In consequence of the remonstrances of the American minister, the Convention, on the 23d May, declared "that the vessels of the United States are not comprised in the regulations of the decree of the 9th May." On the 28th of the same month, the Convention repealed the decree of the 23d: on the 1st July, they re-established it; on the 27th July, it was again repealed. Under the decree of the 9th May, the vessels of the United States were captured, brought into the ports of France, and their cargoes disposed of. Could this decree, citizen minister, be regarded otherwise than as infringing the laws of nations, the rights of neutrals, and the particular engagements subsisting between France and the United States.

When, on the 8th of June, in the same year, the British Government issued a similar order; its injustice produced a ferment throughout America, indicating strong dispositions immediately to oppose its execution by force. The letter of Mr. Jefferson, the then Secretary of State, to the minister plenipotentiary of the United States at London, dated the 7th September, 1793, and remonstrating against the order of the 5th June, contains so much justness of sentiment and strength of argument, as to have been quoted by your predecessor, in his letter to Mr. Monroe of the 9th March, 1796.

It cannot escape you, citizen minister, that the arguments of Mr. Jefferson, concerning the order of the 8th June, apply conclusively to the decree of the 9th May; and that to them are to be added, those arguments which are to be drawn from the hardship of being absolutely compelled, without any alternative, to part with the cargoes in France, and those also which are drawn from the duties imposed by an express and solemn treaty.

Nothing can demonstrate more conclusively the real temper of the United States, than the difference between the reception given to the decree of the Convention of the 9th May, and that which was given to the order of the British cabinet of the 8th June.

A large number of American vessels, too, were for a long time detained at Bordeaux, very much to the injury of the owners, without assigning a motive for such detention, or putting it in the power of the Government to conjecture the cause of a measure, which so deeply affected the interest of their fellow-citizens—these and other embarrassments were experienced, but they could not diminish the attachment of the United States to France. In the midst of them, prayers were offered up, through the whole extent of the American continent, for the success of this republic. The Government, feeling the same sentiment, displayed it, at least as far as was compatible with the decent deportment required from a nation not a party in the war, and professing neutrality. Such would not have been the conduct of a Government and people, in secret unfriendly to France.

Very strong and just resentments were at that time inspired by the hostile conduct of Britain. The instructions of June, 1793, whereby American vessels, laden with provisions for France, were brought into the ports of Britain, there to sell such cargoes, or to give security to sell them in other ports in amity with England, and the still more offensive order of November the 6th, in the same year, whereby vessels laden with the produce of a French colony, or carrying provisions to such colony, were ordered to be brought in for adjudication; added to the pre-existing causes of mutual irritation, had produced such a state of things, as to render it obvious that the injuries complained of by America must be entirely done away, or that war was the inevitable consequence.

This state of things was not so altered by the order of the 8th of January, 1794, revoking that of the sixth of November, 1793, as to promise a different result. But as a nation preferring peace to war will ever make a peaceful demand of reparation for injuries sustained, before that reparation is sought by the sword; and as the policy of America has ever been, "to pursue peace with unremitting zeal, before the last resource, which has so often been the scourge of nations, and could not fail to check the advanced prosperity of the United States, was contemplated," an envoy extraordinary was deputed to His Britannic Majesty. "Carrying with him a full knowledge of the existing temper and sensibility of his country, it was expected that he would vindicate its rights with firmness, and cultivate peace with sincerity."

Truly desirous, as the American Government was, of preserving peace with Britain, its determination was unalterable, not to preserve it, nor to receive compensation for injuries sustained, nor security against their future commission, at the expense of the smallest of its engagements to France. Explicit and positive instructions to this effect were given to Mr. Jay, and those instructions were freely communicated to the minister of this republic, then at Philadelphia. The negotiation of the American envoy terminated in a treaty in many respects desirable to the United States.

But, however desirable its objects might be, the Government of the United States would not have hesitated to reject them, had they been accompanied with any stipulation violating or weakening its engagements to France. But it has been able to discern no such stipulation; the twenty-fifth article of that treaty guards the rights of this republic by the following clause: "Nothing in this treaty contained shall, however, be construed or operate contrary to former and existing public treaties with other sovereigns or States." The treaty with France being a "former and existing public treaty," and it being thus provided that nothing contained in the treaty with Britain "should be construed or operate contrary to it," the Government of the United States did not apprehend that the treaty with Britain could be considered as affecting its relations to France. But such was its attention to its ally, that the instrument was, previous to its ratification, submitted to the consideration of the minister of this republic, who was invited to communicate freely to the Government of the United States such observations upon it as he might judge proper. Mr. Adet, in a letter addressed to Mr. Randolph, dated 12th Messidor, 3d year of the French republic, (30th June, 1795) expresses his sense of this procedure in the following words: "this frank measure is to me a sure guaranty of the friendship of the American Government towards France, and of the fidelity with which it always marks its conduct towards a faithful ally." He then stated those reflections to which the reading of the treaty had given birth. The articles which relate to enemy goods in neutral bottoms are mentioned without a comment. He contended, that the list of contraband was swelled, and that the 23d, 24th, and 25th articles of the treaty with Britain, ceded to that power advantages inconsistent with the previous cessions to France. This letter was answered by Mr. Randolph, on the 6th of July following, who proves, that no article was enumerated in the list of contraband, in the treaty between the United States and Britain, which was not of that description, previous to its formation, and independent of it; noticed briefly the subject of enemy goods in neutral bottoms; and demonstrated, that the objections of Mr. Adet to the 23d, 24th, and 25th articles were entirely founded on a misconstruction of them. This misconstruction was so apparent, that Britain has never claimed it, nor would the American Government ever have admitted it. The letter of Mr. Randolph closes the subject of enemy contraband, and of enemy property taken out of neutral bottoms, with a paragraph, to which, citizen minister, your attention is solicited: "Hitherto, however, (says he) I have spoken upon principles of right. Upon any other principles, and more especially upon those of hardship and injury to a friend, it shall be a topic of the negotiation now opening between us. With the temper which will pervade the whole of it, I cannot doubt that some modification may be devised, and it may be separated from the general treaty, so as not to be delayed by it."

It was then apparent, that the Government of the United States, actuated by that friendship which transcends the line of strict obligation, was willing, gratuitously, to release her ally from those stipulations of a former treaty, which, in the course of events, were deemed to operate unfavorably to her. This readiness to concede, marked that friendship the more strongly, as the situations in which the two nations found themselves could not have been unforeseen, but was the very situation for which the article provides. The answer of Mr. Randolph concludes, with requesting an opportunity to remove any remaining doubts, should there be such, by further explanations: no remaining doubts were stated, and therefore, as well as for its contents, the letter was believed to be entirely satisfactory to Mr. Adet, and it was hoped, that this Government, as well as that of America, would consider the treaty with Britain as an accommodation desirable by the United States, and not disadvantageous to France.

It is not easy to express the chagrin felt by the American Government on learning that, in this treaty, the United States were supposed to have "knowingly and evidently sacrificed their connexions with this republic, and the most essential and least contested prerogatives of neutrality." With the firmness of conscious integrity, the United States aver, that they have never knowingly sacrificed or impaired their connexions with this republic, nor the prerogatives of neutrality, but that they have, according to their best judgment, invariably sought to preserve both.

The undersigned will endeavor faithfully to state the impressions of the Government they represent on this interesting subject. The objections made to this treaty by your predecessor in office, in his note to Mr. Monroe, dated 19th of Ventose, 4th year of the French republic, one and indivisible (9th March, 1796) are:

1st. That the United States, besides having departed from the principles established by the armed neutrality, have given to England, to the detriment of their first allies, the most striking mark of an unbounded condescension, by abandoning the limits given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with the greater part of the maritime powers.

2d. That they have consented to extend the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England, to create blockades in the colonies, and even in France, by the force of a bare proclamation.

Mr. Adet, in his letter to Mr. Pickering, dated 25th Brumaire, 5th year of the French republic, one and indivisible, (15th November, 1796,) has repeated the same objections, and has been pleased also to superadd some observa-

tions relative to the formation of such a treaty generally, and the circumstances attending its negotiation, in terms not to have been expected by the first, and almost only voluntary friend of the republic.

These having been the only specific objections officially made to the treaty with Britain, by the Government of France, either in Paris or in Philadelphia, are necessarily supposed to be the only objections which have occurred.

They have often been discussed on the part of the United States, but that discussion will be renewed, because, although the undersigned may be unable to suggest any argument not heretofore urged, they cannot resist the hope that an attentive reconsideration of those arguments may give them a success which has not yet attended them.

The first objection may be supposed to consist of two parts. 1st. The abandonment of the principle, that neutral bottoms make neutral goods; an objection rather insinuated than expressed; and 2dly, the addition to the catalogue of contraband.

1st. On the first part of the objection, it is observable, that the statements of the late minister of exterior relations, and of Mr. Adet, seem to admit, but certainly do not controvert the position, that previous to the formation of the armed neutrality, a belligerent power could rightfully take out of the bottoms of a neutral the goods of its enemy. This position is believed to be uncontrovertible; some of the arguments in support of it have been already detailed, and it is deemed unnecessary to repeat or to add to them. To this principle of the armed neutrality, with a departure from which the United States seem to be impliedly charged, the note of M. de la Croix does not assign any obligation whatever; nor does he appear to consider it as having been engrafted by that confederation on the law of nations. On this point Mr. Adet has not been more explicit. He seems to have been content with vague insinuations, and not to have been willing to commit himself by a direct averment, that in consequence of the armed neutrality the law of nations on this subject is changed. The undersigned are unwilling to combat at length a proposition not positively advanced, which they deem so clearly indefensible, and will therefore refer to the brief observation already made respecting it.

It may not, however, be improper here to notice, that in February, 1778, when the treaty between France and the United States was entered into, the armed neutrality had not been formed; of consequence, the state of things on which that treaty operated, was regulated by the law of nations, as it clearly existed previous to the formation of the armed neutrality. It is supposed to be admitted, that, according to that state of things, neutral bottoms could afford no protection to the goods of an enemy. The stipulation then of the article of that treaty was understood, at the time, by the contracting parties, to form an exception to a general rule, which would retain its obligations in all cases where it was not changed. If, then, the contracting parties had designed to impose on each other the necessity of extending this exception to other nations, so as to convert it into a general rule, they would have expressed this intention in their contract: not having expressed it, they must be considered as intending that this exception should form a rule as between themselves, while the general rule should govern as with other nations who had not consented to change it.

It is also worthy of observation, that when this treaty was made, the United States were at war, and France at peace with Britain. In this state of things, which might have continued, had not war been declared, or hostilities commenced by England, the bottoms of France would have protected, from American cruisers, English property, while they would not have protected from British cruisers American property. This was the necessary result of that state of things under which the treaty was formed: America had consented to it; and neither could or would have complained.

It is also to be noticed, that before the negotiation with England had commenced, the Government of the United States had openly avowed that opinion on this subject, which its best judgment dictated. This opinion, perfectly unconnected with that negotiation, was known by all to form and regulate the basis of its conduct. The letters from Mr. Jefferson, already quoted, had stated to the world the perject conviction of the United States, that, by the law of nations, a belligerent power, not restrained by particular treaty, might rightfully take out of the bottoms of a neutral the goods of its enemy; as well as their determination, that they could not, and ought not to oppose the exercise of this right. The right having been clearly and unavoidably admitted, and the determination to acquiesce under its exercise having been avowed openly, Mr. Jay could only solicit its surrender. Had no treaty been formed, or had that treaty omitted to mention the principle, the right would still have existed, would still have been acknowledged, and would still have been exercised. The treaty does not, in fact or in impression, cede a new privilege; it regulates the exercise of one before existing, and before acknowledged to exist. The harsh means of exercising this right, which are given by the law of nations, are modified and softened by the treaty, and this is the only effect which the article on this subject has produced; it was the only motive, and it was a sufficient motive for introducing it.

The second branch of this objection seems more to be relied on, and comes forward in a more decisive shape; it is, that the United States have abandoned the limit given to contraband by the law of nations, by their treaties with all other nations, and even by those of England with a greater part of the maritime powers.

The limits of contraband is supposed to have been extended, by inserting in the catalogue, naval stores, and timber for ship building.

To estimate rightly a charge so warmly made, it becomes indispensable to ascertain whether these articles are, independent of treaty, by the law of nations contraband of war: on this simple point seems to rest the verity of the accusation.

It is regretted that those, who have averred the negative, have not been pleased to furnish authorities in support of the opinion they advanced. Such authorities would have been considered with candor, and any conviction they might have produced would have been freely acknowledged. But no such authorities are furnished, and it is believed that none exist.

America, solicitous to confine as much as possible, by common consent, the list of contraband, but determined, however she might oppose its enlargement, not to attempt its diminution by force, was under the necessity of examining the subject, and of ascertaining the line of partition between the rights of neutrals and of belligerent powers.

As guides in such a search she could only take the most approved writers on the law of nations. These are believed to class timber for ship building, and naval stores for the equipment of vessels, among articles admitted to be contraband of war. [Vattel, b. 3. c. 7. sect. 112.] defines contraband goods to be "commodities particularly used in war: such are arms, military and *naval stores, timber,** horses, and even provisions in certain junctures, where there are hopes of reducing the enemy by famine." The treaty between France and Denmark, concluded in 1742, places tar, rosin, sails, hemp, cordage, masts, and timber for ship building, on the catalogue of contraband: and Valin, in his Commentary on the Marine Ordinances of France, [vol. 2. page 264,] says that "of right these articles are now contraband, and have been so from the commencement of the present century." In conformity with these opinions has been that of America: and if the law of nations was understood by the most approved jurists, she has not erred.

But the modern public law of nations, and modern treaties, are said to have established a different rule. If the modern public law of nations has changed the principle, such change is yet unknown to the United States. It is much to be wished that more full and satisfactory information had been given in support of an opinion, a difference on which is alleged to have produced consequences so extremely calamitous.

It is not averred that the armed neutrality has constituted this modern public law. It is supposed that this cannot be averred, because France will never admit the right of a confederacy, whatever may be its power, to impose the law on those who are not parties to it. It is supposed, also, that this cannot be averred for another reason. The members of the armed neutrality had not themselves agreed upon the articles which should be deemed contraband. Russia, the Power originating that celebrated, though short lived compact, published in 1780 the principles on which she would maintain the commerce of her subjects: one of these was, that the articles of contraband should be regulated by the 10th and 11th articles of her treaty of commerce with Great Britain.

* For ship building.

Afterwards, Denmark entered into a convention with Russia for maintaining generally the principles agreed upon; but on the subject of contraband, in particular, Denmark adopted as the rule, by which to be governed, her treaty of commerce with Great Britain, concluded the 10th of July, 1670, in the third article of which, contraband goods are described to be "*any provisions of war*, as soldiers, arms, machines, cannon, ships, or other things of *necessary use in war*." But by a convention concluded at London, on the 4th of July, 1780, between Great Britain and Denmark, to explain the treaty of commerce of 1670, between the two Powers, "*Timber, for ship building, tar, rosin, copper in sheets, sails, hemp, and cordage, and generally whatever serves directly for the equipment of a vessel*, unwrought iron and fir planks excepted," are declared to be contraband.

Denmark having, in her convention with Russia, adopted her treaty with England, made in 1670, as declaratory of those articles which she would consider as contraband, and having, by her explanatory agreement with England, substituted a particular enumeration of articles, for a general description of them, not as an amendment, but as an explanation of the treaty of 1670, has taken a different rule, in the very compact referred to as establishing a modern public law of nations, from that taken by Russia. The rule of Denmark classes among contraband precisely the same articles which are enumerated as such in the treaty between the United States and Britain, and which are only found in that enumeration, because it is believed that the law of nations has unquestionably so placed them. Sweden and Holland, too, in acceding to the armed neutrality, adopt their own treaties as the rule by which they will respectively be guided. There was then, even among the parties to this agreement no fixed law of contraband. Had the potentates of Europe designed to establish permanently and generally the principles of the armed neutrality, the war which originated that convention would not have terminated without some general agreement concerning it: the efforts of Sweden to obtain a Congress for examining and terminating the different concerns both of the Powers at war and of the neutral States, could not have proved entirely abortive.

No argument then can be drawn from the armed neutrality in support of the position, that the modern public law of nations, relating to contraband, has been abandoned by the United States. No modern public law having been formed, the rule remains unchanged; and, at the present moment, as well as when the treaty with France was formed, is believed to ordain as contraband the articles enumerated as such in the treaty with Britain.

But it is alleged that, in this treaty, the United States have abandoned the limits given to contraband by their treaties with all other nations, and even by those of England with a greater part of the maritime Powers.

It is true that the United States, desirous of liberating commerce, have invariably seized every opportunity which presented itself to diminish or remove the shackles imposed on that of neutrals. In pursuance of this policy they have on no occasion hesitated to reduce the list of contraband, as between themselves and any nation consenting to such reduction. Their pre-existing treaties have been with nations as willing as themselves to change the old rule; and consequently, a stipulation to that effect being desired by both parties, has been made without difficulty. Each contracting party is deemed to have an equivalent for the cession made, in the similar cession it receives from the party with whom it contracts. Neither requires of the other, as an additional consideration, that it shall propagate by the sword the principles which form the basis of their private agreements, and force unwilling nations to adopt them; nor that it should decline to regulate by treaty its interests with any other nation which should refuse to accede to them; as little could either suppose that its particular contract contained any thing obligatory on others, or was capable of enlarging or diminishing their rights. The treaties of the United States then with other nations can only establish the limits of contraband, as between the contracting parties, and must leave that subject, with nations not parties to the contract, to the law which would have governed had such particular stipulations never been made. According to the existing state of things when the negotiations between the United States and Great Britain were opened, naval stores and timber for ship-building were, as between America and Britain, contraband of war; they would have retained this character had the treaty never been made; they would have retained it had the treaty contained no provision on the subject. The United States were truly desirous of excluding them from the list, but Britain was unwilling to do so. Had the United States possessed the means of coercion, their established policy, founded on the basis of justice, and their own peculiar situation, forbid a resort to these means for any other purpose than the defence of their own rights, or a compliance with their own engagements. It was not a case in which force would have been deemed justifiable; and the object, being unattainable by mutual consent, was unavoidably relinquished for the moment. Yet it was proper to enumerate the articles which were before contraband, and which continued to be so, because that enumeration notified to the merchants of the United States the hazard which their commodities would encounter on the seas; and because, also, it prevents those vexatious altercations, which might otherwise have been produced by the efforts of one party to swell, and of the other to reduce the list.

If, on the refusal of Britain to substitute any other rule concerning contraband, in the place of that established by the law of nations, France finds herself in a situation to be injured by an observance of her engagements with the United States, it is not the treaty with Britain, but that with France which has produced this situation. This was foreseen when that treaty was entered into, and did not prevent it. The stipulation concerning contraband was formed when France was at peace, and America at war; although that state of things did not long continue, yet its continuance was by no means deemed impossible. Notwithstanding this, the Government of the United States has manifested a willingness to change this stipulation, as well as that which respects enemies' property in neutral bottoms, so soon as France complained of them: of this the letter from Mr. Randolph to Mr. Adet, already quoted, affords conclusive testimony.

It appears then on examining this objection to the treaty between the United States and Britain, that it has not added to the catalogue of contraband a single article; that it has ceded no privilege; has granted no right; and that it has not changed, in the most minute circumstance, the pre-existing situation of the United States in relation either to France or to Great Britain. Notwithstanding those truths, the Government of the United States has hastened to assure its former friend that, if the stipulations between them be found oppressive in practice, it is ready to offer up those stipulations a willing sacrifice at the shrine of friendship.

In vain will you search in this procedure for "a known and evident sacrifice on the part of the United States, of their connexions with this republic, and of the most essential and least contested prerogatives of neutrality." In vain will you search for evidence of their "having given to England, to the detriment of their first allies, the most striking mark of an unbounded condescension; by abandoning the limits given to contraband by the law of nations; by their treaties with all other nations; and even by those of England with the greater part of the maritime Powers."

The United States feel these reproaches, as conscious innocence feels the imputation of guilt.

2dly. It is also alleged that "the United States have consented to extend the denomination of contraband even to provisions. Instead of pointing out particularly, as all treaties do, the cases of the effective blockade of a place, as alone forming an exception to the freedom of this article, they have tacitly acknowledged the pretensions raised by England to create blockades, in our colonies, and even in France, by the force of a bare proclamation."

The objections to this article shall be considered according to its letter, and according to its operation.

The objectionable words are: "and, whereas, the difficulty of agreeing on the precise cases in which alone provisions and other articles, not generally contraband, may be regarded as such, renders it expedient to provide against the inconveniences and misunderstandings which might thence arise: It is further agreed, that whenever any such articles so becoming contraband, according to the existing laws of nations, shall, for that reason, be seized, the same shall not be confiscated; but the owners thereof shall be speedily and completely indemnified; and the captors, or, in their default, the Government, under whose authority they act, shall pay, to the masters or owners of such vessels, the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight, and also the demurrage incident to such detention."

The admissions contained in this clause, are—

1st. That provisions are not generally contraband; and 2dly. that they are sometimes contraband.

An effort was made to establish the precise cases in which alone they should be subject to seizure; but America would only consent to consider them as contraband in the case of an effective blockade, siege, or investment of a

place; while, on the part of England, this strict interpretation of the rule was not admitted: but it was contended that provisions became contraband, when there were reasonable hopes of reducing the enemy by famine. In this opposition of sentiment, to what have the United States consented? "To extend the denomination of contraband even to provisions?" "To acknowledge tacitly the pretensions raised by England to create brockades in your colonies, and even in France, by the force of a bare proclamation?" "To secure to the English alone the carriage of meals?" "In a word, to have commerce only with England?" Reconsider the words themselves, and it will require no comment to prove how inapplicable to them are these assertions. The clause complained of, having stated the admission and the difficulty already mentioned, proceeds to say: "It is further agreed that whenever any such articles, so becoming contraband, according to the laws of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified."

It is too clear to admit of contestation, that this clause does not declare provisions to be contraband, or admit of their seizure in any other case than where, "according to the existing law of nations, they should become contraband:" in such case the right to seize them is not given by this article, but it is admitted by France and by all the world to exist, independent of treaty. In such case they would have been seized had this stipulation never been entered into; and would have been confiscated also. The only alteration, which is by the letter of the clause produced in the law of nations, is to exempt from confiscation goods which under that law would have been subject to it.

But it has been suspected to have an object and an operation in practice different from its letter. It has been suspected to cover a design to admit substantially certain principles, with respect to blockades, which, in theory, are denied.

Incapable of duplicity, America, with the pride of conscious integrity, repels this insinuation, and courts an investigation of the facts on which it is founded:

The Government of the United States, and that of Britain, having construed the law of nations differently, in this respect, each would have acted upon its own opinion of that law: the privateers of England would have seized as contraband any goods deemed such in their courts of admiralty; and the Government of the United States would have reclaimed such goods, and would have supported the demand in such a manner as its own judgment dictated. This procedure is not changed. The right to make such reclamation has not been relinquished, nor has the legality of the seizure, in any other case than that of an attempt to enter a place actually invested, been in any degree admitted.

It is true, that the British Government renewed the order concerning provisions about the time of the ratification of this treaty: but it is not less true, that the Government of the United States manifested a firm resolution to submit to no such construction, and remonstrated so seriously against it as to produce a revocation of the order. Nor is this all: claims for provisions seized in cases of a mere proclamation-blockade have been actually made, and have been actually decided in favor of the claimants. The British Government has acquiesced under such decisions by paying the sums awarded. These sums were not limited to a reasonable profit on the price of the commodity seized, but were regulated by its price at the port of destination, and consequently the actual as well as avowed principle of such decisions was, that the goods seized had not become contraband "according to the existing law of nations."

The intention of the Government then, and the practice under the article, are in direct opposition to these injurious suspicions, the indulgence of which has produced such pernicous effects. It is even believed that the decision on this subject will be one step towards the establishment of that principle for which America has never ceased to contend. It is also believed, and has ever been believed, that the article objected to would have a necessary tendency to increase, and did, in fact, increase the quantity of provisions imported from America into France and her colonies. The American commerce, being entirely in the hands of individuals, is consequently conducted by them according to their own views of particular advantage: they will unquestionably endeavor to supply the highest market, unless restrained from doing so by other considerations which render it unadvisable to attempt such a supply. In their calculations, the risk of reaching the market is too important an item to be passed over or forgotten. Every diminution of this risk adds to the number of those who will attempt the supply: and consequently a knowledge that the voyage, should it even fail by the seizure of the vessel, would yet be profitable, must increase the number of those who would make it.

It is plain, then, that this article admits the seizure of provisions in no situation where they were not before seizable; and encourages their transportation to France, and her colonies, by diminishing the risk of such transportation.

It is also complained of, that this treaty has not, "as all treaties do, pointed out particularly the cases of the effective blockade of a place," as alone forming an exception to the freedom of provisions.

Articles in a treaty can only be inserted by consent. The United States, therefore, can never be responsible for not having inserted an article to which the other contracting party would not assent. They may refuse to make any change in the existing state of things, prejudicial to themselves or to other Powers; and they have refused to make any such change. But it is not in their power to insert, as by common consent, an article, though merely declaratory of a principle which they considered as certainly existing, and which they mean to support, if such common consent be unattainable. All that can be done, in such case, is to leave the principle unimpaired, reserving entirely the right to assert it. This has been done; the principle was left unimpaired, and has been since successfully asserted.

The United States are at all times truly solicitous to diminish as much as possible the list of contraband. It is their interest, in common with all other nations whose policy is peace, to enlarge, so far as they can be enlarged, the rights of neutrals. This interest is a sure guaranty for their using those means which they think calculated to effect the object, and which a just regard to their situation will permit. But they must be allowed to pursue the object, in such a manner as may comport with that situation. While they surrender no actual right, in preserving which there is a common interest; while they violate no pre-existing engagement (and these they have not surrendered or violated) they must judge exclusively for themselves how far they will or ought to go in their efforts to acquire new rights, or establish new principles. When they surrender this privilege, they cease to be independent, and they will no longer deserve to be free. They will have surrendered into other hands the most sacred of deposites—the right of self-government; and instead of the approbation, they will merit the contempt of the world.

Those parts of the treaty between the United States and Britain, which have been selected by France as injurious to her, have now been examined. The undersigned are too well convinced that they in no degree justify the enmity they are alleged to have produced, not to rely on a candid reconsideration of them as a sure mean of removing the impressions they are supposed to have made.

Before this subject is entirely closed, one other objection will be noticed. The very formation of a commercial treaty with England seems to be reprobated as furnishing just cause of offence to France; and Mr. Adet has permitted himself to say: "It was a little matter only to allow the English to avail themselves of the advantages of our treaty: it was necessary to assure these to them by the aid of a contract, which might serve at once as a reply to the claims of France, and as peremptory motives for refusals; the true cause of which it was requisite incessantly to disguise to her under specious pretexts. Such was the object of Mr. Jay's mission to London; such was the object of a negotiation enveloped from its origin in the shadow of mystery, and covered with the veil of dissimulation."

Passing over this extraordinary language, the undersigned, being only desirous of producing accommodation by the exhibition of truth, will consider the opinion which is obliquely hinted, and the fact which is directly averred.

The practice of forming commercial treaties is so universal among other nations, having any commercial intercourse with each other, that it seems unnecessary to discuss their utility. The right to form these treaties has been so universally asserted and admitted, that it seems to be the inseparable attribute of sovereignty, to be questioned only by those who question the right of a nation to govern itself, and to be ceded only by those who are prepared to cede their independence.

But the prosperity of the United States is, in a peculiar degree, promoted by external commerce. A people almost exclusively agricultural have not within themselves a market for the surplus produce of their labor, or a sufficient number and variety of articles of exchange to supply the wants of the cultivator: they cannot have an in-

ternal, which will compensate for the loss of an external commerce: they must search abroad for manufactures, and for many other articles which contribute to the comfort and convenience of life, and they must search abroad also for a market for that large portion of the productions of their soil which cannot be consumed at home. The policy of a nation thus circumstanced must ever be to encourage external commerce, and to open to itself every possible market for the disposition of its superfluities, and the supply of its wants. The commercial and manufacturing character and capacities of England must turn into that channel a considerable portion of the commerce of any nation under the circumstances of the United States. It is a market too important and too valuable to be voluntarily closed; in consequence, a considerable portion of their commerce has taken that direction, and a continual solicitude has been manifested to regulate and secure it by contract. To abolish this commerce, or to refuse to give it permanence and security by fair and equal stipulations, would be a sacrifice which no nation ought to require, and which no nation ought to make. In forming her treaty of amity and commerce with the United States, France claimed no such prerogative. That treaty declares the intention of the parties to be, "to fix in an equitable and permanent manner the rules which ought to be followed relative to the correspondence and commerce, which the two parties desire to establish between their respective countries, States, and subjects;" and that "they have judged that the said end could not be better obtained than by taking for the basis of their agreement the most perfect equality and reciprocity; and by carefully avoiding all those burthensome preferences, which are usually sources of debate, embarrassment and discontent; by leaving also each party at liberty to make respecting commerce and navigation, those interior regulations which it shall find most convenient to itself; and by founding the advantages of commerce solely upon reciprocal utility, and the just rules of free intercourse; reserving withal to each party the liberty of admitting at its pleasure other nations to a participation of the same advantages." The treaty itself contains no stipulation in any degree contradictory to these declarations of the preamble, or which could suggest a suspicion that under those declarations we concealed a wish to abridge the sovereignty of the United States with respect to treaties, or to control their interests in regard to commerce. In forming a commercial treaty with Britain, therefore, in which no peculiar privilege is granted, the Government of the United States believed itself to be transacting a business exclusively its own, which could give umbrage to none, and which no other nation on earth would consider itself as having a right to interfere in. There existed consequently no motive for concealing from or declaring to France, or any other Power, that the negotiations of Mr. Jay might or might not terminate in a commercial treaty. The declaration therefore was not made; nor is it usual for nations about to enter into negotiations, to proclaim to others the various objects to which those negotiations may possibly be directed. Such is not, nor has it ever been the practice of France. To suppose a necessity or a duty on the part of one Government thus to proclaim all its views, or to consult another with respect to its arrangements of its own affairs, is to imply a dependence, to which no Government ought willingly to submit. So far as the interests of France might be involved in the negotiation, the instruction given to the negotiator were promptly communicated. The minister of this republic was informed officially that Mr. Jay was instructed not to weaken the engagements of the United States to France. Further information was neither to have been required or expected, indeed, that which was given furnished reason to suppose that one of the objects of the negotiation with Great Britain was a commercial treaty. Why, then, such unnecessary and unmerited sarcasms against a cautious and unoffending ally? Those objects which she pursued were such as an independent nation might legitimately pursue, and such as America never had dissembled, and never deemed it necessary to dissemble her wish to obtain. Why should an effort be made to impress France with an opinion, that Mr. Jay was not authorized to negotiate a commercial treaty with Britain, when the fixed opinion of America had ever been, that France could not be and ought not to be dissatisfied with the formation of such a treaty? Why should the minister of France have been informed officially, that Mr. Jay was especially instructed not to weaken the engagements of the United States to France, if it was intended to convince that minister, that his powers did not extend to subjects in any degree connected with those engagements? To what purpose should the Government of the United States have practised a deception deemed by itself totally unnecessary, and which its utmost efforts could not long continue? It requires an equal degree of folly and vice to practise an useless fraud which must inevitably and immediately be detected, and the detection of which must expose its authors to general infamy, as well as to the enmity of those on whom the fraud had been practised. These considerations ought to have produced some hesitation concerning the fact. The testimony in support of it ought to have been very positive and very unexceptionable before it received implicit faith. It should have been very clear that there was no mistake, no misunderstanding concerning the information communicated, before the charge was made in such terms as the minister of France has been pleased to employ: but the testimony is believed to be satisfactory, that the Government of the United States has not endeavoured to impress on France any opinion on this subject, which the fact of the case did not warrant. The declaration of Mr. Randolph, made July 8th, 1795, is full on this point. It is in these words: "I never could with truth have informed the French minister, that the mission, as set forth in the President's message to the Senate, contemplated only an adjustment of our complaints; if by this phrase it be intended to exclude commercial arrangements. I could have no reason for saying so, since the French republic could have had nothing to do with our commercial arrangements, if they did not derogate from her rights: it could have answered no purpose when so short a time would develop the contrary—I never did inform the French minister as is above stated.

"The only official conversation, which I recollect with Mr. Fauchet upon this subject, was when I communicated to him, with the President's permission, that Mr. Jay was instructed not to weaken our engagements to France: neither then nor at any other time in official, or unofficial conversation, did I ever say to him that nothing of a commercial nature was contemplated, or that nothing but the controversies under the old treaty and the spoliations were contemplated.

"Mr. Fauchet sometime ago said to me, that he understood from what I said, that Mr. Jay was not authorized to treat of commercial matters. I told him that he misunderstood me, no letter has ever passed upon this subject."

If, then, Mr. Randolph did give Mr. Fauchet the information contended for, it is plain that hen ever was authorized to do so; but the considerations already detailed render it infinitely more probable that Mr. Fauchet has misunderstood Mr. Randolph, than that Mr. Randolph has misinformed Mr. Fauchet.

The undersigned have taken, they trust, a correct view of the leading and influential measures adopted by the Government of the United States: they have endeavored to state with plainness and with candor the motives which have occasioned the adoption of those measures, and the operation they are believed to have. They have shown, that if America is to be reproached with partialities, irreconcileable with her neutral situation, it is not by France that those reproaches ought to be made. They have been induced to take this review by a hope, which they cannot relinquish without regret, that it may contribute to efface impressions which misrepresentation may have made, and to take from the intentions and conduct of the government they represent, that false coloring which unfriendly pencils have so profusely bestowed upon them. They are anxious still to cherish the hope, that by exposing frankly and sincerely the sentiments which have hitherto guided their nation, they may restore dispositions on the part of France, compatible with the continuance of those sentiments.

Complaints have been made that in the application in particular cases of those general principles, which the neutral station of the United States rendered indispensable, inconveniences and vexations which were unavoidable have been sometimes sustained. These complaints have been separately and fully discussed.

The undersigned persuade themselves that the explanations which have been given respecting them, if not entirely satisfactory, have yet been such as to prove the good faith and upright intentions which have never ceased to direct the conduct of the United States.

If, notwithstanding this good faith and the purity of these intentions, the difficulty of their situation has in any case produced even an involuntary departure from those principles by which they professed to be guided, they are ready to consider that case, and to repair any fault which may inadvertently have been committed. With these dispositions on their part, with this consciousness of having never ceased to merit the friendship and esteem of the French nation, with a conviction that a temperate and thorough view of the past cannot fail to remove prejudices

not warranted by facts, the United States have relied confidently on the justice of France for a discontinuance and reparation of those serious and heavy injuries, which have been accumulated on them.

Desirous of establishing, not the dependence of a weak on a powerful nation, but that real and cordial friendship, the willing and spontaneous offering of generous minds, which can only be lasting when evidenced to be mutual, and can only be preserved when bottomed on reciprocal justice, the undersigned will now represent with candor and frankness the well founded complaints with which they are charged.

These complaints consist:—

Of claims uncontroverted by the Government of France, but which remain unsatisfied, and

Of claims founded on captures and confiscations, the illegality of which has not yet been admitted.

In the first class of cases are arranged—

1stly, Those whose property has been seized under the decree of the National Convention of the 9th May, 1793.

2dly, Those who are entitled to compensation in consequence of the long detention of their vessels at Bordeaux in the years of 1793 and 1794.

3dly, The holders of bills and other evidences of debts due drawn by the colonial administrations in the West Indies.

4thly, Those whose cargoes have been appropriated to public use without receiving therefor adequate payment; and

5thly, Those who have supplied the Government under contract with its agents, which have not yet been complied with on the part of France.

These well founded claims of American citizens, thus originating in voluntary and important supplies, in the forcible seizure of valuable property, accompanied with promises of payment, and in injurious detentions, constitute a mass of debt which the justice and good faith of the French government cannot refuse to provide for, and which is too considerable to be unnoticed by that of the United States. The undersigned are instructed to solicit your attention to this subject, and they would persuade themselves that they do not solicit in vain. So many circumstances concur to give force to the application, that they leave it to your Government, in the confidence that no additional representations can be necessary.

They pass to complaints still more important for their amount, more interesting in their nature, and more serious in their consequences.

On the 14th Messidor, 4th year of the French republic, one and indivisible, (July 2d, 1796,) the Executive Directory decreed, "That all neutral or allied powers shall without delay be notified that the flag of the French republic will treat neutral vessels, either as to confiscation, as to searches or capture, in the same manner as they shall suffer the English to treat them." This decree, in any point of view in which it can be considered, could not fail to excite in the United States the most serious attention. It dispenses at once, as they conceive, with the most solemn obligations which compact can create, and consequently asserts a right on the part of France to recede at her discretion from any stipulations she may have entered into. It has been demonstrated that Governments may by contract change, as between themselves, the rules established by the law of nations, and that such contract becomes completely obligatory on the parties, though it can in no manner affect the rights of others; yet by this decree, allies with whom such stipulations exist, are to be treated without regard to such stipulations, in the same manner as they are treated by others, who are bound by a different rule. This as it respects the United States is the more unfriendly, because a readiness has been manifested on their part so to modify by consent their treaty with France, as to reinstate the rules established by the law of nations.

The general terms too, in which this decree is conceived, threatened but too certainly the mischiefs it has generated, and the abuses which have been practised under it. Neutrals are to be treated as they shall permit the English to treat them. No rule extracted from the practice of England is laid down, which might govern the cruisers of France, or instruct the vessels of neutrals. No principles are stated, manifesting the opinion entertained of the treatment received from England, which might enable a neutral to controvert that opinion, and to show that the English were not permitted to treat its flag as was supposed by the Government of France. To judge from the decree itself, from any information given concerning it, or from the practice under it, those who were to be benefited by its abuse were to decide in what manner it should be executed; and the cruiser who should fall in with a valuable vessel had only to consult his own rapacity, in order to determine whether an English privateer, meeting a vessel, under similar circumstances, would capture and bring her into port. Multiplied excesses, and accumulated vexations could not but have been apprehended from such a decree, and the fact has realized every fear that was entertained concerning it. It has been construed even in Europe to authorize the capture and condemnation of American vessels, for the single circumstance of their being destined for a British port. At no period of the war has Britain undertaken to exercise such a power. At no period of the war has she asserted such a right. It is a power which prostrates every principle of national sovereignty, and to which no nation can submit without relinquishing at the same time its best interests and sacrificing its dearests rights. This power has been exercised by France on the rich and unprotected commerce of an ally, on the presumption that that ally was sustaining the same injuries from Britain, at a time when it is believed that the depredations of that nation had ceased, and the principle of compensating for them had been recognized.

In the West Indies similar depredations have been experienced. On the 1st of August, 1796, the special agents of the Executive Directory to the Windward Islands, decreed, that all vessels loaded with contraband, should be seized and confiscated for the benefit of the captors.

On the 7th Frimaire, 5th year of the French republic, one and indivisible, (27th November, 1796) the commission, delegated by the French republic to the Leeward Islands, resolved, that the captains of French national vessels and privateers are authorized to stop and bring into the ports of the colony, American vessels bound to English ports, or coming from the said ports.

On the 19th Pluviose, 5th year of the French republic, one and indivisible, (February 1st, 1797) Victor Hugues and Lebas, the special agents of the Executive Directory to the Windward Islands, passed a decree, subjecting to capture and confiscation neutral vessels destined for the Windward and Leeward Islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are said to be, Martinico, St. Lucie, Tobago, Demarara, Berbice, Essequibo, Port-au-Prince, St. Mark's, L'Archaye, and Jeremie. The decree also subjects to capture all vessels which have cleared out for the West Indies *generally*.

The undersigned will not detain you, citizen minister, for the purpose of proving how directly and openly these decrees violate both the law of nations and the treaty between France and the United States.

They have been executed on the officers and crews of the captured vessels, in a manner by no means calculated to mitigate their rigor.

The decree of the 14th of Messidor was soon followed by another which has spared but little of the American commerce, except what has fortunately escaped the pursuit of the cruisers of France. On the 12th Ventose, 5th year, (2d March, 1797) the Executive Directory, considering the treaty of amity, commerce and navigation, concluded at London, the 19th of November, 1794, between the said United States and England, as containing concessions of privileges to Britain which, under the treaty of February, 1778, might be enjoyed by this republic also, proceeds to modify the treaty between France and the United States, by declaring enemies' goods, in American bottoms, liable to capture and confiscation; by enlarging the list of contraband, and by subjecting to punishment, as a pirate, any American citizen holding a commission given by the enemies of France, as well as every seaman of that nation, making a part of the crew of the enemies' ships. The decree next proceeds to exact from Americans, papers which had been made necessary to establish the neutrality of foreign vessels, generally, by the ordinance of the 26th of July, 1778, but which had never been considered as applying to the United States, which required papers their vessels could not be supposed to possess, and which the treaty between the two nations was supposed to have rendered unnecessary.

The basis taken by the Executive Directory, on which to rest their modification of the treaty of the 6th of February, 1778, is, that by the treaty of the 19th of November, 1794, *particular favors in respect of commerce and navigation have been granted to England.*

It has been demonstrated, that no particular favors, in respect of commerce or navigation, have been granted to England. That treaty has been shown only to recognize, regulate, and moderate the exercise of rights before possessed, and before openly acknowledged to be possessed—rights which France and America had reciprocally ceded to each other, without requiring, as a condition of the cession, that either should compel England to form a similar stipulation.

But to admit for a moment that the treaty with England might be considered as stipulating favors not before possessed, yet the American Government did not so understand that treaty, and had manifested a disposition to modify, by common consent, its relations with this republic, in such manner as to reinstate a rule, which has been voluntarily changed. It cannot but be sincerely regretted, because it seemed to indicate an unfriendly temper, that France has deemed it more eligible to establish by force, in opposition to her treaty, a principle which she deemed convenient, than to fix that principle on the fair basis of mutual and amicable agreement.

But the clause, under which these modifications are justified, is in these words: "The Most Christian King and the United States engage mutually, not to grant any particular favor to other nations, in respect of commerce and navigation, which shall not immediately become common to the other party, who shall enjoy the same favor freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional." If these stipulations unequivocally amounted to the grant of favors, still the grant is not gratuitous. The concessions on the part of the United States are made on condition of similar concessions on the part of Britain. If, therefore, France chooses to consider them as modifications of the treaty of 1778, she can only do it by granting the reciprocal condition: on this supposition, she has either of the rules at her election, but she cannot vary from the first without a compact on her part to grant the reciprocal stipulation. Such a compact is in the nature of a national treaty.

But the rules laid down in the decree of the 12th Ventose, 5th year (March 2, 1797) as founded on the 17th, 18th, and 21st articles of the treaty of the 19th November, 1794, are materially variant from those articles. To demonstrate this, it is only necessary to contrast the rules of the decree with the articles of the treaty on which those rules are said to be founded.

Articles of the treaty of the 19th of November, 1794, as quoted by the Directory.

ART. XVII. It is agreed, that in all cases where vessels shall be captured or detained *on just suspicion* of having on board enemies' property, or of carrying to the enemy any of the articles which are contraband of war, the said vessels shall be brought to the nearest or most convenient port, and *if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize*, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed, that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought for adjudication; and in the payment or recovery of any indemnification adjudged or agreed to be paid to the owners or masters of such ships.

Rules established by the arrêt of the Directory.

RULE I. According to the seventeenth article of the treaty of London, of the nineteenth of November, 1794, all merchandise of the enemy, or *merchandise not sufficiently proved to be neutral*, laden under the American flag, shall be confiscated, but the vessel on board of which it shall be found, shall be released and restored to the owner. It is enjoined on the commissaries of the Executive Directory, to accelerate, by all the means in their power, the decision of contests which shall arise either on the validity of the prize-cargo, or on the freight and demurrage.

According to the article, when *on just suspicion* of having on board enemy's property, or of carrying to the enemy contraband of war, a vessel shall be brought into port, that part *only which belongs to the enemy* shall be made prize, according to the article, then the fact whether the property does or does not belong to an enemy, is to be fairly tried. The party who would establish the fact, must prove it. The captor must show the *justice* of the suspicion on which the capture or detention was founded. The burthen of the proof rests on him. If in truth and in fact, the property does not belong to an enemy, or is not proved to belong to an enemy, it must be discharged. But the rule pursues a different course. The rule declares, that merchandise of the enemy, or *not sufficiently proved to be neutral*, ladened under the American flag, shall be confiscated. The burthen of the proof is shifted from the captor to the captured. The question to be tried is not solely whether the merchandise be in fact the property of an enemy, but also whether it be *sufficiently proved to be neutral.* The sufficiency of this proof is to be ascertained, not by general and satisfactory testimony, not by the great principles of truth, and the common understanding of mankind, but by the exhibition of certain papers demandable at the will of one of the parties, and not in the possession of the other. This may be a regulation which France chooses to establish; but certainly it is a regulation essentially variant from the article it professes to resemble.

ART. XVIII. In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or by sea—as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket rests, bandoliers, gunpowder, match, saltpetre, ball, pikes, swords, headpieces, cuirasses, halberds, lances, javelins, horse furniture, holsters, belts, and generally all other implements of war; as also timber for ship-building, tar, or rosin, copper in sheets, sails, hemp and cordage, and generally whatever may serve *directly to the equipment of vessels*, unwrought iron, and fir plank only excepted.

RULE II. According to the 18th article of the treaty of London, of the 19th of November, 1794, to the articles declared contraband by the 24th article of the treaty of the 6th of February, 1778, are added the following articles:

Timber for ship-building, pitch, tar, and rosin, copper in sheets, sails, hemp, and cordage, and every thing which serves *directly or indirectly* for the armament and equipment of vessels, unwrought iron and fir planks excepted. These several articles shall be confiscated whenever they shall be destined or attempted to be carried to the enemy.

The immense number of articles which may serve indirectly for the armament and equipment of vessels are made contraband by the rule of the Directory, though they are not so by the article it professes to cite.

ART. XXI. It is likewise agreed that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or State enemies to the party; nor shall the enemies of one of the parties be permitted to invite or endeavor to enlist in their military service any of the subjects or citizens of the other party; and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties, respectively, shall accept any foreign commission, or letters of marque, for arming any vessel to act as a privateer against the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission, or letters of marque, as a pirate.

RULE III. According to the 21st article of the treaty of London, of the 19th of November, 1794, every individual known to be an American, who shall hold a commission given by the enemies of France, as well as every seaman of that nation, making a part of the crew of enemies' ships, shall, by that act, be declared a pirate, and treated as such, without being allowed, in any case, to allege that he was forced to do it by violence, menaces, or otherwise.

The Government of the United States has never formed a treaty comprehending an article in any degree similar to this rule. It has never assented to such stipulations as they relate to its own citizens, or required them as they relate to those of other Powers. The difference between the article and the rule requires no comment. Nor will the rule be commented on. The undersigned will only observe that the article is by no means uncommon, but is to be found in most treaties of amity and commerce. The 21st article of the treaty with France; the 19th of the treaty with the United Provinces; the 23d of the treaty with Sweden; and the 20th article of the treaty with Prussia, contain similar stipulations. It is not easily to conceive a reason why it should not also be inserted in a treaty with England, or why its insertion should give offence to France.

But the fourth rule of the decree is, in its operation, the most extensive and the most seriously destructive. That rule declares that, "conformably to the law of the 14th of February, 1793, the regulations of the 21st of October, 1744, and of the 26th of July, 1778, concerning the manner of proving the property of neutral ships and merchandise, shall be executed according to their form and tenor.

"Every American ship shall, therefore, be a good prize which shall not have on board a list of the crew in proper form, such as is prescribed by the model annexed to the treaty of the 6th of February, 1778, the observance of which is required by the 25th and 27th articles of the same treaty."

This rule requires that American ships and merchandise, in order to prove the property to be American, shall exhibit certain papers, and especially a rôle d'équipage, which are required of neutrals generally by the particular marine ordinances of France, recited in the decree of the Directory. But France and America have entered into a solemn treaty, one object of which was to secure the vesels of either party, which might be at peace, from the cruisers of the other which might be engaged in war. To effect this object, the contracting parties have not referred each other to the particular statutes or ordinances of either Government, but have enumerated the papers which should be deemed sufficient. They have done more. They have prescribed the very form of the passport which should establish the neutrality of the vessel, and prevent her being diverted from her course. The 25th and 27th articles of the treaty between the two nations, which are quoted by the Directory, and are considered by the undersigned as conclusive on this subject, are in these words—

ART. XXV. "To the end that all manner of dissensions and quarrels may be avoided and prevented on the one side and on the other, it is agreed that, in case either of the parties hereto should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with sea-letters or passports, expressing the name, property, and bulk, of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the said ship really and truly belongs to the subjects of one of the parties, which passports shall be made out and granted according to the form annexed to this treaty; and they shall likewise be recalled every year, that is if the ship happens to return home in the space of a year. It is likewise agreed that such ships, being laden, are to be provided not only with passports, as above mentioned, but also with certificates containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound, that so it may be known whether any forbidden or contraband goods be on board the same; which certificates shall be made out by the officers of the place, whence the ship set sail, in the accustomed form; and if any one shall think it fit or advisable to express, in the said certificates, the person to whom the goods on board belong, he may freely do so."

ART. XXVII. "If the ships of the said subjects, people, or inhabitants, of either of the parties, shall be met with, either sailing along the coasts, or on the high seas, by any ship of war of the other, or by any privateers, the said ships of war or privateers, for the avoiding of any disorder, shall remain out of cannon shot, and may send their boats aboard the merchant ship, which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in this present treaty; and the ship, when she shall have showed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course."

It will be admitted that the two nations possess the power of agreeing that any paper in any form shall be the sole document, demandable by either from the other, to prove the property of a vessel and cargo. It will also be admitted that an agreement so made becomes the law of the parties, which must retain its obligation.

Examine then the words of the compact, and determine by fair construction what will satisfy them.

The 25th article states substantially the contents of a paper, which is termed a sea-letter or passport, and which "it is agreed that in case either of the parties should be engaged in war, the ships and vessels belonging to the subjects or people of the other ally must be furnished with." To what purpose are they to be furnished with this sea-letter or passport? The article answers, "To the end that all manner of dissension and quarrels may be avoided and prevented on one side and the other; "That it may appear thereby that the ship really and truly belongs to the subjects of one of the parties."

But how will the passport "prevent and avoid all manner of dissensions and quarrels on one side or the other," if ordinances, both prior and subsequent to the treaty, are to be understood as controlling it, and as requiring other papers not contemplated in the public agreement of the two nations? How is it to appear from the passport, "that the ship really and truly belongs to the subjects of one of the parties," if it is denied that the passport is evidence of that fact, and contended that other papers, not alluded to in the treaty, shall be adduced to prove it?

But the 27th article is still more explicit. It declares that when a merchant ship of one of the parties shall be visited by the ships of war or privateers of the other, "the commander of such ship or vessel shall exhibit his passport, concerning the property of the ship, made out according to the form inserted in the present treaty, and the ship, when she shall have showed such passport, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." What is it that shall prove the property of the vessel? The treaty answers, the passport. But the decree of the Directory requires in addition certain other papers, perfectly distinct from the passport. The treaty declares that "the ship, when she shall have showed" (not the rôle d'équipage, or any other paper, required by the particular ordinances of either nation, but) "such passports, shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course." Yet the vessels of America, after exhibiting "such passport," are not "free and at liberty to pursue their voyage;" they are "molested;" they are "chased;" they are "forced to quit their intended course;" they are captured and confiscated as hostile property.

It is alleged that the form of the passport, which is annexed to the treaty, manifests that certain acts were to be performed by the person to whom the passport is delivered, and that such person ought to prove the performance of those acts.

But the treaty, far from requiring such proof, absolutely dispenses with it. The treaty declares that the passport shall itself evidence the property of the vessel, and secure it from molestation of any sort. By consent of the parties then, the passport is evidence of all that either party can require from the other. Neither the right to give such consent, nor the obligation of a compact formed upon it, can, as is conceived, ever be denied, nor can the form of the passport, whatever it may be, change the compact.

But let the words of the model be examined. They are: "A tous ceux qui ces présentes verront: soit notoire que faculté et permission a été accordée à ——— maitre ou commandant du navire appellé ——— de la ville de ——— de la capacité de ——— tonneaux ou environ, se trouvant présentement dans le port de ——— qu'après que son navire a été visité, et avant son depart il prêtera serment entre les mains des officiers de la marine, que le dit navire appartient à un ou plusieurs sujets de ——— dont l'acte sera mis à la fin des présentes; de même qu'il gardera les ordonnances et réglemens maritimes, et remettra une liste signée et confirmée par témoins, contenant les noms et surnoms, les lieux de naissance, et la demeure des personnes composant l'équipage de son navire, et de

tous ceux qui embarqueront, lesquels il ne recevra pas à bord sans connoissance et permission des officiers de marine; et dans chaque port ou hâvre, il montrera la présente permission aux officiers et juges de marine."

It is material to observe that the model requires the oath concerning the property of the vessel to be annexed to the passport, but does not require any other certificate, or the annexation of any paper whatever. Why this difference? It is a solemn proof of that for which the article stipulates, and therefore the model expresses that the evidence of this fact shall be annexed, but it does not require the production of the evidence of any other fact.

It seems, then, to be demonstrated that the sea-letter or passport, a model of which is annexed to the treaty, is, by solemn agreement, to be received by each party as conclusive testimony, that the vessel producing such passport is the property of a citizen of the other, and is consequently to continue her voyage without molestation or hindrance.

But let it be supposed that the treaty on this subject was less conclusive, and that its stipulations had been ambiguously expressed; yet it is certain that it has been uniformly understood by both parties, as the undersigned have expounded it, and that neither France nor the United States, previous to the decree complained of, considered the vessels of either nation, producing the passport agreed on, as liable to capture for want of a rôle d'équipage.

For more than four years after her treaty with the United States France was engaged in a war with Britain, and in the course of that time it was never suggested that a rôle d'équipage was necessary for the protection of an American vessel. It does not weaken the argument that the United States were also parties to the war. The principle assumed is that, without the production of the papers required by the decree, the vessel does not appear to be, and cannot be considered as, American property. If this principle be correct, it would not cease to apply, because the United States were engaged in the war. Was America even engaged in the war on the part of France, a British vessel carrying American colors would not be secured by the flag she bore. It would be necessary to prove by her papers, or other admissible testimony, that the vessel was American property. If this fact cannot appear without a rôle d'équipage while the United States are at peace, neither could it appear without the same evidence if the United States were parties to the war.

About four years of the present war had also elapsed before this construction of the treaty, at the same time so wonderful and so ruinous, had disclosed itself. In the course of that time the ports of France were filled with the vessels of the United States. Very many of them sailed under contracts made for the Government itself by its minister in Philadelphia. No one of them possessed a rôle d'équipage; no one of them was considered on that account as being liable to condemnation. Indeed, in some instances, vessels have been captured and discharged although this paper was not among those belonging to the ship.

Such a long course of practice appears to have evidenced, unequivocally, the sense of France on this subject.

It is too apparent to be questioned for a moment, that, on the part of the United States, no suspicion had ever been entertained that such a paper could have been required. A rôle d'équipage could have been obtained with as much facility as that passport for which the treaty stipulates. Could it have been imagined that American vessels incurred the possible hazard of being retarded only one day in a voyage for want of such paper, it would, in every instance, have been supplied. No vessel would have sailed without it.

Your own mind, citizen minister, will suggest to you, with irresistible force, the extreme hardship of thus putting a new construction on a long existing contract, or of giving a new and unexpected extension to ancient municipal regulations, and of condemning thereby vessels taken on the high seas for want of a paper not known to be required, when they sailed out of port. If a rôle d'équipage was really considered by France as necessary evidence of any fact, the establishment of which was deemed essential, common usage, and those plain principles of justice which all nations should respect, indispensably require that the regulations should first be made known to a neutral and friendly nation by other means than by the capture and confiscation of its property. If this measure had been announced to the Government of the United States before it had been put in practice, and American vessels had sailed without a rôle d'équipage, they would have taken upon themselves the hazard of such a procedure. But in a moment when the ocean is covered with peaceful merchantmen, pursuing a just and lawful commerce, to bring into sudden operation a measure which had never before been applied to them, which had for so many years slept unheard of, and, by the force of this regulation, to confiscate unguarded property which had been trusted to the seas, under the faith of solemn and existing treaties, and without a conjecture that this, more than any other formula, would have been required, is to impose on unoffending individuals a ruin from which no wise precautions, no human foresight, could possibly have protected them.

On this subject, then, the undersigned appeal with confidence to the justice and equity of the French Government.

But could it be conceded for a moment that the Executive Directory might rightfully modify the treaty of France with the United States by that of the United States with Britain, and might rightfully require a rôle d'équipage in order to establish the neutrality of a vessel, for want of which the vessel might be confiscated, yet, the cargo being proved to be neutral, ought to be safe.

According to the law of nations the goods of an enemy found on board the ship of a friend are liable to capture, and the goods of a friend found on board the ship of an enemy are safe. The United States and France have consented to change this rule as between themselves. They have agreed that the goods of an enemy found on board the vessels of either party shall be safe, and that the goods of either found on board the vessel of an enemy shall be liable to capture. The one part of this rule is in consequence of and dependent on the other. The one part cannot on any principle of justice be abandoned while the other is maintained.

In their treaty with England the United States retain unchanged the principle of the law of nations. If France modifies her treaty in this respect by that of England, she ought to take the principle entire. If, in conformity to the treaty between the United States and England, France claims the right of taking enemy's property found on board an American ship, then, in conformity with that treaty, also, France ought to spare American property found on board an enemy's ship. If, therefore, this extraordinary position could be maintained, that an American ship without a rôle d'équipage becomes the ship of an enemy, still the cargo, being proved to be the property of a friend, ought, on the principle of modifying the treaty between the two nations with that of England, to have been restored to the owners.

The result of these regulations has been the most extensive and universal devastation of the American commerce. Not only vessels bound to and from the enemies of France, but vessels bound to and from her allies, and to and from her own ports, have been seized and confiscated.

The inevitable consequence has been, that direct commerce between the two nations is almost annihilated, and that the property of American citizens has been taken to a much larger amount than would have been possible in a state of actual war.

Yet the Government of the United States wishing, if it be possible, to avoid even defensive measures, has sought assiduously and unremittingly, though hitherto without success, for such peaceful and amicable explanations as might do away existing animosities, and restore between the two republics that harmony which it so truly desires.

America has accustomed herself to perceive in France only the ally and the friend. Consulting the feelings of her own bosom, she has believed that between republics an elevated and refined friendship could exist, and that free nations were capable of maintaining for each other a real and permanent affection. If this pleasing theory, erected with so much care, and viewed with so much delight, has been impaired by experience, yet the hope continues to be cherished that this circumstance does not necessarily involve the opposite extreme. It is believed that there exists no sufficient cause for solid and permanent enmity between France and the United States, but that, on the contrary, the interests of both would be promoted by that friendly intercourse which a reciprocal observance of the great and immutable principles of justice would certainly establish and can alone preserve. Under this impression America resists the opinion that the present state of things has grown out of a digested system to which France designs to adhere. She wishes, and she endeavors to persuade herself, that temporary causes, which too often produce effects a sound and just policy must reprobate, connected with a misconstruction of the conduct of her Government, as well as of the motives on which it has acted, may have occasioned those very serious aggressions of which she complains. She recedes, therefore, even under the pressure of these aggressions, slowly and with difficulty from the attachments she has formed. So intertwined with every ligament of her heart have been

the cords of affection which bound her to France, that only repeated and continued acts of hostility can tear them asunder.

The Government of the United States, therefore, still searches the means of terminating peacefully, and in a manner which ought to be mutually satisfactory, the calamities of the moment, and of averting the still greater calamities which may be reserved for the future. Not even the discouraging and unusual events which had preceded the present effort to negotiate, could deter that Government from repeating its endeavors for the preservation of amity and peace. Three citizens of the United States have been deputed as envoys extraordinary and ministers plenipotentiary to the French republic. Their instructions authorize and direct them to review the existing treaties between the two nations, and to remove, by all proper means, the inequalities which have grown out of the stipulations of those treaties, in consequence of the refusal of England to adopt the principles they contain. They are also directed to give fair and complete explanations of the conduct of the Government they represent; to state fully and truly the heavy injuries which their fellow-citizens have sustained; and to ask from the equity of a great and magnanimous republic that compensation for those injuries which, we flatter ourselves, their justice will not refuse, and their liberal policy will not hesitate to give.

Bringing with them the temper of their Government and country, searching only for the means of effecting the objects of their mission, they have permitted no personal considerations to influence their conduct, but have waited, under circumstances beyond measure embarrassing and unpleasant, with that respect which the American Government has so uniformly paid to that of France, for permission to lay before you, citizen minister, these important communications with which they have been charged.

Perceiving no probability of being allowed to enter, in the usual forms, on those discussions which might tend to restore harmony between the two republics, they have deemed it most advisable, even under the circumstances of informality which attend the measure, to address to your Government, through you, this candid review of the conduct, and this true representation of the sentiments and wishes, of the Government of the United States. They pray that it may be received in the temper with which it is written, and considered as an additional effort, growing out of a disposition common to the Government and people of America, to cultivate and restore, if it be possible, harmony between the two republics. If, citizen minister, there remains a hope that these desirable objects can be effected by any means which the United States have authorized, the undersigned will still solicit, and will still respectfully attend the development of those means.

If, on the contrary, no such hope remains, they have only to pray that their return to their own country may be facilitated; and they will leave France with the most deep-felt regret that neither the real and sincere friendship, which the Government of the United States has so uniformly and unequivocally displayed for this great republic, nor its continued efforts to demonstrate the purity of its conduct and intentions, can protect its citizens, or preserve them from the calamities which they have sought, by a just and upright conduct, to avert.

The undersigned pray you, citizen minister, to accept the assurances of their perfect respect and consideration.

CHARLES C. PINCKNEY,
J. MARSHALL,
E. GERRY.

PARIS, *Jan.* 27, 1798, *in the* 22*d year of American independence.*

Translated extract from the Bulletin des Lois, No. 178, printed at Paris, and enclosed with the quadruplicate of the Envoys' letter, No. 6.

Law relative to vessels laden with English merchandise, of the 29*th Nivose,* 6*th year,* (18*th Jan.* 1796.)

The council of ancients, adopting the reasons for the declaration of urgency, which precedes the resolution hereinafter contained, approves the act of urgency.

Here follows the tenor of the declaration of urgency, and of the resolution of the 22d Nivose, (11th January, 1798.)

The council of five hundred, after having heard the report of a special committee upon the message of the Executive Directory, of the 15th Nivose, (4th January) relative to English merchandise;

Considering that the interest of the republic demands the most prompt measures against all vessels which may be loaded therewith;

Declares that there is urgency.

The council, after having declared the urgency, resolves as follows:

ART. I. The character of vessels, relative to their quality of neuter or enemy, shall be determined by their cargo; in consequence, every vessel found at sea, loaded in whole or in part with merchandise the production of England or of her possessions, shall be declared good prize, whoever the owner of these goods or merchandise may be.

ART. II. Every foreign vessel which, in the course of her voyage, shall have entered into an English port, shall not be admitted into a port of the French republic, except in case of necessity; in which case she shall be bound to depart from the said port as soon as the causes of her entry shall have ceased.

ART. III. The present resolution shall be printed.

BOULAY, (of la Meurthe) *President.*
GUILLEMARDET, } *Secretaries.*
ROEMERS, }

After a second reading, the council of ancients APPROVES the above resolution. The 29th of Nivose, sixth year of the French republic (18th January, 1798.)

MARRAGON, *President.*
ET. LAVEAUX, }
KAUFFMANN, } *Secretaries.*
MENUAU, }
MERIC, }

The Executive Directory orders that the above law shall be printed, executed, and that it shall be sealed with the seal of the republic.

Done at the National Palace of the Executive Directory, the 29th Nivose, sixth year of the French republic, one and indivisible, (18th January, 1798.)

For a true copy: P. BARRAS, *President.*

By the Executive Directory: The Secretary General, LAGARDE.

And sealed with the seal of the republic.

5th CONGRESS.] No. 141. [2d SESSION.

GREAT BRITAIN.

COMMUNICATED TO THE SENATE, MAY 29, 1798.

UNITED STATES, *May 29th*, 1798.

Gentlemen of the Senate:

An article explanatory of the treaty of amity, commerce, and navigation, between the United States and His Britannic Majesty, has been signed by the plenipotentiaries of the two Powers, which I now submit to the Senate for their consideration.

JOHN ADAMS.

EXPLANATORY ARTICLE.

Whereas, by the twenty-eighth article of the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States, signed at London on the 19th November, 1794, it was agreed, that the contracting parties would, from time to time, readily treat of and concerning such further articles as might be proposed, that they would sincerely endeavor so to form such articles as that they might conduce to mutual convenience, and tend to promote mutual satisfaction and friendship, and that such articles, after having been duly ratified, should be added to, and make a part of that treaty: and whereas difficulties have arisen with respect to the execution of so much of the fifth article of the said treaty as requires that the commissioners appointed under the same should, in their description, *particularize* the latitude and longitude of the source of the river which may be found to be the one truly intended in the treaty of peace between His Britannic Majesty and the United States, under the name of the River St. Croix, by reason whereof it is expedient that the said commissioners should be released from the obligation of conforming to the provisions of the said article in this respect, the undersigned being respectively named by His Britannic Majesty and the United States of America, their plenipotentiaries, for the purpose of treating of, and concluding such articles as may be proper to be added to the said treaty, in conformity to the above mentioned stipulation, and having communicated to each other their respective full powers, have agreed and concluded, and do hereby declare, in the name of His Britannic Majesty, and of the United States of America, that the commissioners appointed under the fifth article of the said treaty shall not be obliged to particularize, in their description, the latitude and longitude of the source of the river which may be found to be the one truly intended in the aforesaid treaty of peace, under the name of the River St. Croix, but they shall be at liberty to describe the said river in such other manner as they may judge expedient, which description shall be considered as a complete execution of the duty required of the said commissioners, in this respect, by the article aforesaid. And, to the end that no uncertainty may hereafter exist on this subject, it is further agreed that, as soon as may be after the decision of the said commissioners, measures shall be concerted between the Government of the United States, and His Britannic Majesty's Governors or Lieutenant Governors in America, in order to erect and keep in repair, a suitable monument, at the place ascertained and described to be the source of the said River St. Croix, which measures shall, immediately thereupon, and as often afterwards as may be requisite, be duly executed on both sides, with punctuality and good faith.

This explanatory article, when the same shall have been ratified by His Majesty, and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to, and make a part of, the treaty of amity, commerce and navigation, between His Majesty and the United States, signed at London on the 19th day of November, 1794, and shall be permanently binding upon His Majesty and the United States.

In witness whereof, we the said undersigned plenipotentiaries of His Britannic Majesty and the United States of America have signed this present article, and have caused to be affixed thereto the seal of our arms. Done at London this fifteenth day of March, one thousand seven hundred and ninety-eight.

GRENVILLE, [SEAL.]
RUFUS KING. [SEAL.]

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*Mr. Pickering to Mr. King.**

DEPARTMENT OF STATE, *January 2d*, 1798.

SIR:

The commissioners for ascertaining the St. Croix boundary, under the fifth article of our commercial treaty with Great Britain, met a second time, in August last, at Boston, when the surveys of the two rivers in question not being completed, they again adjourned, to meet at Providence, in the State of Rhode Island, in June next.

Before this adjournment, they recommended an application, by the agents, to the respective Governments, to obtain an alteration in the fifth article to exempt them from the necessity of ascertaining the longitude and latitude of the *source* of the river which they shall find to be the St. Croix, intended in the treaty of peace. The application from James Sullivan, Esq. the agent of the United States, is in the following words:

"By the recommendation of the commissioners, the agents apply to their respective governments to procure, in the course of the ensuing winter, an additional article to the treaty of amity, commerce, &c. providing that the commissioners shall not be obliged to ascertain the longitude and latitude of the source of the river which may be found to be the one truly intended in the treaty of peace, under the name of the St. Croix, but that they may describe the local situation of that source, and designate it in some other way and manner, as shall appear to them most expedient."

His remarks, and the observations of the commissioners on this subject, you will find in the enclosed copy of his letters of the 20th August last. Mr. Webber and Mr. Wright, therein mentioned to have been appointed "to ascertain the latitude and longitude of the mouths of the rivers claimed by the respective Governments," have accomplished that service, as Mr. Sullivan advised me on the sixth of last month.

On consideration of the proposition of the commissioners, the President has concluded to authorize you to negotiate the additional article suggested, and your powers, for that purpose, are herewith transmitted. It will be desirable to have it done immediately, and ratified by His Britannic Majesty, that, on its arrival here, it may be laid before the Senate during the present session, and receive its final sanction from the President.

This adoption of the ideas of the commissioners is, for the *greater caution* to prevent, hereafter, the possibility of a doubt of the validity of the "declaration" of the commissioners, if they should omit to ascertain the latitude and longitude of the *source* of the St. Croix, by *astronomical observations;* for the fifth article does not explicitly require this mode of proceeding. The words are these: "The said commissioners shall, by a declaration under their hands and seals, decide what river is the River St. Croix, intended by the treaty. The said declaration shall

* Referred to in Mr. King's letter to Lord Grenville, page 185.

contain a description of the said river, and shall particularize the latitude and longitude of its mouth and its source." Now, as the latitude and longitude of the *mouth* of the St. Croix will be fixed by *astronomical observations*, and as the *course* of it, thence to its *source*, will be *ascertained* by *actual survey*, the *position* of that *source*, as to its *latitude* and *longitude*, would seem to be ascertained with adequate precision, and rendered capable of being particularized by the commissioners. If, besides, they give, agreeably to the article, "a description of the river" to its source, this source can, at any future time, be certainly found, as the point from which the line of boundary is to be drawn, "due north to the Highlands," according to the treaty of peace: and this would accomplish the object of the treaty. Nevertheless, if the British Government deem the proposed additional article to be necessary or expedient, (and it may be so to remove all scruples from the minds of the commissioners) you will negotiate the same accordingly.

I have the honor to be, &c.

TIMOTHY PICKERING.

Extract of a letter from Mr. King to the Secretary of State.

FEBRUARY 7, 1798.

"Concerning the St. Croix boundary, I send you copies of the papers that have passed between Lord Grenville and me. His lordship is in the country, and I shall not again hear from him before the sailing of the packet."

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE, *February* 2, 1798.

MY LORD:

I have the honor to send enclosed to your lordship a copy of my full powers on the part of the United States to agree to, and conclude, an additional article to our treaty of amity, commerce, and navigation, which shall leave the commissioners acting under the fifth article thereof, at liberty to ascertain and describe the true river St. Croix, without particularizing the latitude and longitude of the source of that river. I also take the liberty of sending enclosed a copy of a letter written by order of the commissioners to Colonel Pickering upon this subject.

It is desirable, if an additional article shall be concluded, that it should be done in season to be laid before the Senate of the United States in their present session. I shall be ready to confer with your Lordship upon this subject at any time that you will have the goodness to name.

With perfect consideration and respect, I have the honor to be,

My lord, your lordship's obedient and very humble servant,

RUFUS KING.

Right Hon. Lord GRENVILLE, &c.

Mr. Grenville to Mr. King.

DOWNING STREET, *February* 5, 1798.

SIR:

I have the honor to acknowledge the receipt of your letter of the 2d instant, on the subject of the article which the commissioners of the two countries, appointed under the fifth article of the late treaty, have recommended to be added to that treaty. His Majesty's ministers having already received a communication to the same effect through Lieutenant Governor Carleton, I had been honored with the King's commands for writing to His Majesty's minister in the United States on the subject; and I have the honor to enclose you a copy of the despatch which I wrote to him on the 9th of last month.

It seems to me that, both for the reason there stated of the greater facility of local information to be procured in America, and also in order to avoid the embarrassment which might result from any difference of detail in the agreement which might be concluded on this subject, here and in America, if the negotiation were to be carried on at the same time in both countries, it will be better to wait for the answer from Mr. Liston before we proceed to any conclusion. But if you see any reason for wishing a different course to be pursued, I shall very willingly accede to it, and in that case should request to know your ideas on the particulars mentioned in my despatch to that gentleman, the copy of which is herewith enclosed.

I have the honor to be, sir, your most obedient humble servant,

GRENVILLE.

RUFUS KING, Esq. &c.

Lord Grenville to Mr. Liston.

DOWNING STREET, *January 9th*, 1798.

SIR:

I send you enclosed copies of a despatch to the Duke of Portland from Lieutenant Governor Carleton, and of two letters from Mr. Chipman therein referred to.

With regard to the article which the last mentioned gentleman and the agent of the United States recommend to be added to the treaty of amity, commerce, and navigation, as explanatory of the fifth article, it does not appear advisable to conclude it exactly on the principles which the agents have suggested.

Those gentlemen, and the commissioners themselves, do not seem to have fully adverted to the extreme importance of ascertaining, with the utmost accuracy, the precise point which is to be called the source of that river, which shall be determined to be the river St. Croix intended by the treaty of peace; with a view to obviate the difficulties and disputes which might hereafter arise from the common case of many forks and branches, nearly of equal magnitude, which are usually found near the source or *head* of considerable rivers: and this is more particularly deserving attention, because, by the second article of the treaty of 1783, the northeastern boundary of the United States is described as commencing from the northwestern angle of Nova Scotia, viz. that "angle which is formed by a line drawn due north from the source of St. Croix river to the Highlands," &c. Any doubt, or uncertainty, as to the precise spot of that particular spring or river-head, which is to be considered as the real source of the river, would affect this important boundary not less essentially than the eastern one, which alone appears to have been the contemplation of the agents, at the period of their making the recommendation in question.

Those gentlemen, and the commissioners, being on the spot, are unquestionably best able to decide on the degree of accuracy which it is practicable to attain, in a matter of this nature; but its great importance cannot be too strongly stated. The difficulties alleged by them, as to the ascertainment of the latitude and longitude of the source by astronomical observation, are of considerable weight, particularly as any inaccuracy in the astronomical observations (such as are, perhaps, to be expected when made in a country so difficult of access, and where there are no ascertained points to refer to) would create, instead of removing, uncertainty and disputes.

It seems, therefore, right that the commissioners should be released from the obligation imposed upon them by the terms of the fifth article of the treaty, if the possibility of future doubt and dispute can be as effectually guarded against by any other mode of proceeding as by that which is prescribed in the article.

The course of proceeding which appears the least liable to objection, and the most conformable to the spirit of the treaty, would be that the latitude of the *mouth* of the rivers, which form the subject of the present controversy, should be ascertained with the utmost practicable accuracy, and by actual observation; that the surveys of the rivers should be prosecuted, by the persons employed in them, until they shall have ascertained the respective sources of the various springs and small branches in which the principal branch of each river terminates; and that these surveys shall be laid down on maps to be delivered to the commissioners; that the map of the river determined to be the real St. Croix should be annexed to the declaration of the commissioners, and that such declaration shall specify the longitude and latitude of the mouth, and shall describe which of the spring-heads, marked on the map, is to be considered as the source of the true river St. Croix, and that such declaration shall be considered as conclusive, and shall release the commissioners from the necessity of particularizing the longitude and latitude of the source of the river. In order, however, to avoid any dispute hereafter, the two Governments should further agree to proceed, without delay, to erect, at their joint expense, and at the place designated as the source of the true river St. Croix, a durable monument; (which, from the facility of finding the rough materials for such a building in those regions, it is presumed could be easily executed) and, in order to prevent its being defaced or destroyed, proper surveyors should be appointed, by the two Governments, to visit it, together, once in the course of every three years, and should direct the necessary repairs to be made at the joint expense of the two Governments.

It is His Majesty's pleasure, that you should submit these suggestions to the American ministers, and to Lieutenant Governor Carleton, (to whom a copy of this despatch will be forwarded by the first opportunity) and if no objections to them are offered, you will consider yourself authorized to conclude, in virtue of your general full powers, an additional article on these principles, which shall embrace the two objects of exonerating the commissioners from the necessity of a strict compliance with the letter of the article, and of providing a permanent and definite boundary between his Majesty's possessions and those of the United States. The mode of expressing this article, and the regulation of any details not inconsistent with the general objects herein before stated to you, are left to yourself, and to the American ministers; but it will certainly be desirable that nothing shall finally be concluded until after you shall have consulted Lieutenant Governor Carleton, and the commissioners and agents appointed under the fifth article of the treaty of amity, commerce, and navigation; who, being most conversant with the subject, are the best qualified to point out the most certain modes of precluding any further ambiguity.

I am, &c.

GRENVILLE.

ROBERT LISTON, Esq.

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE, *February* 5, 1798.

MY LORD:

I have had the honor to receive your lordship's letter of this date, concerning the St. Croix boundary; and, for the reasons that have occurred to your lordship, it also appears to me that it would be more advantageous that the additional article should be formed and concluded in America than here. The only motive of any importance in favor of the negotiation of the article here is the saving of time.

By the enclosed copy of a letter that I have received from Colonel Pickering* your lordship will observe that the latitude and longitude of the mouths of the two rivers have already been ascertained, and there is reason to expect that the surveys will also be completed before the meeting of the commissioners in June, when they might be able to finish their business if they shall have been freed from the necessity of ascertaining, experimentally, the latitude and longitude of the source of the true St. Croix.

If the article, for this purpose, is concluded and ratified here, and sent to Philadelphia, it may be ratified and exchanged there before June; the other course will require more time, and will not, I apprehend, allow the commissioners to finish the business at their next meeting.

With perfect consideration, I have the honor to be, your lordship's obedient and very humble servant,

RUFUS KING.

Rt. Hon. LORD GRENVILLE.

Mr. King to Mr. Pickering.

LONDON, *March* 15, 1798.

DEAR SIR:

As the wind is unfavorable for the sailing of the American ships from Spithead, I take the chance of overtaking them, by sending under cover to our consular agent at Portsmouth this letter, with the original explanatory article that I have concluded with Lord Grenville. We executed four copies; two of them with their original ratifications will be sent by Lord Grenville to Mr. Liston, with an instruction to exchange them with you, when the President shall have ratified the same on our part. I will send you a copy of Lord Grenville's powers by the next opportunity, there not being time to copy them in season for this.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

SECRETARY OF STATE, &c.

5th CONGRESS.] **No. 142.** [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, JUNE 5, 1798.

UNITED STATES, *June 5th*, 1798.

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

I now transmit to both Houses the communications from our envoys at Paris, received since the last, which have been presented by me to Congress.

JOHN ADAMS.

* See page 183.

PARIS, *March 9th*, 1798.

DEAR SIR:

Agreeably to what we represented to you in our No. 6, we prepared a letter to the Minister of Foreign Affairs, on the subject of the late law, authorizing the capture of neutral vessels, on board of which any productions of Great Britain or its possessions should be laden, showing how incompatible such law was with the rights of neutral nations and the treaty between France and America, its direct tendency to destroy the remaining commerce of our country, and the particular hardships to which it would subject the agricultural as well as commercial interests of our countrymen, from the peculiar situation of the United States. We added, that, under existing circumstances, we could no longer resist the conviction that the demands of France rendered it entirely impracticable to effect the objects of our mission; and that, not being permanent ministers, but envoys extraordinary, with full power for particular purposes, we deemed it improper to remain longer in France, after the impossibility of effecting those purposes had been demonstrated. Before, however, we took this measure, and explicitly demanded our passports, we deemed it expedient to desire Major Rutledge to call on Mr. Talleyrand, on the 19th ultimo, to know if he had any communication to make to us in consequence of our letter dated the 17th, and delivered the 31st of January. To this Mr. Talleyrand replied that he had no answer to make, as the Directory had not taken any order on the subject, and when they did, he would inform us of it. Still being anxious to hear explicitly from Mr. Talleyrand himself, before we sent our final letter, whether there were no means within our powers of accommodating our differences with France on just and reasonable grounds, we wrote to him on the 27th of February, soliciting a personal interview on the subject of our mission: he appointed the 2d of March following. You will find in the exhibit A, herewith enclosed, what passed on that occasion. On the 4th instant, we requested another interview. We have detailed, in the latter part of the same exhibit, for your information, the substance of that conversation. From these accounts, you may observe that the views of France, with regard to us, are not essentially changed since our communications with its unofficial agents in October last.

We have the honor to be, with the greatest respect, your most obedient humble servants,

CHARLES COTESWORTH PINCKNEY,
J. MARSHALL,
E. GERRY.

Col. PICKERING, *Secretary of the United States.*

A.

MARCH 2.

At three o'clock we waited on Mr. Talleyrand, and were almost immediately introduced to him. General Pinckney commenced the conversation, by saying that our Government and ourselves were extremely anxious to remove the subsisting difference between the two republics; that we had received many propositions through Mr. Y. to which we had found it impracticable to accede; and that we had now waited on him for the purpose of inquiring whether other means might not be devised which would effect so desirable an object. The minister replied, that, without doubt, the Directory wished very sincerely, on our arrival, to see a solid friendship established between France and the United States, and had manifested this disposition by the readiness with which orders for our passports were given; that the Directory had been extremely wounded by the last speech of General Washington, made to Congress when about to quit the office of President of the United States, and by the first and last speech of Mr. Adams; that explanations of these speeches were expected and required of us. General Pinckney expressed his surprise that the speech of General Washington was complained of, and said this was a new complaint. Mr. Talleyrand merely observed that the Directory was wounded at it, and proceeded. He said that the original favorable disposition of the Directory had been a good deal altered by the coldness and distance which we had observed; that, instead of seeing him often, and endeavoring to remove the obstacles to a mutual approach, we had not once waited on him. General Pinckney observed that, when we delivered him our letters of credence, he informed us that the Directory, in a few days, would decide concerning us; and that when the decision was made he would communicate it to us; that this had, for some time, suspended any procedure on our part. He answered that this related only to our public character, and not to private visits. General Pinckney said that, on an application made by his secretary for a passport for an American under his care, he was told that he must apply to the office of police, for that America had no minister in France since the recall of Mr. Monroe. The minister said that was very true, and then proceeded to say that the Directory felt itself wounded by the different speeches of Mr. Washington and Mr. Adams, which he had stated, and would require some proof, on the part of the United States, of a friendly disposition, previous to a treaty with us. He then said that we ought to search for and propose some means which might furnish this proof; that if we were disposed to furnish it there could be no difficulty in finding it; and he alluded very intelligibly to a loan. He said he had had several conferences with Mr. Gerry on this subject, who had always answered that we had no power. Mr. Gerry said that he had stated other objections; that he had particularly urged that it would involve us in a war with Great Britain. He made no reply: and General Pinckney observed that a loan had repeatedly been suggested to us, but that we had uniformly answered that it exceeded our powers. Mr. Talleyrand replied that persons at such a distance as we were from our Government, and possessed as we were of the public confidence, must often use their discretion, and exceed their powers for the public good; that there was a material difference between acting when instructions were silent, and doing what was particularly forbidden; that if, indeed, a loan was positively forbidden, we might consider ourselves as incapable of making one: but if, as he supposed was the case, (he looked the question) our instructions were only silent, that it must be referred to us to act in a case not provided for, according to the best of our judgment for the public good; that, in almost all the treaties made during the Revolution, the negotiators had exceeded their powers, although the Government appointing them was at no considerable distance. He particularized the treaty with Prussia and several others. General Pinckney told him that our powers did not extend to a loan, and perhaps might forbid it. The minister still urged the difference between an express prohibition and mere silence. He then proceeded to state that the principal objection on the part of our Government to a loan must be, that it would draw us out of the neutral situation in which we wished to continue; that there were various means of evading this: first, the secrecy of France, which might be relied on; and secondly, means of disguising the loan might be devised, which would effectually prevent its being considered as an aid during the present war; that if we were truly and sincerely desirous of effecting the thing, we should experience no difficulty in finding the means. He again stated a proposition of this sort, on our part, as being absolutely necessary to prove that the Government was not about entering into a treaty with persons of a temper hostile to it. Mr. Gerry not well hearing Mr. Talleyrand, who spoke low, asked him to explain himself with respect to the proposition which he had alluded to, supposing it to be a new one: and he answered that one of them was secrecy; but that there were, besides, various ways which might easily be suggested to cover the loan, as an immediate one, by limiting the time of advancing it to distant instalments. Mr. Gerry observed that Dutrimond had suggested that a loan was proposed to be made, payable after the war, and in supplies to St. Domingo. Mr. Talleyrand signified that that might be one of the means used, and said that, if we were only sincere in our wish, it would be easy to bring about the end. General Marshall told Mr. Talleyrand that if the ministers of the United States had manifested any unwillingness to take all proper measures to reconcile the two republics, or any indifference on the subject, they had very badly represented the feelings and wishes of their Government; that the Government of the United States was most sincerely desirous of preserving the friendship of France, and had, in his opinion, unequivocally manifested that desire, by having deputed us under the extraordinary circumstances attending our mission, and by having so long patiently borne the immense loss of property which had been sustained; that we had endeavored, according to the best of our judgment, to represent truly this disposition of our Government: but that we understood that France would consider nothing as an evidence of friendship but an act which would transcend and violate our powers, and

at the same time operate the most serious injury to our country; that neutrality, in the present war, was of the last importance to the United States, and they had resolved faithfully to maintain it; that they had committed no act voluntarily which was a breach of it, and could do nothing in secret, which, if known, would justly arrange them among the belligerent Powers; that, in the present state of things, if America was actually leagued with France in the war, she would only be required to furnish money; that we had neither ships of war nor men to be employed in it, and could, consequently, as a belligerent Power, only be asked for money; that, therefore, to furnish money was, in fact, to make war, which we could by no means consent to do, and which would absolutely transcend our powers, being an act altogether without the view and contemplation of our Government when our mission was decided on; that, with respect to supplies to St. Domingo, no doubt could be entertained that our merchants would furnish them very abundantly, if France would permit the commerce; and a loan, really payable after the close of the war, might then be negotiated. Mr. Talleyrand again marked the distinction between silence of instructions and an express prohibition, and again insisted on the necessity of our proving, by some means which we must offer, our friendship for the republic. He said he must exact from us, on the part of his Government, some proposition of this sort; that, to prove our friendship, there must be some immediate aid, or something which might avail them; that the principles of reciprocity would require it. General Pinckney and General Marshall understood him, by this expression, to allude to the loan formerly made by France to the United States. Mr. Gerry, at the time, thought he alluded to the treaty to be made, and said all treaties should be founded in reciprocity, and then asked him whether a loan was the ultimatum of this Government. Mr. Talleyrand did not give a direct answer to the question: he said, as he was understood, that the Government insisted on some act which would demonstrate our friendly disposition towards, and our good wishes for, the republic; this once done, he said the adjustment of complaints would be easy: that would be matter of inquiry; and if France had done us wrong, it would be repaired: but that if this was refused, it would increase the distance and coldness between the two republics. The conversation continued in this style until four o'clock, when we took our leave, and agreed to meet in the evening.

In the course of it, and in reply to some observations of Mr. Talleyrand respecting the proofs of friendship required by France, General Pinckney observed that our being here was a mark of the friendly disposition of our Government, and that while we were here, the Government had passed a decree for seizing neutral vessels having on board any article coming out of England; which, in its operation, would subject to capture all our property on the ocean. Mr. Talleyrand replied that this was not particular to us, but was common to all the neutral Powers. At another time, in answer to his demand of some mark of our friendship, General Marshall observed that we considered the mutual interests of the two nations as requiring peace and friendship, and we relied on finding sufficient motives in the interest of France to preserve that friendship, without forcing us to an act which transcended our powers, and would be so injurious to our country. As we were taking our leave, Mr. Talleyrand again noticed our not visiting him, and said that he conceived our not having had an audience from the Directory ought not to have prevented it. General Marshall told him that our seeing the Directory or not, was an object of no sort of concern to us; that we were perfectly indifferent with regard to it; but that we conceived that until our public character was in some degree recognized, and we were treated as the ministers and representatives of our Government, we could not take upon ourselves to act as ministers, because, by doing so, we might subject ourselves to some injurious circumstance to which we could not submit. He said that was very true, but that we might see him as private individuals, and discuss the objects of difference between us.

We requested of Mr. Talleyrand another interview, at such hour as might be convenient to him, on the 6th instant. He answered that he would receive us at half past eleven: at which hour we attended him.

Immediately after our arrival at his office we were introduced to the minister, and General Pinckney stated that we had considered, with the most serious attention, the conversation we had had the honor of holding with him a few days past; that the propositions he had suggested appeared to us to be substantially the same with those which had been made by Mr. X. by Mr. Y. and also to Mr. Gerry, with an intention that they should be communicated to his colleagues; that we considered it as a proposition that the United States should furnish aid to France, to be used during the present war; that, though it was unusual to disclose instructions, yet we would declare to him that, in addition to its being a measure amounting to a declaration of war against Great Britain, we were expressly forbidden by our instructions to take such a step.

The minister said, in the tone of a question, he supposed our instructions were to do nothing which would amount to a departure from our neutrality.

General Pinckney said that we were so instructed, and that they were still more particular. Mr. Talleyrand then proceeded to argue that it would be no departure from neutrality to stipulate a loan payable after the war, and spoke of it clearly as admitting of application to immediate use. He said a good deal of the secrecy with which the transaction might be clothed, and observed, further, that a loan payable after the war would be a proof of our faithful observance of the duties of neutrality, since it would be considered as proving that we had rejected propositions for an immediate loan. General Marshall replied, that we thought differently; that, in our opinion, any act on the part of the American Government, on which one of the belligerent Powers could raise money for immediate use, would be furnishing aid to that Power, and would be taking part in the war. It would be, in fact, to take the only part which, in the existing state of things, America could take. This was our deliberate opinion; and, in addition to it, we considered our instructions as conclusive on this point.

He observed that we had claims on the French Government for property taken from American citizens. Some of those claims were probably just. He asked, if they were acknowledged by France, whether we could not give a credit as for the payment: say for two years? We answered that we could. He then insisted that it was precisely the same thing; that by such an act we should consent to leave in the hands of France funds to which our citizens were entitled, and which might be used in the prosecution of the war. General Pinckney said there was a difference between the cases; that such prizes were now actually in the power of the French, without our consent; we could not prevent it or get them out; but the granting or not granting a loan was in our own power. He repeated his observation, and General Marshall said that the property for which money was due to American citizens from the French Government, was taken into the possession of that Government without any co-operation on the part of the United States. No act of any sort was performed by our Government which, in any degree, contributed to place those funds in the hands of France, nor was there any consent towards it; but in the case proposed, the act would be the act of the Government; the Government would itself place funds in the hands of France, and thereby furnish means which might be employed in the prosecution of the war. This was the distinction between the cases, and, in a question of neutrality, it appeared to us to be all important. The minister then proceeded to state the case of our assuming the debt of our citizens, and of paying the money in that manner; but General Pinckney and Mr. Gerry told him we were positively forbidden to assume the debt to our own citizens, even if we were to pay the money directly to them. He seemed surprised at this. General Pinckney observed that, contrary to usage, we had deemed it proper, in the existing state of things, to state candidly our powers to him, that he might know certainly that we could not secretly, or under any disguise whatever, make a loan which might be used during the war. Mr. Talleyrand said he must resume his position that there was a difference, which he must insist upon, between a loan payable immediately and a loan payable in future; and he still insisted there was no difference between a loan payable in future and a credit for the money which might be due to our citizens. Mr. Gerry observed that his colleagues had justly stated the distinction between the debt which will be due to the citizens of the United States from France, in case of her recognising the claims which we shall make in their behalf, and a debt which might arise from a loan by the Government of the United States to that of France during the war. The one is the result of an arrest of their property without their consent; the other would be a voluntary act of the Government of the United States, and a breach of their neutrality. There is an additional objection to the latter; if the United States should make such a loan, it would give too much reason to suppose that their Government had consented, in a collusive manner, to the capture of the vessels of their citizens, and had thus been furnishing France with supplies to carry on the war. Our instructions are express not to stipulate for any aids to France, either directly or indirectly, during the war. With respect to a secret stipulation, a loan cannot be made without an act of the Legislature; but if the

Executive were adequate to it, we have had an instance of an injunction of secrecy on members of the Senate, on an important subject, which one of the members thought himself warranted in publishing in the newspapers, and of frequent instances of secrets which have otherwise escaped; secrecy, in this instance, might therefore be considered, if the measure was in itself admissible, as being impracticable. General Marshall observed that we had considered the subject with great solicitude, and were decidedly of opinion that we could not, under any form, make a loan which could be used during the war; that we could not tell what our Government would do if on the spot, but were perfectly clear that, without additional orders, we could not do what France requested. Mr. Gerry observed that the Government and nation of the United States, as well as ourselves, were earnestly solicitous to restore friendship between the two republics; that, as General Marshall had stated, we could not say what our Government would do if on the spot; but if this proposition met the wishes of the Government of France, General Marshall and himself had agreed immediately to embark for the United States, and lay before our Government the existing state of things here, as it respected our nation, to enable them to determine whether any, and what, other measures on their part were necessary. M. Talleyrand made no observation on this proposition, but inquired whether we expected soon to receive orders. Mr. Gerry mentioned an answer he had received to a letter sent by him in November; and General Marshall stated that our first despatches were sent on board two vessels at Amsterdam, on the 28th of November, from which Mr. Talleyrand could form as just an idea as we could, when an answer might be expected; but he did not think it probable one would arrive before a month to come. General Marshall told him we knew that our Government had not received our despatches on the 8th of January, and we could not tell when they might be received. He asked whether our intelligence came through England? General Marshall answered that it did not; and General Pinckney said that American papers as late as the 8th of January mentioned the fact.

There was some conversation about the time when these instructions might be expected, and General Marshall suggested a doubt whether our Government might give any instructions. He asked, with some surprise, whether we had not written for instructions? and we answered that we had not; and Mr. Gerry said that we had stated facts to our Government, and conceived that nothing more was necessary. General Pinckney observed that the Government, knowing the facts, would do what was proper, and that our applying or not applying for instructions would not alter their conduct. Mr. Talleyrand then inquired whether we had not sent any one to the United States. General Pinckney said no; and Mr. Gerry added that, soon after our arrival we had made propositions to send one of our number, which were not accepted. And General Marshall further added, that those who had communicated with us had told us we should be ordered out of France immediately; and we had supposed that we should be ordered out before our letters could reach the Government. Mr. Gerry then observed that the Government of France must judge for itself; but that it appeared to him that a treaty on liberal principles, such as those on which the treaty of commerce between the two nations was first established, would be infinitely more advantageous to France than the trifling advantages she could derive from a loan. Such a treaty would produce a friendship and attachment on the part of the United States to France, which would be solid and permanent, and produce benefits far superior to those of a loan, if we had powers to make it. To this observation Mr. Talleyrand made no reply. We parted without any sentiment delivered by the minister on the subject of our going home to consult our Government.

As we were taking our leave of Mr. Talleyrand, we told him that two of us would return immediately, to receive the instructions of our Government, if that would be agreeable to the Directory; if it was not, we would wait some time, in the expectation of receiving instructions.

5th CONGRESS.] No. 143. [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, JUNE 18, 1798.

UNITED STATES, *June* 18, 1798.

Gentlemen of the Senate
and Gentlemen of the House of Representatives:

I now transmit to Congress the despatch, No. 8, from our envoys extraordinary to the French republic, which was received at the Secretary of State's office on Thursday, the 14th day of this month.

JOHN ADAMS.

No. 8.

PARIS, *April* 3, 1798.

DEAR SIR:

We herewith transmit you a copy of the letter written to us by the Minister of Foreign Affairs, dated the 28th Ventose, (18th March) and purporting to be an answer to our memorial of the 17th of January.

We also send you in this enclosure a copy of our reply, which has been presented this morning. As soon as we certainly know what steps the French Government mean to pursue in consequence of this reply, you shall be informed of them. We remain, &c.

CHARLES COTESWORTH PINCKNEY.
J. MARSHALL,
E. GERRY.

Colonel PICKERING, *Secretary of the United States.*

The Minister of Foreign Relations of the French republic to Messrs. Charles Cotesworth Pinckney, J. Marshall, and E. Gerry.

The undersigned, Minister of Foreign Relations of the French republic, has laid before the Executive Directory the memorial which the commissioners and envoys extraordinary of the United States of America have transmitted to him, under the date of 28th Nivose last, (17th January, 1798) and it is in execution of the intentions of the Directory, which desires to convince the United States of the true dispositions which animate it with respect to them, that the undersigned communicates to the commissioners and envoys extraordinary the following observations:

The first thing which must excite attention, in the memorial of the commissioners and envoys extraordinary, is the method which they have thought proper to pursue in the exposition, and in the discussion of the points which

are in dispute between the two States. The Executive Directory, animated with dispositions the most conciliatory, and penetrated with the interests which should draw the two nations together, as well as eager to concur in the well known wish of the two people to maintain a perfect intimacy, had reason to expect that the envoys would have brought, in the name of their Government, dispositions entirely similar, and a temper previously prepared by the same views and the same desires. What must be, after this, the surprise of the Executive Directory, when the undersigned rendered it an account of a memorial in which the Commissioners and Envoys Extraordinary, reversing the known order of facts, have aimed to pass over, as it were in silence, the just motives of complaint of the French Government, and to disguise the true cause of the misunderstanding which is prolonged between the two republics! So that it would appear, from that exposition, as partial as unfaithful, that the French republic has no real grievance to substantiate, no legitimate reparation to demand, whilst the United States should alone have a right to complain—should alone be entitled to claim satisfaction.

The designs which have induced a preference of this course to every other have not escaped the Executive Directory; and it is as well from a just sentiment of the dignity of the republic, whose interests are confided to it, as to provide eventually against the views which may be contemplated by such conduct, that it has charged the undersigned to dispel these empty appearances, which indeed cannot exist when facts shall be re-established, and the true intentions of the Directory shall be solemnly made to appear, in opposition to those which can be attributed to it only gratuitously, and by taking advantage of its silence.

An incontestable truth, and one which has been entirely passed over in the memorial of the commissioners and envoys extraordinary, is, that the priority of grievances and complaints belonged to the French republic; that these complaints and these grievances were as real as numerous, long before the United States had the least grounded claim to make, and, consequently, before all the facts, on which the envoys rest with so many details, had existed.

Another truth, not less incontestable, is, that all the grievances which the commissioners and envoys extraordinary exhibit, with the exceptions which the undersigned was ready to discuss, are a necessary consequence of the measures which the prior conduct of the United States had justified on the part of the French republic, and which its treaties with the said United States authorized in certain cases, which it depended upon the General Government of the Union to create or not to create.

It would be foreign to the purpose to enter into an enumeration of the complaints which the French Government had room to make against the Federal Government, since the commencement of the war, excited against the French republic by a power jealous of its prosperity and its regeneration. These details are contained in the numerous official communications, made at Philadelphia by the ministers of the republic, and have been recapitulated by the predecessor of the undersigned in a note addressed, under the date of 19th Ventose, in the 4th year, (9th March, 1796) to the minister plenipotentiary of the United States at Paris, and very particularly detailed in the official note of citizen Adet, dated at Philadelphia, on the 25th Brumaire, in the 5th year, (15th November, 1796.) Complaint was made in the above note of the inexecution of the treaties concluded in 1778, in the only clauses in which France had stipulated some advantages, in return for the efforts which she engaged to make for the common benefit, and against the insults offered to the dignity of the French republic.

In fact, from the commencement of the war the American tribunals have claimed the right to take cognizance of the validity of prizes, carried into the ports of the United States by French cruisers. It has resulted from this pretension, contrary to the letter of the treaty of commerce of 1778, that the property of citizens of the republic has been unjustly detained, and that French cruising has been totally discouraged in the American seas, against an enemy who revived the most barbarous laws of that mode of warfare, to destroy and insult the American commerce, even under the eyes of the Federal Government.

That Government did not confine itself to favor the enemies of the French republic in a point so essential, a point on which, in truth, some abuses might arise, but which the French Government manifested itself disposed to prevent; it even went so far as to permit enemy's vessels, contrary to the literal meaning of the above treaty, to put into the ports of the United States, after having captured *the property or ships belonging to French citizens*. Soon afterwards a national corvette, at anchor in the port of Philadelphia,* was seized by order of the Government, and this arrest was afterwards extended even to her commander. The American tribunals, in like manner, arrested the person of the ex-Governor of Guadaloupe, for acts of his administration; and it was necessary that the Executive Directory should threaten to make reprisals, to put this affair in the course prescribed by the law of nations.

During the whole space of time which has been just reviewed, the French Government made fruitless efforts to induce the Government of the United States to procure, for the agents of the republic, the legal means of carrying into effect the clauses of the consular convention of 1788, which granted to our navigation and commerce privileges, whose principle was consecrated by the treaties of 1778; and nothing could ever be obtained, in this respect, but fruitless references to the tribunals. In general, all matters which, with intentions sincerely conciliatory, should have been terminated by means of negotiation, were habitually referred to the judicial authorities; and these, whether they were or were not subject to a secret influence, in the end either deprived the republic of rights founded upon treaties, or modified their exercise as suited the system of the Government.

Such was the true state of things in the month of August, 1795, the period when the ratification of the treaty of amity, navigation, and commerce, signed at London in the month of November preceding, between the United States and Great Britain, filled the measure of the grievances of the republic.

What had been, until then, the conduct of the French Government towards the United States? The undersigned, in order to contrast it with that of the said States, will content himself with recalling facts, which cannot, however, have been forgotten.

Occupied with the most pressing cares in Europe, the republic did not direct her attention to the United States; but, in order constantly to give them new proofs of the most sincere friendship and interest, and she left it to her agents, amicably to discuss with the Federal Government the controversies which have just been sketched, and which, had they been handled on both sides in the true spirit of conciliation, could not have altered their good understanding to the present degree. The republic was hardly constituted, when a minister was sent to Philadelphia, whose first act was to declare to the United States that they would not be pressed to execute the defensive causes of the treaty of alliance, although the circumstances, in the least equivocal manner, exhibited the *casus fœderis*. Far from appreciating this conduct, the American Government received it as the acknowledgment of a right; and it is in this spirit, also, that the commissioners and envoys extraordinary have met this question in the beginning of their memorial. The minister of the republic at Philadelphia, having given uneasiness to the American Government, was readily recalled, even with circumstances of extreme rigor. His successor carried to the United States every desirable reparation, as well as declarations the most friendly and sincere.

Nothing equals the spirit of conciliation, or rather of condescension, in which his instructions were drawn, relatively to all the points which caused any uneasiness in the Federal Government. The citizen Adet again enforced, in the name of the National Convention, those expressions of good will; and that assembly itself received, with the effusion of an unbounded confidence and security, the new minister, whom the President of the United States sent to it, with the apparent intention of sincerely corresponding with the dispositions which the republic had not ceased to profess.

What might appear incredible is, that the republic, and her alliance, were sacrificed at the moment when she thus redoubled her regards for her ally; and that the corresponding demonstrations of the Federal Government had no other object but to keep her, as well as her Government, in a false security. And yet it is now known that, at this very period, Mr. Jay, who had been sent to London solely, as it was then said, to negotiate arrangements relative to the depredations committed upon the American commerce by the cruisers of Great Britain, signed a treaty of amity, navigation, and commerce, the negotiating and signing of which had been kept a profound secret at Paris and at Philadelphia. This treaty was avowed to our minister plenipotentiary only at the last extremity; and it was communicated to him only for form's sake, and after it had received the ratification of the Senate. When the

* Seizure of the Cassius, in August, 1795.

agents of the republic complained of this mysterious conduct, they were answered by an appeal to the independence of the United States, solemnly sanctioned in the treaties of 1778—a strange manner of contesting a grievance, the reality of which was demonstrated by the dissimulation to which recourse was had—an insidious subterfuge, which substitutes for the true point of the question a general principle, which the republic cannot be supposed to dispute, and which destroys, by the aid of a sophism, that intimate confidence which ought to exist between two allies, and which, above all, ought to exist between the French republic and the United States.

If it be difficult to find in this conduct what ought to be expected from a friend, what must be thought of the treaty itself, and of its provisions? This treaty is now known to all Europe: and the small majority by which it passed the two Houses, as well as the multitude of imposing wishes which were expressed by the nation against such an act, bear honorable testimony in favor of the opinion which the French Government has adopted concerning it. The undersigned will not repeat, with respect to this treaty, what his predecessor has said of it in his note of the 19th Ventose, before cited, and in that of the 19th Messidor following, nor what the minister plenipotentiary of the republic at Philadelphia has set forth, at great length, in his official note of the 25th Brumaire. He will content himself with observing, summarily, that, in this treaty, every thing having been calculated to turn the neutrality of the United States to the disadvantage of the French republic, and to the advantage of England; that the Federal Government having in this act made to Great Britain concessions, the most unheard of; the most incompatible with the interests of the United States; the most derogatory to the alliance which subsisted between the said States and the French republic; the latter was perfectly free, in order to avoid the inconveniences of the treaty of London, to avail itself of the preservative means with which the law of nature, the law of nations, and prior treaties, furnished it.

Such are the reasons which have produced the decrees of the Directory, of which the United States complain, as well as the conduct of its agents to the West Indies. All these measures are founded on the 2d article of the treaty of 1778, which requires that, in matters of navigation and commerce, France should always be, with respect to the United States, on the footing of the most favored nation. The Executive Directory cannot be arraigned, if, from the execution of this eventual clause, some inconveniences have resulted to the American flag. As to the abuses which may have sprung from that principle, the undersigned again repeats that he was ready to discuss them in the most friendly manner.

From this faithful exposition of facts, which have progressively led to the present misunderstanding between the two States, it results, as the undersigned has said in the beginning of this answer, that the priority of grievances belongs to the French republic; and that such of its measures as may have occasioned the complaints of the United States, are, with some exceptions, the natural consequence of a state of things, which it depended upon them to create or not create.

If the undersigned should terminate the exposition of the grievances of the republic with the treaty of London, he would imperfectly fulfil his task; it is his duty to carry his views further. From the moment that the treaty in question was put into execution, the Government of the United States seemed to think itself freed from the necessity of keeping any measures with the republic: notwithstanding the reiterated assurance which had been given to its ministers, that the treaty would in no respect change the pre-existing state of neutrality of the United States, notice was given in the course of the year 1796 to the French cruisers, that they could no longer, as had been until then practised, be permitted to sell their prizes in the ports of the United States. This decision was rendered by the Federal court of justice, and founded upon the treaty between the United States and Great Britain.

The newspapers, known to be under the indirect control of the cabinet, have since the treaty redoubled the invectives and calumnies against the republic and against her principles, her magistrates, and her envoys. Pamphlets, openly paid for by the minister of Great Britain, have re-produced, in every form, those insults and calumnies, without a state of things so scandalous having ever attracted the attention of the Government, which might have repressed it. On the contrary, the Government itself was intent upon encouraging this scandal in its public acts. The Executive Directory has seen itself denounced in a speech delivered by the President in the course of the month of May last (O. S.) as endeavoring to propagate anarchy and division within the United States. The new allies which the republic has acquired, and who are the same that contributed to the independence of the Americans, have been equally insulted in the official correspondences which have been made public, or in the newspapers. In fine, one cannot help discovering, in the tone of the speech and of the publications which have been just pointed out, a latent enmity which only waits an opportunity to break out.

Facts being thus established, it is disagreeable to be obliged to think that the instructions, under which the commissioners have acted, have not been drawn up with the sincere intention of obtaining pacific results; because, far from proceeding in their memorial upon some avowed principles and acknowledged facts, they have inverted and confounded both, so as to be enabled to impute to the republic all the misfortunes of a rupture, which they seem willing to produce by such a course of proceeding. It is evident that the desire plainly declared of supporting, at hazard, the treaty of London, which is the principal grievance of the republic of adhering to the spirit in which this treaty was formed and executed, and of not granting to the republic any of the means of reparation which she has proposed through the medium of the undersigned, have dictated those instructions. It is equally evident that no hesitation is made in sacrificing to these strange sentiments those which the treaties of 1778, and the recollection of the circumstances in the midst of which they were concluded, ought to inspire.

The remote consequences of such conduct have not escaped the attention of the Directory. It is desired, while nothing is omitted to prolong the misunderstanding, and even to augment it, to throw upon the republic all the odium, in the view of America and of Europe. It is sought to justify, by delusive appearances, the prejudices with which the name of the republic is surrounded at pleasure, and the system of exasperation and alienation which is pursued in relation to it, with the most strange obstinacy. It is finally wished to seize the first favorable occasion to consummate an intimate union with a Power, towards which a devotion and partiality is professed, which has long been the principle of the conduct of the Federal Government.

The intentions which the undersigned here attributes to the Government of the United States are so little disguised, that nothing seems to have been neglected at Philadelphia to manifest them to every eye. It is, probably, with this view, that it was thought proper to send to the French republic persons whose opinions and connexions are too well known to hope from them dispositions sincerely conciliatory. It is painful for the undersigned to be obliged to make a contrast between this conduct and that which was pursued towards the cabinet of St. James's, under similar circumstances. An eagerness was then felt to send to London ministers well known for sentiments corresponding with the object of their mission. The republic, it seems, might have expected a like deference; and if the same propriety has not been observed with respect to it, it is exceedingly probable that it is to be attributed to the views above alluded to by the undersigned.

It is impossible to foresee whither such dispositions may lead. The undersigned does not hesitate to believe, that the American nation, like the French nation, sees this state of things with regret, and does not consider its consequences without sorrow. He apprehends that the American people will not commit a mistake concerning the prejudices with which it has been desired to inspire them against an allied people, nor concerning the engagements which it seems to be wished to make them contract to the detriment of an alliance, which so powerfully contributed to place them in the rank of nations, and to support them in it; and that they will see in these new combinations the only dangers their prosperity and importance can incur.

Penetrated with the justice of these reflections and their consequences, the Executive Directory has authorized the undersigned to express himself with all the frankness which becomes the French nation. It is indispensable that, in the NAME of the Directory, he should dissipate those illusions with which for five years the complaints of the ministers of the republic have been incessantly surrounded at Philadelphia, in order to weaken, calumniate, or distort them. It was essential, in fine, that, by exhibiting their sentiments in an unequivocal manner, he should clear up all the doubts, and all the false interpretations, of which they might be the object.

It is, therefore, only in order to smooth the way of discussions, that the undersigned has entered into the preceding explanations. It is with the same view that he declares to the commissioners and envoys extraordinary that, notwith-

standing the kind of prejudice which has been entertained with respect to them, the Executive Directory is disposed to treat with that one of the three, whose opinions, presumed to be more impartial, promise, in the course of the explanations, more of that reciprocal confidence which is indispensable.

The undersigned flatters himself that this overture will not meet, on the part of the commissioners and envoys extraordinary, with any serious difficulty. It is still more natural to hope it, because, by the tenor of their powers, the said commissioners and envoys extraordinary are authorized to negotiate jointly or separately; so that nothing but the desire of preventing any accommodation could produce any objection against this measure; which, moreover, is only pointed out to the commissioners themselves, in order that nothing may here bear an unfavorable appearance, and which evidently has no other object than to assure to the negotiation an happy issue, by avoiding, at the outset, every thing which may on either side awaken, in the course of this negotiation, sentiments calculated to endanger it.

The undersigned hopes that the commissioners and envoys extraordinary will soon enable him to inform the Executive Directory of their determination. Whatever this determination may be, the undersigned flatters himself that the explanations into which he has entered, will have placed the subjects in dispute in their true light, and may eventually serve to dissipate, in the eyes of all impartial men, the unfavorable impression which it might be endeavored to fix upon the intentions of the French republic and its Government. He concludes by renewing to the commissioners and envoys extraordinary the assurance of his consideration.

CH. MAU. TALLEYRAND.

PARIS, 28*th Ventose*, 6*th year*, (18*th March*, 1798.)

The Ministers Plenipotentiary and Envoys Extraordinary from the United States of America to the French republic to the Minister of Exterior Relations.

CITIZEN MINISTER:

Your letter of the 28th Ventose, (18th March) in answer to a memorial of the undersigned, dated 17th January, was received the day after its date, and has been considered with the most respectful attention.

In that memorial, the undersigned, without furnishing cause for reproach, might have limited themselves to a statement of the numerous and well founded complaints of the nation they represent. They have been induced to extend their observations to other subjects, by that sincere desire to re-establish harmony and mutual confidence between the two republics which the Government of the United States has never ceased to feel and to express. Supposing that those misrepresentations, to which human actions and human sentiments must ever continue to be exposed, might have impressed on the mind of the French Government, occupied with the great and interesting events of Europe, the unfounded suspicion of partiality, on the part of America, for the enemies of France, the undersigned cherished the hope, that a complete review of the conduct of their Government, accompanied with a candid and thorough investigation of the real principles on which that conduct was founded, by removing prejudices, might restore sentiments which the United States have ever sought, and still seek to preserve.

In taking this review, it was obvious that a minute discussion of every particular fact, might incumber the examination with details which previous explanations had rendered unnecessary, and therefore it was confined to those leading measures of which the particular cases were the necessary result. The undersigned, however, declared, and they still declare, that if the Government of the United States has given just cause of complaint to that of France, in any case, they are ready to consider, and to compensate the injury. That negotiation, the opening of which, they have for nearly six months unremittingly solicited and patiently attended, would, if entered upon, demonstrate the sincerity of this declaration.

Still animated by the same spirit which has dictated all their efforts to approach this republic, still searching to remove unfavorable impressions, by a candid display of truths, and a frank manifestation of the principles which have really governed the United States, and still endeavoring thereby to facilitate the restoration of harmony between two nations, which ought to be the friends of each other, the undersigned will lay before you the result of their reflections on your letter of the 28th Ventose.

Whatever force you may please to allow to their observations, the relative situation of the two republics, it is hoped, will not fail to convince you that they proceed from the most perfect conviction of their justice. You contend, citizen minister, that the priority of complaint is on the side of France, and that those measures, which have so injured and oppressed the people of the United States, have been produced by the previous conduct of their Government.

To this the undersigned will now only observe, that if France can justly complain of any act of the Government of the United States, whether that act be prior or subsequent to the wrongs received by that Government, a disposition and a wish to do in the case what justice and friendship may require, is openly avowed, and will continue to be manifested.

Your complaints against the United States may be classed under three heads.

1st, The inexecution of their treaties with France.
2dly, The treaty of amity, commerce, and navigation, formed with Great Britain.
3dly, The conduct of their Government since that treaty.

If the undersigned shall be disappointed in their hope to convince you that on no one of these points can their Government be justly inculpated, yet they persuade themselves that the demonstration of the good faith and upright intention, with which it has ever acted, will be complete and satisfactory. This being proved, and a tender of compensation for any unintentional wrong being made, a base for accommodation is offered, which they must yet hope will be acceptable to France.

1st, The inexecution of the treaties between the United States and France. Under this head, you complain, first, that, from the commencement of the war, the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States.

2dly, That, against the textual sense of the treaty, the Government has permitted the ships of the enemy to come into their ports, after having captured property or vessels belonging to French citizens.

3dly, That it has ordered the arrest of a national corvette, anchored in the port of Philadelphia, and that the arrestation has extended to the captain commandant.

4thly, The refusal to provide the means to execute the consular convention.

These complaints shall be considered in the order in which they are made.

1st. From the commencement of the war, the American tribunals have, in effect, pretended to the right of taking cognizance of the validity of prizes brought into the ports of the United States by French cruisers.

You have not been pleased to state a case in which this right has been asserted, and the undersigned are persuaded that no such case exists.

Far from asserting it, the Government of America has expressly disclaimed it. Mr. Jefferson, the then Secretary of State, in his letter to Mr. Morris of the 16th of August, 1793, which letter was laid before the French Government, declares "that the United States do not pretend any right to try the validity of captures made on the *high seas* by France, or any other nation, on its enemies.

"These questions belong, of common usage, to the sovereign of the captor, and, whenever it is necessary to determine them, resort must be had to his courts. This is the case provided for in the 17th article of the treaty, which says, that such prizes shall not be arrested, nor cognizance taken of the validity thereof; a stipulation much insisted on by Mr. Genet and the consuls, and which we never thought of infringing or questioning."

Mr. Randolph, the successor of Mr. Jefferson, in his letter to Mr. Fauchet of the 29th of May, 1795, says, "As to prizes made by legal cruisers on the *high seas*, it never was the intention of the President to interpose, he having abstained (as the 17th article of our treaty of commerce imports) from examining into their lawfulness."

Mr. Monroe, in his letter to your predecessor, of the 15th of March, 1796, says, "You will observe I admit the principle, if a prize was taken upon the high seas, and by a privateer fitted out within the republic or its dominions, that, in such case our courts have no right to take cognizance of its validity. But is any case of this kind alleged? I presume none is or can be shown."

But the United States have deemed it an indispensable duty to prevent, so far as they could prevent, the practice of hostility against nations with whom they were at peace, within their own limits, or by privateers fitted out in their own ports.

For the reasoning of their Government in support of this decision, the undersigned will again refer to the letter of Mr. Jefferson already quoted.

"Another doctrine advanced by Mr. Genet is, that our courts can take no cognizance of questions, whether vessels held by them as prizes are lawful prizes or not; that this jurisdiction belongs exclusively to their consulates here, which have been lately erected by the National Assembly into complete courts of admiralty.

"Let us consider first what is the extent of the jurisdiction which the consulates of France may rightfully exercise here. Every nation has, of natural right, entirely and exclusively all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession. The United States and France have, by their consular convention, given mutually to their consuls jurisdiction in certain cases especially enumerated. But that convention gives to neither the power of establishing complete courts of admiralty within the territory of the other, nor even of deciding the particular question of prize or not prize. The consulates of France, then, cannot take judicial cognizance of those questions here.

"Of this opinion Mr. Genet was when he wrote his letter of May 27th, wherein he promises to correct the error of the consul at Charleston, of whom, in my letter of the 15th, I had complained as arrogating to himself that jurisdiction; though, in his subsequent letters, he has thought proper to embark in the errors of his consuls.

"The real question is, whether the United States have not a right to protect vessels within their waters, and on their coasts. The Grange was taken within the Delaware, between the shores of the Jerseys and of the Delaware State, and several miles above its mouth. The seizing of her was a flagrant violation of the jurisdiction of the United States. Mr. Genet, however, instead of apologizing, takes great merit, in his letters, for giving her up.

The William is said to have been taken within two miles of the shores of the United States. When the admiralty declined cognizance of the case, she was delivered to the French consul, according to my letter of June 25th, to be kept until the Executive of the United States should examine into the case, and Mr. Genet was desired, by my letter of June 29th, to have them furnished with the evidence, on behalf of the captors, as to the place of capture; yet, to this day, it has never been done. The brig Fanny was alleged to be taken within five miles from our shore; the Catherine within two miles and an half. It is an essential attribute of the jurisdiction of every country to preserve peace and punish acts in breach of it, and to restore property taken by force within its limits. Were the armed vessel of any nation to cut away any one of our own from the wharves of Philadelphia, and to choose to call it a prize: would this exclude us from the right of redressing the wrong? Were it the vessel of another nation, are we not equally bound to protect it while within our limits? Were it seized in any other waters, or on the shores of the United States, the right of redressing it is still the same: and humbled, indeed, would be our condition, were we obliged to depend for that on the will of a foreign consul, or on any negotiation with diplomatic agents. Accordingly, this right of protection within its waters, and to a reasonable distance on its coasts, has been acknowledged by every nation, and denied to none; and, if the property seized be yet within their power, it is their right and duty to redress the wrong themselves.

"France herself has asserted the right in herself, and recognized it in us, in the 6th article of our treaty, where we mutually stipulate that we will, *by all the means in our power*, (not by negotiation) protect and defend each other's vessels and effects in our ports or roads, or on the seas near our countries, and recover and restore the same to the right owners. The United Netherlands, Prussia, and Sweden, have recognised it also in treaties with us; and indeed it is a standing formule inserted in almost all the treaties of all nations, and proving the principle to be acknowledged by all nations."

In the letter of Mr. Randolph to Mr. Fauchet, already cited, that gentleman resumes this subject, and Mr. Fauchet, in answer, says, "The admiralty courts have always ceded to the entreaties of our enemies for their intervention in prize causes; in truth, frequently and almost constantly, by using the double plea of which you spoke to me, that is to say, by arguing either of seizure within the jurisdictional line of the United States, or of armament or augmentation of armament of the capturing vessels in their ports. On this subject, sir, you request me to specify a circumstance where a prize was arrested which did not come under that denomination, and you take the trouble to establish that they have a right to intervene in every case that can be brought under those heads. In the first place, sir, I never have, at least to my recollection, contested the right of your courts, or of the Government, to interfere in matters of the nature of those you mention."

It would seem to be incontestable, that the principle asserted by the United States, which indeed is an unquestionable principle, has been admitted in its utmost latitude by France. It is believed that in the execution of this principle, the Government and tribunals have only been guided by a sense of duty and the obligations of justice. If in any case that can be selected, wrong has unintentionally been committed, that wrong has grown inevitably out of the situation of the United States, and of the conduct of persons they have been unable to control, and will with readiness be corrected.

2dly. That, against the textual sense of the treaty, the Government has permitted the ships of the enemy to come into their ports, after having captured property or vessels belonging to French citizens.

It is to be regretted, that you have not been pleased to state some particular case, if the case be founded on a fact, which has manifested this permission: or if it be founded in principle, the precise difference between the construction given by the President of the United States to the article of the treaty of the 6th of February, 1778, relative to this subject, and that for which you may contend. For the want of such a guide, the undersigned may discuss unnecessary points, without giving you complete satisfaction on that which in your mind may constitute the real difficulty.

The 17th article is in these words: "It shall be lawful for the ships of war of either party and privateers freely to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any duty to the officers of the Admiralty or other judges; nor shall such prizes be arrested or seized when they come to or enter the ports of either party; nor shall the searchers, or other officers of those places, search the same, or make examination concerning the lawfulness of such prizes; but they may hoist sail at any time and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show: on the contrary, no shelter or refuge shall be given in their ports to such as shall have made prize of the subjects, people, or property of either of the parties; but if such shall come in, being forced by stress of weather or the dangers of the sea, all proper means shall be vigorously used that they go out and retire from thence as soon as possible." Do you contend, citizen minister, that this article ought to be rigidly construed according to its letter? If you do, it becomes necessary to ascertain what are the disabilities to which its letter really subjects the vessels belonging to the enemies of France. They are, 1st. That no shelter or refuge shall be given in the ports of the United States to the ships of war or privateers belonging to the enemy, *which shall have made prize* of the subjects, people or property of France. 2dly. That if such ships of war or privateers shall come in, being forced by stress of weather or the danger of the seas, all proper means shall be vigorously used that they go out and retire from thence as soon as possible.

The letter of the article does not exclude generally the ships of war, belonging to the enemy, but those only *which have made prize* of the subjects, people or property of France. That the vessel shall have made a prize is a part and an essential part of the description. Whether the vessel be or be not within this description is a fact, the ascertainment of which must precede the measures to be taken in consequence of that fact. When the fact shall have been ascertained, the letter of the article denies refuge or shelter to the ship of war or privateer, but not to the

prize which may have been made. You well know, citizen minister, that if the letter of the article is to be set up against its spirit, when the former is most favorable to the views of France, the letter must still be adhered to, though it should counteract those views. The situation of the United States bound them to observe, between the belligerent powers, an exact neutrality, in all cases where their previous treaties had not stipulated advantages or imposed disabilities.

They could not refuse to one belligerent power those rights of ordinary hospitality which were enjoyed by others, which the common usages of nations permit, and which were forbidden by no particular treaty. Such refusal would have been manifestly partial, and a plain departure from that neutral position in which the United States found themselves, and which good faith, integrity, and their best interests impelled them religiously to maintain. Thus circumstanced it was the duty of the Government to give its true construction to a treaty granting advantages to one of the belligerent powers, and imposing disabilities on another. In searching for this true construction, its best judgment ought to be exercised, and the dictates of that judgment ought to be obeyed. The United States have done so. They have refused shelter in their ports to the prizes made on the French republic, or to the ships of war belonging to the enemy and accompanying such prizes.

They have permitted ships of war, not bringing prizes with them, to remain in their ports, without instituting tribunals to inquire whether such ships have at any time captured French citizens or French property. The reasoning on which this decision was founded, and which appears to the undersigned to have been conclusive, will not now be repeated. It has been detailed in several letters from the Secretary of State of the United States to the minister of France in Philadelphia. The undersigned will only observe, that the construction supposed to be just, and for that reason actually put upon the article, is believed to be more favorable than the literal construction to the interests of France.

Ships of war which have made prizes on this republic, if they enter the ports of the United States without such prizes, ought indeed, under the letter of the article, to be ordered to depart as soon as the fact can have been ascertained; but the prizes themselves are permitted to remain in safety. By the actual construction, a ship of war entering without a prize, is permitted to remain, but all shelter is refused to a ship of war which is accompanied by a prize, and also to the prize itself. It would seldom happen that a ship of war not driven in by stress of weather, or the danger of the seas, would wish to continue in port longer than the time which would unavoidably be consumed in ascertaining the fact of her having made a prize, but it must often happen that a prize now excluded from the ports of the United States, would find shelter in them if the literal construction of the treaty should be adopted.

This exposition given by the United States to this article was made known in 1793—France has never signified a wish that the literal construction throughout should be pursued. This strengthens the opinion entertained by the undersigned, that the rule on this subject, so early established by the American Government, is considered by the republic as more favorable to its interests, than a rule conforming entirely to the letter of the article.

3dly. "The Government of the United States has ordered the arrest of a national corvette* anchored in the port of Philadelphia, and the arrestation has been extended to the captain commandant."

The undersigned beg leave to state the case which is the foundation of this complaint. In the statement itself they trust will be found a complete justification of the conduct of the United States.

The Cassius, under the name of "Les Jumeaux," was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the State of Delaware to intercept her. The attempt was made and failed. The crew of Les Jumeaux, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon and brought them to bear on the cutter in which the militia, about forty in number, were embarked. Their force being inadequate to the enterprise, they retired with an intention to return the next day with a reinforcement. They did so, but Les Jumeaux had sailed and gone to sea. The agent, Mr. Guenet, by whom Les Jumeaux had been fitted out, was tried at the circuit court in Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo; Samuel B. Davis, a citizen of the United States, there took the command of her, with a commission from the French Government. Davis probably sailed from Philadelphia in les Jumeaux, for the purpose of finally taking the command of her. Her name was now changed to "Le Cassius," and on a cruise she took a schooner called the William Lindsay, belonging to Messrs. Yard and Ketland, of Philadelphia, Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Captain Davis, commanding the Cassius, came with her to Philadelphia; she was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled the Cassius in the district court, and caused the captain to be arrested. Soon after, the supreme court being in session, Captain Davis's counsel applied for and obtained a prohibition to the district court to stop its proceedings, by which the suits, both against him and Le Cassius, were defeated. The prohibition was granted on this principle, that the trial of prizes, taken without the jurisdiction of the United States, and carried to places within the jurisdiction of France for adjudication, by French vessels, and all questions incidental to it, belong exclusively to the French tribunals; and, consequently, that its vessels of war and their officers are not liable to process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French Government.

Messrs. Yard and Ketland having failed to obtain indemnification in this mode, procured new process, on the information of Mr. Ketland, to be issued from the circuit court, by which Le Cassius was attached as a vessel armed and equipped as a ship of war, in the port of Philadelphia, with intent to cruise and commit hostilities against nations with whom the United States were at peace, in violation of the act of Congress prohibiting such armament. Mr. Adet complained that the process was taken out of the circuit court, because, as he alleged, it had no jurisdiction, and that it would be attended with delay, that court sitting but twice a year; whereas the district court, in which it was said the prosecution, if at all permitted, should have been commenced, was always open. Gentlemen of legal knowledge were consulted on the point of jurisdiction in this case, and they were decided in their opinion, that the circuit court had jurisdiction, and exclusively of the district court. The Government of the United States had no part in originating this prosecution; and the district attorney, in behalf of the United States, took measures, at each term of the circuit court, to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to an hearing. In the course of the argument, the question of jurisdiction presented itself. The court adjourned until next day to consider of it: and the following morning dismissed the suit.

The undersigned may be permitted to ask, whether in a change of situation, placing France precisely in the circumstances of the United States, either the corvette or her captain would have escaped.

4thly. The refusal to provide the means to execute the consular convention of the 14th November, 1788.

As you have not selected the particular parts of this convention supposed to remain unexecuted, the undersigned must necessarily consider the more definite charges heretofore made on the same subject as being adopted by you.

Your predecessor in office, in his letter to Mr. Monroe of the 19th Ventose 4th year (9th March, 1796) complains 1st. That the clause granting to French consuls the right of judging exclusively in disputes between Frenchmen, is become illusory for the want of laws giving them the means of having their decisions executed.

2dly. The right of causing mariners who desert to be arrested is rendered ineffectual, because the judges charged by the laws with issuing the mandates of arrest have lately required the presentation of the original roll of the crew, in contempt of the 5th article admitting, in the tribunals of both Powers, copies certified by the consul.

It is then understood to be required,

1st. That the officers of the United States should execute the judgments of the consuls:

2dly. That the judges of the United States should issue mandates of arrest against persons charged with being deserters, without a view of the *original* roll of the crew.

* Le Cassius.

It is very justly observed by Mr. Jefferson in his letter to Mr. Morris, which has been already cited, that "every nation has, of natural right, entirely and exclusively, all the jurisdiction which may be rightfully exercised in the territory it occupies. If it cedes any portion of that jurisdiction to judges appointed by another nation, the limits of their power must depend upon the instrument of cession." The parties to the convention profess its object to be, "to define and establish in a reciprocal and permanent manner the functions and privileges of consuls and vice consuls."

It is to be expected then, as well as from the intention of the convention establishing the tribunal, as from the nature of the tribunal itself, which is a foreign court, constituted by a foreign authority, governed by foreign laws, and amenable for its conduct to a foreign government, that no power is to be implied, and that it possesses no capacity which is not expressly given to it. To ascertain, then, the precise extent of the stipulation, let the convention itself be considered.

The first point rests exclusively on the 12th article, which is in these words: "All differences and suits between the subjects of His Most Christian Majesty in the United States, or between the citizens of the United States within the dominions of the Most Christian King, and particularly all disputes relative to the wages and terms of engagement of the crews of the respective vessels, and all differences, of whatever nature they may be, which may arise between the privates of the said crews, or between any of them and their captains, or between the captains of different vessels of their nations, shall be determined by the respective consuls and vice consuls, either by a reference to arbitrators, or by a summary judgment, and without costs. No officer of the country, civil or military, shall interfere therein, or take any part whatever in the matter; and the appeals from the said consular sentences shall be carried before the tribunals of France or of the United States to whom it may appertain to take cognizance thereof."

In this article no engagement is made to furnish the means of executing consular judgments. If, therefore, the preceding positions be just, there is an end of the question. But other arguments present themselves in support of the construction contended for by the United States. The consular authority in a foreign country is usually either voluntary or enforced by the laws of the nation to which the consuls belong, and which may bind their own citizens or subjects under penalties to be inflicted on their return, or otherwise. Upon this idea it was sufficient to stipulate a permission of the jurisdiction in exclusion of the courts of the country; on any other idea, it would have been necessary to have stipulated explicitly, and perhaps in detail, the manner in which its sentences should be executed. To accede to the demands of France would be to erect in a foreign country complete courts of justice with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce could not, in the nature of things, be confined to foreigners alone, the citizens of the country must often be necessary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction granted by the article is only of French consuls over French citizens in the United States, and reciprocally of American consuls over the citizens of the United States in France. This would be to extend, by implication, the authority of a foreigner over persons not contemplated by the treaty as subject to it. The article declares, too, "that no officer of the country, civil or military, shall interfere therein, or take any part in the matter." But sheriffs, marshals, and their deputies, or any other persons appointed by, and acting under, the laws of the country, are "officers of the country," and consequently cannot aid in the execution of consular decisions, because they are expressly forbidden, "to interfere therein or take any part whatever in the matter."

But was it meant that the laws should give consuls the power to appoint such executive officers of their own nation? Should it be conceded that a person so appointed could not be considered as an officer of that nation by virtue of, and according to, whose laws he held his office, still we find no such thing in the convention. On the contrary in the case of deserters from vessels, mentioned in the 9th article, whom the consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, judges, and officers, competent" to make the arrests, meaning the courts, judges, and officers of the country where the consuls reside. In addition to this, if power could be given to consuls to appoint officers to execute their decisions, these officers must, of course, have their fees of compensation to be paid by one or other of the parties. But the article giving the jurisdiction declares that the consular judgments shall be "without costs."

The second complaint is, that the judges of the United States have required the exhibition of the *original* roll of the crew as the testimony which would authorize the issuing of a mandate, to apprehend a French mariner charged as a deserter. The right to require these mandates is founded entirely on the 9th article of the consular convention.

That declares "that the consuls and vice consuls shall address themselves to the courts, judges, and officers competent, and shall demand the said deserters in writing, proving by an exhibition of the *registers of the vessel*, or *ship's roll*, that those men were part of the said crews; and on this demand *so proved* (saving, however, where the contrary is proved) the delivery shall not be refused."

It would be an idle waste of time to attempt to prove to you, citizen minister, that *the register of the vessel*, or *ship's roll*, is not a copy of that paper, or that a copy does not satisfy a law which peremptorily requires the exhibition of the original. Your predecessor has thought proper to refer to the 5th article of that instrument; but a slight perusal of that article will convince you, citizen minister, that it does not apply to the case. When the judges of the United States determined that the mandate of arrest could not be issued on the exhibition of a "copy of the register of the vessel or ship's roll," they did not so decide for the purpose of giving effect to the system of the Government, but because the treaty was clearly understood by them positively to require the presentation of the original.

The undersigned regret, citizen minister, that your researches concerning the United States have not extended to their courts. You would have perceived and admired their purity. You would have perceived that America may repose herself securely on the integrity of her judges, and your justice would have spared the insinuations concerning them which have closed this part of your letter.

The undersigned will now consider what you have stated with respect to the treaty of amity, commerce, and navigation, formed with Great Britain.

You complain, citizen minister, in very strong terms, of the deception alleged to have been practised with respect to the objects of Mr. Jay's mission to London, and also of the contents of the treaty which that mission produced. You are pleased to observe that it was then said that Mr. Jay had been sent to London, *only* to negotiate arrangements relative to the depredations committed on the American commerce by the cruisers of Great Britain.

By whom, citizen minister, was this said? not by the President in his message to the Senate, announcing the nomination of Mr. Jay; nor by the then Secretary of State, in communicating to Mr. Fauchet the subject of that mission. The documents with respect to this assertion have been stated, and have been fully commented on. It has been fully demonstrated that the American Government did not seize this occasion to practise a deception so unnecessary, so foreign to its well known character, and which could produce only mischief to itself. As you have in no degree weakened the testimony which is relied on as disproving this allegation, or produced any sort of evidence in support of it, the undersigned cannot but mingle some degree of surprise with the regrets they feel at seeing it repeated, accompanied with the charge of that "dissumulation," of which all who examine well the conduct of the Government of the United States will so readily pronounce it to be incapable. You also criminate the secrecy which attended this negotiation. To this complaint, when formerly insisted on, it was answered, that so much of it as was material to this republic was immediately communicated to her minister; and that she had no right to inquire further, or to be dissatisfied that other objects were not disclosed; that it is not the practice of France, nor of any other nation, to communicate to others the particular subjects of negotiation which may be contemplated; and that no nation could be independent, which admitted itself to be accountable to another, for the manner in which it might judge proper to regulate its own concerns, on points in which that other was not interested; or which was bound to give previous intimation of every article, which might be inserted in a treaty, formed on the avowed principle of leaving in full force all pre-existing engagements. This reasoning is answered only by terming it a "sophism," "an insidious subterfuge." May not any reasoning, on any subject, be answered in the same manner? But can such an answer impair its force? Without doubt, citizen minister, the Government of the United States,

when it informed France that the negotiations of Mr. Jay would not in any respect weaken its engagements to this republic, would have added, that they might eventually extend to a commercial treaty, if it had been supposed that the omission to give such information could really be considered as a breach of legitimate obligation, or as an evidence of diminished friendship. The information was most probably not given because it was unusual, and because it could neither be considered as proper, as necessary, or as material. The undersigned trust that the painful and unavailing discussions on this subject, rendered so unpleasant by the manner in which it has been treated, will never again be renewed.

Passing to the treaty itself, you say that the small majority by which it was sanctioned in the two Houses of Congress, and the number of respectable voices raised against it in the nation, depose honorably in favor of the opinion which the French Government has entertained of it. But you must be sensible, citizen minister, that the criterion, by which you ascertain the merits of the instrument in question, is by no means infallible, nor can it warrant the inference you draw from it. In a republic, like that of the United States, where no individual fears to utter what his judgment or his passions may dictate, where an unrestrained press conveys alike to the public eye the labors of virtue and the efforts of particular interests, no subject which agitates and interests the public mind can unite the public voice, or entirely escape public censure. In pursuit of the same objects a difference of opinion will arise, in the purest minds, from the different manner in which those objects are viewed; and there are situations in which a variety of passions combine to silence the voice of reason, and to betray the soundest judgments. In such situations, if the merit of an instrument is to be decided, not by itself, but by the approbation or disapprobation it may experience, it would surely be a safer rule to take as a guide the decision of a majority, however small that majority may be, than to follow the minority. A treaty too may be opposed as injurious to the United States, though it should not contain a single clause which could prejudice the interests of France. It ought not to be supposed that a treaty would for that reason be offensive to this republic.

Had you been pleased to state any objections to this instrument drawn from the compact itself, the undersigned would have given to those objections the most serious and respectful consideration. But it is supposed that you adopt, without adding to, the complaints made by your predecessor and by Mr. Adet, when you observe that you will not repeat what they have said. These complaints have been amply discussed in the memorial the undersigned had the honor to transmit you, bearing date 17th of January. It is believed to have been demonstrated that the stipulations complained of do not in the most remote degree wound the interests of France, affect the pre-existing engagements of the United States, or change their situation in relation to the belligerent Powers. Such, incontestably was, and is, the opinion of the American Government, and in this opinion only, would the treaty have been agreed to. As no one of the arguments which have at various times been urged on this subject, on the part of the United States, has ever yet been noticed, the undersigned deem unnecessary any attempt to re-urge or to strengthen them. You say that you will content yourself "with observing, summarily, that in this treaty every thing having been provided to turn the neutrality of the United States, to the disadvantage of the French republic, and to the advantage of England; that the Federal Government having, in this act, made to Great Britain concessions the most unheard of, the most incompatible with the interests of the United States, and the most derogatory from the alliance which existed between the said States, and the French republic, the latter was perfectly free to avail itself of the preservatory means with which it was furnished by the laws of nature and of nations, and by its anterior treaty, for the purpose of parrying the inconveniences of the treaty of London. Such are the reasons which have determined the arrets of the Directory of which the United States complain, as well as the conduct of its agents in the Antilles." But you have not shown a single provision, "which turns the neutrality of the United States to the disadvantage of the French republic, and to the advantage of England." You have not shown a single concession "incompatible with the interests of the United States," or "derogatory from their alliance with France."

It is considered as having been demonstrated, that this treaty leaves the neutrality of the United States, with respect both to France and England, precisely in its former situation, and that it contains no concessions which are either unusual, or derogatory from their alliance with this republic. But in forming this judgment the American Government has deceived itself, still it ought to be remembered that it has ever manifested a readiness to place France on the footing of England, with respect to the articles complained of.

You suppose that the second article of the treaty between France and the United States justifies the arrets, of which the latter Power complains: but that article only entitles either of the contracting parties to a participation of any particular favor in respect of commerce or navigation, which might thereafter be granted by the other to other nations, on allowing the same compensation, if the concession was conditional. It has never been pretended to extend to pre-existing rights held and exercised under the law of nations, and barely recognized by any subsequent treaty. If this could be insisted on, still it was shown incontestably by the undersigned, that the arrêt particularly complained of, so far as it professes to found itself on the treaty with England, greatly transcends that treaty, and in its most noxious article, that requiring a rôle d'équipage, has no relation to it. This all essential circumstance you have not been pleased to notice; and it is with infinite regret the undersigned observe that the discussions at which you hint are to be limited to the abuses of the principle established by the arrêt, and not extended to the compatibility of the principle itself, with justice, the laws of nations, or existing treaties.

It is well known that such a discussion, if indeed the undersigned could be permitted to enter upon it, would avail but little, since the vast mass of American property captured by the cruisers, and condemned by the courts of France, has been found in vessels not furnished with a rôle d'équipage.

The undersigned have been minute in their attention to every syllable you have uttered on this interesting subject, because it has been often considered as having given cause of just irritation to France, and they are sincerely desirous of probing to the bottom every subject which may have assumed that complexion. Their wish is unaffected, to give to every complaint its real value, in order thus to prepare the way for accommodation, by the relinquishment of such as are not well founded, and the admission of those which have a real existence.

The third head of your complaints relates to the conduct of the Government of the United States since their treaty with England.

You observe that, as soon as the treaty in question had been put in execution, the Government of the United States seemed to think itself dispensed from the observance of any measures towards this republic, and you adduce in support of this general observation:

1st. The refusal to permit in the ports of the United States the sale of prizes made by French cruisers.

2dly. The invectives and calumnies against the French Government, its principles, and its officers, contained in certain journals and pamphlets published in the United States, &c.

3dly. The speech of the President to Congress in May last.

1st. The Government of the United States does not permit the sale in their ports of prizes made upon England by the cruisers of France.

The fact is admitted. To erect it into an offence, it becomes necessary to prove that this measure violates either the engagements or the neutrality of the United States. Neither is attempted. To show that it violates neither, had this been rendered necessary, would by no means have been deemed an arduous task. It will now only briefly be observed, that the 17th article of the treaty of commerce of the 6th of February, 1778, which alone relates to this subject, so far from stipulating for the sale of prizes in the ports of either nation, limits itself to a declaration, that the captors shall have liberty to bring them into port, free from duties, arrests and searches, and to depart with them to the places expressed in their commissions, thereby evidently contemplating the then existing regulations of this nation. France has manifested her own opinion on this subject, in her treaty with Great Britain of the 26th of September, 1786. The 16th article of that treaty declares, "that it shall not be lawful for foreign cruisers who shall not be the subjects of one or the other crown, and who shall have a commission from any Prince or State, enemies of the one or the other, to arm their vessels in the ports of one or the other of the said two kingdoms, *to sell there what they shall have taken, or to change the same in any manner whatever.*" In a war with England, then, France being neutral, the cruisers of the United States are forbidden to sell their prizes in the ports of this republic. The 17th article of the treaty of February, 1778, being reciprocal, France has pronounced her decision, that it does not give

her cruisers a right to sell their prizes in the ports of America. If this right had been given by the treaty of February, 1778, that between the United States and England could not be construed to impair it. Nor is the prohibition a departure from the neutrality of the United States. A nation to violate its neutrality must manifest a partiality for one of the belligerent Powers, must accord favors not stipulated by pre-existing treaties to one, which it refuses to the other. This is not even alleged in the present instance. Far from permitting British cruisers to sell, in the United States, prizes they have made on the French, they are not even allowed to bring them into port. A candid consideration of this subject will prove that the withdrawal of a favor, the grant of which manifested so strongly the attachments of the United States, far from justifying the resentments which have been expressed in consequence of it, can only be attributed to the solicitude of the American Government to render perfectly unexceptionable its observance of that neutrality which it professes to maintain. It has been shown unequivocally to have been the opinion of the contracting parties that the treaty of commerce of the 6th of February, 1778, did not give to either, being at war, a right to sell its prizes in the ports of the other being at peace. It is not pretended that this is one of the rights accruing, without special stipulation, under the laws and usages of nations.

It is not, then, a right at all. If granted, it is a voluntary favor. But a voluntary favor essential in the prosecution of the war, if granted by a neutral to one belligerent Power, and of necessity refused to the other, affords to that other at least a more plausible pretext for complaint than has been given by any other act of the Government of the United States. What, in such a situation, would have been the language of France? Would this republic permit a neutral nation, not bound thereto by any obligation whatever, to allow in its ports, as a voluntary favor, the sale of prizes made on French citizens, while the same favor was of necessity denied to the cruisers of France.

It is believed that such a use of neutrality would not be permitted, and the undersigned felicitate themselves and their country that the Government they represent has never intentionally given to this republic any cause of dissatisfaction, as serious as this would have been. You will not fail to observe, citizen minister, that this heavy accusation, when analyzed, is nothing more than the refusal of a mere favor on the part of the American Government, the grant of which might have been dangerous to itself, might have drawn it from that neutral station which it is its duty to observe, and which favor France had previously, in the most explicit terms, declared its determination not to grant under similar circumstances to the United States.

2dly. Your second allegation is, "that the journals known to be indirectly under the control of the cabinet have redoubled their invectives and calumnies against the republic, its magistrates, and its envoys; and that pamphlets openly paid for by the minister of Great Britain have re-produced, under every form, those insults and calumnies, without having ever drawn the attention of the Government to a state of things so scandalous, and which it might have repressed."

The genius of the constitution, and the opinions of the people of the United States, cannot be overruled by those who administer the Government. Among those principles deemed sacred in America; among those sacred rights considered as forming the bulwark of their liberty, which the Government contemplates with awful reverence, and would approach only with the most cautious circumspection, there is no one of which the importance is more deeply impressed on the public mind than the liberty of the press. That this liberty is often carried to excess, that it has sometimes degenerated into licentiousness, is seen and lamented; but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied: perhaps it is a shoot which cannot be stripped from the stalk, without wounding vitally the plant from which it is torn. However desirable those measures might be which might correct without enslaving the press, they have never yet been devised in America. No regulations exist which enable the Government to suppress whatever calumnies or invectives any individual may choose to offer to the public eye; or to punish such calumnies and invectives, otherwise than by a legal prosecution in courts which are alike open to all who consider themselves as injured. Without doubt this abuse of a valuable privilege is matter of peculiar regret when it is extended to the Government of a foreign nation. The undersigned are persuaded it never has been so extended with the approbation of the Government of the United States. Discussions respecting the conduct of foreign Powers, especially on points respecting the rights and interests of America, are unavoidably made in a nation where public measures are the results of public opinion; and certainly do not furnish cause of reproach; but it is believed that calumny and invective have never been substituted for the manly reasoning of an enlightened and injured people, without giving pain to those who administer the affairs of the Union. Certainly this offence, if it be deemed by France of sufficient magnitude to be worthy of notice, has not been confined to this republic. It has been still more profusely lavished on its enemies, and has even been bestowed with an unsparing hand on the Federal Government itself. Nothing can be more notorious than the calumnies and invectives with which the wisest measures and the most virtuous characters of the United States have been pursued and traduced. It is a calamity incident to the nature of liberty, and which can produce no serious evil to France. It is a calamity occasioned neither by the direct nor indirect influence of the American Government. In fact that Government is believed to exercise no influence over any press. You must be sensible, citizen minister, with how much truth the same complaint might be urged on the part of the United States. You must know well, what degrading and unworthy calumnies against their Government, its principles, and its officers, have been published to the world by French journalists and in French pamphlets: that Government has even been charged with betraying the best interests of the nation, with having put itself under the guidance of, nay more, with having sold itself to, a foreign court. But these calumnies, atrocious as they are, have never constituted a subject of complaint against France. Had not other causes, infinitely more serious and weighty, interrupted the harmony of the two republics, it would still have remained unimpaired, and the mission of the undersigned would never have been rendered necessary.

3dly. You complain of the speech of the President made to Congress in May last. It denounces, you say, the Executive Directory, as searching to propagate anarchy and division in the United States. The constitution of the United States imposes on the President this important duty: "He shall from time to time give to the Congress information of the state of the Union." It having been deemed proper to recall the minister from the United States to this republic, and to replace him by a citizen, the objects of whose mission, as expressed in his letters of credence, were "to maintain that good understanding, which, from the commencement of the alliance, had subsisted between the two nations; and to efface unfavorable impressions, banish suspicions, and to restore that cordiality which was at once the evidence and pledge of a friendly union." The President of the Directory addressed the recalled minister in the following terms: "In presenting to-day to the Executive Directory your letters of recall, you give to Europe a strange spectacle. France, rich in her liberty, surrounded with the train of her victories, strong in the esteem of her allies, will not abase herself by calculating the consequences of the condescension of the American Government to the suggestions of its ancient tyrants. The French republic hopes, moreover, that the successors of Columbus, Raleigh, and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom the magnanimous good will of the French people with the crafty caresses of certain perfidious persons, who meditate to bring them back to their ancient slavery. Assure, Mr. minister, the good American people that, like them, we adore liberty; that they will always have our esteem, and that they will find in the French people that republican generosity, which knows as well how to grant peace as to cause its sovereignty to be respected."

The change of a minister is an ordinary act for which no Government is accountable to another, and which has not heretofore been "a strange spectacle" in France, or in any other part of Europe. It appears to be a measure not of itself calculated to draw on the Government making such change the strictures or the resentments of the nation to which the minister is deputed. Such an effect, produced by so inadequate a cause, could not fail to command attention, while it excited surprise.

This official speech, addressed by the Government of France to that of the United States, through its minister, charges that Government with condescensions to the suggestions of its ancient tyrants, speaks of the crafty caresses of certain perfidious persons who meditate to bring back the successors of Columbus, Raleigh, and Penn, to their ancient slavery, and desires the minister to assure, not his *Government*, but the *good people* of America, that they will always have the esteem of France, and that they will find in the French people that republican generosity which knows as well how to grant peace as to cause its sovereignty to be respected.

That a minister should carry any assurances from a foreign Government to the people of his nation is as remarkable as the difference between the manner in which his Government and his people are addressed. His Government are charged with condescension to the suggestions of the ancient tyrants of his country, but the people are considered as loving liberty, and they are to be assured of the perpetual esteem of France. This esteem they are to weigh against the crafty caresses of those perfidious persons who meditate to bring them back to their former slavery.

When this speech, thus addressed directly to the Government and people of the United States, in the face of Europe and the world, came to be considered in connexion with other measures; when it came to be considered in connexion with the wide spreading devastation to which their commerce was subjected, with the cruel severities practised on their seamen, with the recall of the minister of France from the United States, and the very extraordinary manner in which that recall was signified by him both to the Government and people, with the refusal even to hear the messenger of peace, deputed from the United States for the sole purpose of conciliation, it could not fail to make on the American mind a deep and serious impression. It was considered as a fact too important to be held from the Congress, by that department of the Government, which is charged with the duties of maintaining its intercourse with foreign nations, and of making communications to the legislature of the Union. The President, therefore, did communicate it in the following words: "With this conduct of the French Government, it will be proper to take into view the public audience given to the late minister of the United States on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a minister, because more dangerous to our independence and union, and at the same time studiously marked with indignities towards the Government of the United States. It evinces a disposition to separate the people of the United States from the Government; to persuade them that they have different affections, principles, and interests from those of their fellow citizens, whom they themselves have chosen to manage their common concerns, and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world, that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest.

"I should have been happy to have thrown a veil over these transactions, if it had been possible to conceal them; but they have passed on the great theatre of the world, in the face of all Europe and America, and with such circumstances of publicity and solemnity, that they cannot be disguised, and will not soon be forgotten; they have inflicted a wound in the American breast. It is my sincere desire, however, that it may be healed."

It is hoped that this communication will be viewed in its true light; that it will no longer be considered as a denunciation of the Executive Directory, but as the statement of an all-important fact by one department of the American Government to another, the making of which was enjoined by duties of the highest obligation.

The undersigned have now, citizen minister, passed through the complaints you urge against the Government of the United States. They have endeavored to consider those complaints impartially, and to weigh them in the scales of justice and of truth. If any of them be well founded, France herself could not demand more readily than America would make reparation for the injury sustained. The President of the United States has said, "If we have committed errors, and these can be demonstrated, we shall be willing to correct them; if we have done injuries, we shall be willing, on conviction, to redress them." These dispositions on the part of the Government have been felt in all their force by the undersigned, and have constantly regulated their conduct.

The undersigned will not resume, citizen minister, the painful task of re-urging the multiplied injuries which have been accumulated on their country, and which have been in some degree detailed in their memorial of the 17th January last. They cannot, however, decline to remonstrate against a measure which has been announced since that date. The legislative councils of the French republic have decreed that,

1st. The condition of ships, in every thing which concerns their character as neutrals or enemies, shall be determined by their cargo; consequently, every vessel found at sea, laden in whole or in part with merchandise coming out of England, or its possessions, shall be declared good prize, whoever may be the proprietors of such commodities or merchandise.

2dly. No foreign vessel, which in the course of its voyage shall have entered into an English port, shall be admitted into any port of the French republic, but in the case of necessity; in which case, such vessel shall be obliged to depart from such port so soon as the cause of entry shall have ceased.

This decree too deeply affects the interests of the United States to remain unattended to by their ministers. They pray you, therefore, citizen minister, to receive their respectful representations concerning it.

The object of the decree is, to cut off all direct intercourse between neutrals and Great Britain, or its possessions, and to prevent the acquisition, even by circuitous commerce, of those articles which come from England or its dominions.

The right of one nation to exchange with another the surplus produce of its labor, for those articles which may supply its wants or administer to its comfort, is too essential to have been ever classed among those admitted to be in any degree doubtful. It is a right in ceding which a nation would cede the privilege of regulating its own interests, and providing for its own welfare. When any two nations shall choose to make war on each other, they have never been considered, nor can they be considered as thereby authorizing themselves to impair the essential rights of those who may choose to remain at peace. Consequently, these rights, the free exercise of which is essential to its interests and welfare, must be retained by a neutral Power, whatever nations may be involved in a war.

The right of a belligerent to restrain a neutral from assisting his enemy by supplying him with those articles which are defined as contraband, has been universally submitted to; but to cut off all intercourse between neutrals and an enemy; to declare that any single article which may have come from the possessions of an enemy, whoever may be its owner, shall of itself be sufficient to condemn both vessel and cargo, is to exercise a control over the conduct of neutrals, which war can never give, and which is alike incompatible with their dignity and their welfare.

The rights of belligerents are the same. If this might be exercised by one, so might it be exercised by every other. If it might be exercised in the present, so it might be exercised in every future war. This decree is, therefore, on the part of France, the practical assertion of a principle which would destroy all direct or circuitous commerce between belligerent and neutral Powers, which would often interrupt the business of a large portion of the world, and withdraw or change the employment of a very considerable portion of the human race.

This is not all. It is the exercise of a power which war is not admitted to give, and which, therefore, may be assumed in peace as well as war.

It essentially affects the internal economy of nations, and deranges that course of industry which they have a right to pursue, and on which their prosperity depends.

To acquiesce, therefore, in the existing state of things, under a principle so extensive and so pernicious, is to establish a precedent for national degradation which can never cease to apply, and which will authorize any measures which power may be disposed to practise.

France, therefore, will perceive that neutral Governments, whatever may be their disposition towards this republic, are impelled by duties of the highest obligation, to remonstrate against a decree, which at the same time invades their interests and their independence, which takes from them the profits of an honest and lawful industry, as well as the inestimable privilege of conducting their own affairs as their own judgments may direct.

It is hoped that the remonstrances of the United States on this subject will derive additional force from their subsisting engagements with France, and from a situation peculiar to themselves.

The twenty-third article of the treaty of amity and commerce, of the 6th of February, 1778, is in these words: "It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships, with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are, or

hereafter shall be, at enmity with the Most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid, to sail with the ships and merchandises aforementioned, and to trade with the same liberty and security from the places, ports, and havens, of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy beforementioned, to neutral places, but also from one place, belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several. And it is hereby stipulated, that free ships shall also give a freedom to goods, and that every thing shall be deemed to be free and exempt, which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either—contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies to both or either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemy."

The two nations, contemplating and providing for the case when one may be at war, and the other at peace, solemnly stipulate and pledge themselves to each other, that, in such an event, the subjects or citizens of the party at peace may freely trade with the enemy of the other, may freely sail with their ships, in all manner of security, to and from any port or place belonging to such enemy, Not only goods coming from the hostile territory, but the very goods of the enemy himself may be carried with safety in the vessels of either of the contracting parties.

You will perceive, citizen minister, without requiring the undersigned to execute the painful task of drawing the contrast, how openly and entirely the decree of the councils opposes itself to the treaty between France and the United States.

In addition to the hitherto unceded rights of a sovereign and independent sovereign, in addition to the right stipulated by contract, the undersigned will respectfully submit other considerations growing out of the peculiar situation of the United States, manifesting the particular hardships the decree complained of must impose on them.

In possession of a rich, extensive, and unsettled country, the labor of the United States is not yet sufficient for the full cultivation of its soil, and, consequently, but a very small portion of it can have been applied to manufactures. Articles of the first necessity and comfort are imported, in exchange for provisions and for the raw materials which are the growth of the country, and which its inhabitants are accustomed to raise.

It is at any time extremely difficult, nor is it practicable without great loss, to change suddenly the habits of a whole people, and that course of industry in which their population and their real interests have engaged them. An agricultural cannot suddenly, and at will, become a manufacturing people—the United States cannot instantaneously, on the mere passing of a decree, transfer to the manufacturer of articles heretofore imported such a portion of their labor as will, at the same time, furnish a market for the surplus commodities, and a supply for the wants of the cultivator of the soil. It is, therefore, scarcely possible for them to surrender their foreign commerce.

Independent of the right they possess, in common with others, to search for and choose the best markets, it is believed that the supplies they need could with difficulty, in the actual state of the world, be completely furnished, without the aid of England and its possessions. It is not pretended that France manufactures, at present, for foreign consumption, nor do the undersigned suppose that there exists a market where the citizens of the United States can obtain in exchange the articles they need and are accustomed to consume, if those coming out of England and its possessions be entirely excluded. A variety of other considerations, and especially the difficulties individuals must encounter in suddenly breaking old and forming new connexions, in forcing all their commerce into channels not yet well explored, in trading without a sufficient capital to countries where they have no credit, combine to render almost impossible an immediate dissolution of commercial intercourse between the United States and Great Britain.

If, then, the decree complained of shall be executed on American vessels, it can only increase grievances already but too considerable, and transfer the carriage of English manufactures, for American consumption, from their own to British bottoms, sailing under the protection of a convoy. Instead of wounding England, it will probably aggrandize its marine, by sacrificing the remnant of that of the United States, and by destroying that system of policy by which they have heretofore sought to give their own vessels that portion of their own carrying trade, which would otherwise be enjoyed by British merchants.

You have made some general animadversions on the Government of the United States, which the undersigned feel themselves bound briefly to notice.

You have charged that Government with giving instructions not in the sincere intention of arriving at pacific results, and yet the undersigned have offered to change those clauses in the treaty of 1778 which have become inconvenient to France, and to repair any injuries which may have been committed.

You have charged that Government with omitting nothing to prolong and augment the misunderstanding between the two republics; but does not the fact that the undersigned are now in Paris furnish persuasive evidence to the contrary?

You have charged it with searching to justify, by deceitful appearances, the prejudices with which it surrounds at pleasure the name of the republic, and the system of exasperation and separation pursued in this respect with the strangest obstinacy. But has not this republic, in terms the most cordial, been again and again entreated to enter into a candid investigation of the mutual complaints of the two nations? Have not these entreaties been unnoticed, whilst the ministers deputed to make them have remained unaccredited?

You have charged with wishing to seize the first favorable occasion for consummating an intimate union with a power, towards which a devotion and partiality are professed which have long constituted the principle of the conduct of the Federal Government; but whilst no devotion or partiality has been expressed for any nation except France, have not the United States made, and are they not still making, the most extraordinary efforts to restore the broken relations between the two republics?

In a letter discussing the important interests of two great nations, the undersigned are unwilling to introduce what relates personally to themselves.

This unwished for task has been rendered a duty, by ascribing to them opinions and relations which exist in imagination only, and by adducing those supposed opinions and relations as proofs of an indisposition, on the part of the Government which has deputed them, towards that accommodation which has been sought so unremittingly through all those difficulties and impediments with which the pursuit has been embarrassed.

You are pleased to add, that these intentions are so little disguised "that nothing seems to have been neglected at Philadelphia, to manifest them to every eye. It is probably with this view that it has been judged proper to send to the French republic persons whose opinions and relations are too well known to hope from them dispositions sincerely conciliatory."

The opinions and relations of the undersigned are purely American, unmixed with any particle of foreign tint.

If they possess a quality on which they pride themselves, it is an attachment to the happiness and welfare of their country; if they could at will select the means of manifesting that attachment, it would be by effecting a sincere and real accommodation between France and the United States on principles promoting the interests of both, and consistent with the independence of the latter.

It requires no assurance to convince, that every real American must wish sincerely to extricate his country from the ills it suffers, and from the greater ills with which it is threatened; but all who love liberty must admit that it does not exist in a nation which cannot exercise the right of maintaining its neutrality. If "opinions and relations," such as these, are incompatible with "dispositions sincerely conciliatory," then indeed has the Federal Government chosen unfit instruments for the expression of its pacific disposition.

You contrast the conduct observed by the United States, under analogous circumstances, towards the cabinet of St. James's, with that which is observed towards this republic. You say that, on that occasion, there was a solicitude to send to London ministers well known to possess sentiments conformable to the objects of their mission; that the republic has a right to count upon a similar deference; and that if a like attention has not been observed with respect to it, it is too probable that it must be attributed to the views already indicated.

If, unfortunately, the cases shall exhibit a constrast, it is not to be found in the characters the United States have thought proper to employ, or in the conduct of their Government, otherwise than by the superior attention manifested towards this republic, and never shown to any other nation, in deputing to it, with ample powers, three envoys extraordinary and ministers plenipotentiary from the three great divisions of the United States. The ministers sent to the cabinet of St. James's greatly deserved the confidence of their country; but they did not possess sentiments more conformable to the objects of their mission than those deputed to this republic. They did not wish more ardently to effect reconciliation; nor is it believed that any person who could have been deputed to that cabinet would have submitted to greater sacrifices in order to obtain it. Had their application for compensation for past injuries, and security against their future commission, been only met by requisitions, a compliance with which would involve their nation in ills, of which war perhaps might not be the most considerable; had all attempts to remove unfavorable impressions failed, and all offers to make explanations been rejected; can it be believed, that other ministers (the first having been ordered out of the nation) would have waited six months unaccredited, soliciting permission to display the upright principles on which their Government had acted, and the amicable sentiments by which it was animated?

The undersigned are induced, citizen minister, to pray your attention to these plain truths, from a conviction that they manifest unequivocally the friendly temper of the Federal Government, and the extreme reluctance with which the hope of an accommodation with France would be relinquished.

The undersigned observe, with infinite regret, that the disposition manifested to treat with the minister who might be selected by this Government, is not accompanied with any assurances of receding from those demands of money, heretofore made the considerations on which alone the cessation of hostility, on American commerce, could be obtained; to which the undersigned have not the power to accede; with which the United States would find it extremely difficult to comply; and a compliance with which would violate that faith pledged for the observance of neutrality; and would involve them in a disastrous war, with which they have no concern. Nor do you answer to the applications which have been made for compensation to the citizens of the United States, for property which shall be proved to have been taken contrary to the law of nations and existing treaties, otherwise than that you are willing to discuss cases where there has been a departure from certain principles, which principles, in fact, involve almost every case.

You have signified, citizen minister, that the Executive Directory is disposed to treat with one of the envoys, and you hope that this overture will not be attended, on the part of the undersigned, with any serious difficulty. Every proposition of the Executive Directory is considered with the most minute and respectful attention.

The result of a deliberation, on this point, is that no one of the undersigned is authorized to take upon himself a negotiation, evidently intrusted by the tenor of their powers and instructions to the whole: nor are there any two of them who can propose to withdraw themselves from the task committed to them by their Government, while there remains a possibility of performing it.

It is hoped that the prejudices, said to have been conceived against the ministers of the United States, will be dissipated by the truths they have stated.

If in this hope they shall be disappointed, and it should be the will of the Directory to order passports for the whole, or any number of them, you will please to accompany such passports with letters of safe conduct, which will entirely protect, from the cruisers of France, the vessels in which they may respectively sail, and give to their persons, suite, and property, that perfect security to which the laws and usages of nations entitle them.

They pray you, citizen minister, to receive the renewal of their assurances of profound respect and consideration.

CHARLES C. PINCKNEY,
JOHN MARSHALL,
E. GERRY.

A true copy.

HENRY M. RUTLEDGE, *Secretary.*

5th Congress.] **No. 144.** [2d Session.

FRANCE.

COMMUNICATED TO CONGRESS, JUNE 21, 1798.

United States, *June* 21, 1798.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

While I congratulate you on the arrival of General Marshall, one of our late envoys extraordinary to the French republic, at a place of safety, where he is justly held in honor, I think it my duty to communicate to you a letter, received by him, from Mr. Gerry, the only one of the three who has not received his congé: this letter, together with another, from the Minister of Foreign Relations to him, of the 3d of April, and his answer of the 4th, will show the situation in which he remains, his intentions, and prospects.

I presume that, before this time, he has received fresh instructions (a copy of which accompanies this message) to consent to no loans; and therefore the negotiation may be considered at an end.

I will never send another minister to France without assurances that he will be received, respected, and honored, as the representative of a great, free, powerful, and independent nation.

JOHN ADAMS.

Paris, *April* 16, 1798.

My Dear Sir:

This I expect you will receive by my colleague, General Marshall, who carries with him the last letter of M. Talleyrand to the American envoys, and their answer. On the day when we sent the answer, I received a letter from the minister, a copy of which, and my answer, is enclosed. I have not sent these to the Secretary of State, because I have not time to prepare a letter to accompany them. Indeed I expected my passport with my colleagues; but am informed the Directory will not consent to my leaving France: and to bring on an immediate rupture, by adopting this measure, contrary to their wishes, would be in my mind unwarrantable. The object of M. Talleyrand, you will perceive, was to *resume* our reciprocal communications, and again to discuss the subject of a loan. I thought it best in my answer not merely to object to this, but to every measure that could have a tendency to draw me into a negotiation. I accepted of this mission, my dear sir, to support your administration, and have brought myself into a predicament,* which you must assist me to extricate myself from, by appointing some others to supply the places

* I allude to my painful residence here as a political cipher.

of myself and colleagues, if a further progress in this business should be found practicable. I have only a moment to add my best respects to your lady, and my assurances of the most sincere and respectful attachment, my dear sir, of yours sincerely,

E. GERRY.

The PRESIDENT *of the United States.*

The Minister of Foreign Relations to Mr. Gerry, Envoy Extraordinary of the United States of America to the French republic.

PARIS, *the* 14 *Germinal, (3d April,* 1798*)*
6th year of the French republic, one and indivisible.

I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations given in the end of my note of the 28th Ventose last, and the obstacle which their known opinions have interposed to the desired reconciliation, to quit the territory of the republic. On this supposition, I have the honor to point out to you the 5th or the 7th of this decade, to resume our reciprocal communications upon the interests of the French republic and the United States of America.

Receive, I pray you, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

Mr. Gerry to the Minister of Foreign Affairs of the French republic.

PARIS, *April* 4, 1798, (*Germinal* 15, *an* 6.)

I had the honor, citizen minister, of receiving your letter of the 14th Germinal the 3d instant and Mr. Deutrement, who delivered it, informed me that it was intended to be shown to General Pinckney and General Marshall.

Whilst my colleagues and myself, to whom the Government of the United States have intrusted the affairs of the embassy, had a joint agency therein, I have carefully imparted to them all the propositions which you have requested, and the relative conferences and to yourself our decisions thereon; regretting, at the same time, the unfortunate and embarrassing circumstances which imposed on me this disagreeable task. But as, by the tenor of your letter, it is now expected that they will quit the territory of the French republic, it will be impossible for me to be the medium of, or to take, any measures which will be painful to my colleagues, or not to afford them all the assistance in my power; and it would be moreover inconsistent with the line of conduct which you well know, citizen minister, I have uniformly observed for removing the unfavorable impressions which existed on the part of this Government against them: indeed, in our last letter there is a conditional application for passports, which, as it appears to me. supersedes the necessity of a hint to them on this subject; and General Marshall is waiting impatiently for an answer to that part of it which respects a letter of safe conduct for the vessel, in which he and his suite may take passage for the United States, to determine whether he shall embark from France or Great Britain; but the unfo tunate situation of General Pinckney, with respect to the critical state of his daughter's health, renders it utterly impossible for him to depart under existing circumstances.

You have proposed, citizen minister, the 5th or 7th of this decade for me to resume (reprendre) our reciprocal communications upon the interests of the French republic and of the United States. The reciprocal communications which we have had were such only as I have alluded to in the beginning of this letter, unless your proposition, accompanied with an injunction of secrecy, for me to treat separately, is considered in this light. To resume this subject will be unavailing, because the measure, for the reasons which I then urged, is utterly impracticable. I can only then confer informally and unaccredited on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being in my individual capacity unauthorized to give them an official stamp. Nevertheless, every measure in my power, and in conformity with the duty I owe my country, shall be zealously pursued, to restore harmony and a cordial friendship between the two republics. I had the honor of calling on you last evening for the purpose of making this communication verbally, but as you were absent, to prevent misconceptions I have thought it best to reduce it to writing.

Accept, I pray you, citizen minister, assurances of my perfect esteem and respect.

E. GERRY.

To Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, Esquires, Envoys Extraordinary and Ministers Plenipotentiary from the United States of America to the French republic.

DEPARTMENT OF STATE, *Philadelphia, March* 23, 1798.

GENTLEMEN:

On the 4th instant came to hand your first despatches since you arrived at Paris; these were your numbers 1, 4, and 5; and on the 6th instant, your numbers 2 and 3 were received. On the 5th, your number 5, dated the 8th of January, and a translation of the message of January 4th from the Directory to the council of five hundred, were laid before Congress. In this letter you "repeat, that there exists no hope of your being officially received by that Government, or that the objects of your mission will be in any way accomplished." This opinion is sanctioned by the whole tenor of your communications; and we trust that soon after the date of your number 5, you closed your mission by demanding passports to leave the territories of the French republic.

An official copy of your letters of credence having been delivered to the minister for foreign affairs, and by him laid before the Directory, they were sufficiently informed of the great objects of your mission; and considering that you were an extraordinary delegation from an independent nation, you had a right to expect a prompt and respectful reception. The fair and honorable views of the American Government, which dictated your appointment and your powers, entitled you to expect the early appointment of a commission, by the French Government, with equal powers, to negotiate on all matters in controversy between them. Had the French Government been influenced by similar views, the object, of your mission would long since have been accomplished, to the advantage and peace of both nations. But instead of coming forward on such equal and proper ground, they have treated you, and through you your country, with extreme neglect.

Under these circumstances, the President presumes that you have long since quitted Paris and the French dominions; yet, actuated as you were with an ardent desire to preserve peace, which you knew would be so grateful to your country; and having for this object manifested unexampled patience, and submitted to a series of mortifications; as you also proposed to make one more direct attempt, subsequent to the date of your last letter, to draw the French Government to an open negotiation; there is a bare possibility that this last effort may have succeeded: the President, therefore, thinks it proper to direct—

1. That if you are in treaty, with persons duly authorized by the Directory, on the subjects of your mission, then you are to remain and expedite the completion of the treaty, if it should not have been concluded. Before this letter gets to hand, you will have ascertained whether the negotiation is or is not conducted with candor on the part of the French Government: and if you shall have discovered a clear design to procrastinate, you are to break off the negotiation, demand your passports, and return. For you will consider that *suspense* is ruinous to the essential interests of your country.

2. That if, on the receipt of this letter, you shall not have been received, or, whether received or not, if you shall not be in treaty with persons duly authorized by the Directory, with full and equal powers, you are to demand your passports and return.

3. In noevent is a treaty to be purchased with money, by loan or otherwise. There can be no safety in a treaty so obtained. A loan to the republic would violate our neutrality: and a douceur to the men now in power might by their successors be urged as a reason for annulling the treaty, or as a precedent for further and repeated demands.

It is proper to apprize you, that a motion has been made in the Senate, and will doubtless be repeated in the House of Representatives, to desire the President to lay before them your communications; and he will probably be under the necessity of doing it: only withholding the two names which you promised should in no event be made public.

I have the honor to be, &c.

TIMOTHY PICKERING.

5th CONGRESS.] No. 145. [2d SESSION.

EMIGRANTS FROM THE WEST INDIES.

COMMUNICATED TO CONGRESS, JUNE 27, 1798.

UNITED STATES, *June* 27, 1798.

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

I have received a letter from his excellency Thomas Mifflin, Governor of Pennsylvania, enclosing some documents, which I judge it my duty to lay before Congress without loss of time.

As my opinion coincides entirely with that of his excellency the Governor, I recommend the subject to the consideration of both Houses of Congress, whose authority alone appears to me adequate to the occasion.

JOHN ADAMS.

PHILADELPHIA, *June* 27, 1798.

SIR:

I think it proper to inform your excellency that, on the evacuation of Port-au-Prince by the British troops, a very great number of French white men and negroes were put on board of transports and sent to America. Some of the vessels, I understand, made an attempt to land their passengers at Charleston; two have arrived at this port, and it is said that the remainder of the fleet may be daily expected in some of our harbors. To prevent, as far as I can, the obvious danger from such an importation at this crisis, I have determined, with the advice of the attorney general, and other State officers, to prohibit the landing of any French negroes, arriving at the port of Philadelphia in vessels under the circumstances which I have stated: but the limited jurisdiction of Pennsylvania, the facility with which our regulations may be evaded, by disembarking the negroes in any adjacent State, and, perhaps, the necessity of extending the prohibition to white men, induce me to submit the subject to your consideration, and to request such a co-operation of the Federal authority as your excellency may deem expedient for the general safety.

I have added to this communication copies of the documents containing the information that I have received.

I have the honor to be, with perfect consideration and respect,
Sir, your excellency's most obedient humble servant,

THO. MIFFLIN.

To his Excellency JOHN ADAMS, Esq.
President of the United States.

HEALTH OFFICE, *June* 26, 1798.

SIR:

I am directed by the board of managers of the marine and city hospitals of the port and city of Philadelphia to transmit to you, for the information of the Governor, the enclosed resolution of the board, and a copy of the letter therein mentioned.

I am, sir, yours, very respectfully,

WILLIAM JONES, *President.*

A. J. DALLAS, Esq. *Secretary of the Commonwealth of Pennsylvania.*

HEALTH OFFICE, *June* 26, 1798.

At a meeting of the board of managers of the marine and city hospitals of the port and city of Philadelphia, the President read a letter addressed to him, from David Pinkerton, a passenger in the ship Josephus, from Jeremie, now under quarantine, containing important information respecting the great influx of people from the West Indies: Whereupon,

Resolved, That the President be requested to transmit a copy of said letter to the Secretary of the Commonwealth, for the information of the Governor.

By order of the board of managers.

Attest:

WILLIAM JONES, *President.*

TIMOTHY PAXON, *Clerk.*

SHIP JOSEPHUS, FORT MIFFLIN, *June* 26, 1798.

SIR:

Doctor Hall has this day communicated to us the resolution of the board of health respecting passengers from the West Indies; I think it would be highly proper for the Government, at this critical moment, not even to admit the landing of any French passengers whatever in the United States; there, no doubt, are some men of principle among them, but be assured that the far greatest part of those already arrived are fully ripe for any turn which we take with respect to France. There has a great many gone to the Southern States, and many were preparing to come

with the next fleet. I think I should not be far wrong in saying they will exceed four thousand souls; many without any funds, and some with a considerable number of slaves, that have all been trained to arms, and have them with them, and attached to their master's interests: if any measures could be had for sending them away, it would greatly add to the security of our country.

With esteem, I am your obedient servant,

DAVID PINKERTON.

Captain WILLIAM JONES.

I certify that the foregoing are true copies of the originals.

JAMES TRIMBLE, *Deputy Secretary.*

SECRETARY'S OFFICE, PHILADELPHIA, *June* 27, 1798.

5th CONGRESS.] No. 146. [2d SESSION.

GENERAL WASHINGTON'S ACCEPTANCE AS COMMANDER-IN-CHIEF.

COMMUNICATED TO THE SENATE, JULY 18, 1798.

UNITED STATES, *July* 17, 1798.

Gentlemen of the Senate:

Believing that the letter received this morning from General Washington will give high satisfaction to the Senate, I transmit them a copy of it, and congratulate them and the public on this great event—the General's acceptance of his appointment as Lieutenant General and Commander-in-chief of the army.

JOHN ADAMS.

MOUNT VERNON, 13*th July*, 1798.

DEAR SIR:

I had the honor, on the evening of the 11th instant, to receive, from the hands of the Secretary of War, your favor of the 7th, announcing that you had, with the advice and consent of the Senate, appointed me "Lieutenant General and Commander-in-chief of all the armies raised or to be raised for the service of the United States."

I cannot express how greatly affected I am at this new proof of public confidence, and the highly flattering manner in which you have been pleased to make the communication; at the same time, I must not conceal from you my earnest wish that the choice had fallen upon a man less declined in years, and better qualified to encounter the usual vicissitudes of war.

You know, sir, what calculation I had made relative to the probable course of events, on my retiring from office, and the determination I had consoled myself with, of closing the remnant of my days in my present peaceful abode; you will, therefore, be at no loss to conceive and appreciate the sensations I must have experienced to bring my mind to any conclusion that would pledge me, at so late a period of life, to leave scenes I sincerely love, to enter upon the boundless field of public action, incessant trouble, and high responsibility.

It was not possible for me to remain ignorant of, or indifferent to, recent transactions. The conduct of the Directory of France towards our country; their insidious hostility to its Government; their various practices to withdraw the affections of the people from it; the evident tendency of their acts, and those of their agents, to countenance and invigorate opposition; their disregard of solemn treaties and the laws of nations; their war upon our defenceless commerce; their treatment of our ministers of peace; and their demands amounting to tribute; could not fail to excite in me corresponding sentiments with those my countrymen have so generally expressed in their affectionate addresses to you. Believe me, sir, no one can more cordially approve of the wise and prudent measures of your administration. They ought to inspire universal confidence, and will, no doubt, combined with the state of things, call from Congress such laws and means as will enable you to meet the full force and extent of the crisis.

Satisfied, therefore, that you have sincerely wished and endeavored to avert war, and exhausted to the last drop the cup of reconciliation, we can, with pure hearts, appeal to Heaven for the justice of our cause, and may confidently trust the final result to that kind Providence who has heretofore, and so often, signally favored the people of these United States.

Thinking in this manner, and feeling how incumbent it is upon every person, of every description, to contribute at all times to his country's welfare, and especially in a moment like the present, when every thing we hold dear and sacred is so seriously threatened, I have finally determined to accept the commission of Commander-in-chief of the armies of the United States, with the reserve only, that I shall not be called into the field until the army is in a situation to require my presence, or it becomes indispensable by the urgency of circumstances.

In making this reservation, I beg it to be understood, that I do not mean to withhold any assistance to arrange and organize the army, which you may think I can afford. I take the liberty also to mention, that I must decline having my acceptance considered as drawing after it any immediate charge upon the public, or that I can receive any emoluments annexed to the appointment, before entering into a situation to incur expense.

The Secretary of War being anxious to return to the seat of Government, I have detained him no longer than was necessary to a full communication upon the several points he had in charge.

With very great respect and consideration, I have the honor to be, dear sir, your most obedient humble servant,

G. WASHINGTON.

JOHN ADAMS, *President of the United States.*

5th CONGRESS.] No. 147. [2d SESSION.

GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 8, 1799.

UNITED STATES, *January* 8, 1799.

Gentlemen of the House of Representatives:

In compliance with your desire, expressed in your resolution of the second of this month, I lay before you an extract of a letter from George C. Morton, acting consul of the United States, at the Havanna, dated the 18th of November, 1798, to the Secretary of State, with a copy of a letter from him to L. Trezevant and William Timmons, esquires, with their answer. Although your request extends no further than such information as has been received, yet it may be a satisfaction to you to know, that as soon as this intelligence was communicated to me, circular orders were given by my direction to all the commanders of our vessels of war, a copy of which is also herewith transmitted. I also directed this intelligence and these orders to be communicated to His Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States, and to our minister plenipotentiary to the court of Great Britain, with instructions to him to make the proper representation to that Government upon this subject.

It is but justice to say, that this is the first instance of misbehavior of any of the British officers towards our vessels of war, that has come to my knowledge. According to all the representations that I have seen, the flag of the United States, and their officers and men, have been treated by the civil and military authority of the British nation, in Nova Scotia, the West India Islands, and on the ocean, with uniform civility, politeness, and friendship. I have no doubt that this first instance of misconduct will be readily corrected.

JOHN ADAMS.

Extract of a letter from George C. Morton, acting Consul of the United States at the Havanna, dated there the 18th of November, 1798, to the Secretary of State.

"By the delegation of Daniel Hawley, Esq. I am at present acting as consul of the United States in this district, with which he will most probably have acquainted you. It imposes upon me the mortifying task of informing you, sir, of the partial capture of an American fleet, under the convoy of the Baltimore sloop of war, —— Phillips, Esq. commander, by a British squadron, off this harbor, accompanied with circumstances rather grating to the feelings of Americans, and by no means analogous to that good harmony which seems to subsist between the two Governments.

"The answer of Messrs. Trezevant and Timmons to my annexed note of the 17th instant, requesting an exact relation of the occurrence, will, I presume, be deemed as impartial a narration as can be given, of the whole transaction, they having been passengers on board one of the captured vessels, and removed to the Baltimore."

Mr. Morton adds, that Commodore Loring ordered the fifty-five men out of the Baltimore, "on board of his ship, previous to any proposal of exchanging the natives of one nation for those of the other; and retained five of the hands as being British subjects, without giving an equal number of Americans, whom he *acknowledged* to have on board."

Mr. Morton to L. Trezevant and W. Timmons, Esquires.

HAVANNA, *November* 17, 1798.

GENTLEMEN:

As acting American consul for this city and district, and of course obliged to forward the most correct statement possible to the Government of the United States, officially, I would beg the favor of you, gentlemen, to furnish me with an exact relation, under your signatures, of the unpleasant occurrence which took place off the Moro Castle on the 16th instant, by which you will much oblige, gentlemen, your most obedient servant,

GEO. C. MORTON.

N. B. It would be proper to premise that you were passengers, and your distance from the Moro Castle at the time of capture.

G. C. M.

HAVANNA, *November* 18, 1798.

SIR:

Agreeably to your request, we now commit to writing the best account we are able to give you, of the conduct of Captain Loring, commodore of the British squadron, which was lately off the Moro, towards the United States ship the Baltimore. We must observe, however, that all we can say of it is from the information of Captain Phillips, as we were not on board of the Baltimore when she was visited by Captain Loring's officers.

In the morning of the 16th instant we discovered this squadron when we were in sight of the Moro, and afterwards found it was composed of Captain Loring's ship the Carnatic of 74 guns; Captain ——'s ship the Thunderer, of the same force; Captain Dobson's ship the Queen, 98 guns; Captain Donolly's frigate the Maidstone, 32 guns, and Captain Hardy's frigate the Greyhound, of the same force. We were passengers in the brig Norfolk, Captain Butler, which, together with the ship Eliza, Captain Baas, and the brig Friendship, Captain Fuller, were cut off from their entrance into port, and were all made prizes within gunshot of the Moro. We obtained leave to go on board the Baltimore with our baggage, and did so. When Captain Phillips discovered that they were English ships, which was before we were taken, he stood towards them, and spoke the commodore. After we got on board the Baltimore, the captain informed us that he had been on board the Carnatic, and the commodore had told him that he should take out of the Baltimore all such men as had not American protections; that he had remonstrated with him against showing such an indignity to our flag; that to do so would leave his ship in a very defenceless state, and would deprive him of nearly all his men, as not even those who were really Americans, or at least very few of them, could show protections, because it was always thought that our flag on board a Government ship was a sufficient protection. All this, however, was urged in vain. Captain Phillips returned to his ship, and the commodore sent an officer on board the Baltimore, who carried away fifty-five of her men to the Carnatic. Captain Phillips remained in expectation that nearly all the rest would be taken from him; but whether the commodore, upon reflection, thought better of it, or whatever else might have been his motive, he sent back fifty, and kept five, among whom was the ship's boatswain.

Captain Loring proposed to give up a number of American seamen, who, he said, were in his fleet, if Captain Phillips would give him English subjects for them. Captain Phillips refused this offer, and the American seamen were not delivered to him. Before any of the men were returned, he sent a message to Captain Phillips to let him know if he, or one of his officers, would go on board of him, and point out who were Americans and who were not, he would return all the Americans; but this was declined also. After we got on board of the Baltimore, he sent a letter to Captain Phillips, which he showed us, in which the commodore "*demanded*" that he would give up all the British subjects on board the Baltimore. To this Captain Phillips replied, that he could not know any of his men

as British subjects, nor could he, as commander of a ship in the service of the United States, voluntarily give up any of his men; but if he thought fit to send an officer on board with orders to take any number of his men, he should not oppose it. In this answer, Captain Phillips mentioned he should lay before the Executive of the United States a full account of the occurrences of the day. Shortly after sending this reply, the squadron set sail and left the Baltimore. Commodore Loring was very polite to us, and was so to Captain Phillips when he went on board; but Captain Phillips complained of indecent behavior from the inferior officers.

LEWIS TREZEVANT,
WM. TIMMONS.

G. C. MORTON, Esq. *V. Consul of U. S. at Havanna.*

(CIRCULAR.)

To the Commanders of armed vessels in the service of the United States, given at the Navy Department, December 29, 1798.

SIR:

It is the positive command of the President, that on no pretence whatever you permit the public vessel of war under your command to be detained, or searched, nor any of the officers or men belonging to her to be taken from her, by the ships or vessels of any foreign nation, so long as you are in a capacity to repel such outrage on the honor of the American flag. If force should be exerted to compel your submission, you are to resist that force to the utmost of your power, and when overpowered by superior force, you are to strike your flag, and thus yield your vessel as well as your men; but never your men without your vessel.

You will remember, however, that your demeanor be respectful and friendly to the vessels and people of all nations in amity with the United States, and that you avoid as carefully the commission of, as the submission to, insult or injury.

I have the honor to be, &c.

BEN. STODDERT.

5th CONGRESS.] No. 148. [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, JANUARY 18, 1799.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

UNITED STATES, *January* 18, 1799,

The communication relative to our affairs with France, alluded to in my address to both Houses, at the opening of the session, is contained in the sheets which accompany this. A report of the Secretary of State, containing some observations on them, will be sent to Congress on Monday.

JOHN ADAMS.

Letter from the Secretary of State to Mr. Gerry, dated

JUNE 25, 1798.

SIR:

By the instructions dated the 23d of March, which, agreeably to the President's directions, I addressed to Generals Pinckney and Marshall and yourself, and of which six sets were transmitted, one by a despatch boat sent on purpose, and some of which doubtless reached you during the last month, you will have seen that it was expected that all of you would have left France long before those instructions could arrive, and which were transmitted rather from abundant caution than necessity, seeing no probability or hope existed that you would accomplish the object of your mission. The respect due to yourselves and to your country irresistibly required that you should turn your backs to a Government that treated both with contempt—a contempt not diminished, but aggravated, by the flattering but insidious distinction in your favor, in disparagement of men of such respectable talents, untainted honor, and pure patriotism, as Generals Pinckney and Marshall, and in whom their Government and their country reposed entire confidence; and especially when the real object of that distinction was to enable the French Government, trampling on the authority and dignity of our own, to designate an envoy with whom they would condescend to negotiate. It is, therefore, to be regretted that you did not concur with your colleagues in demanding passports to quit the territories of the French republic some time before they left Paris.

General Marshall has arrived, and delivered to the President your letter of April 16th, with its enclosures; all which were on the 21st instant laid before Congress, accompanied by a message, in which the President declares the negotiation at an end, and that "he will never send another minister to France, without assurances that he will be received, respected, and honored as the representative of a great, free, powerful, and independent nation."

It is presumed that you will consider the instructions of the 23d of March before mentioned as an effectual recall; lest, however, by any possibility, those instructions should not have reached you, and you should still be in France, I am directed by the President to transmit to you this letter, and to inform you that you are to consider it as a positive letter of recall.

I am, respectfully, sir, &c.

TIMOTHY PICKERING.

MR. GERRY'S COMMUNICATIONS.

NANTASKET ROAD, *October* 1, 1798.

SIR:

I have the honor to inform you of my arrival here this morning in the brigantine Sophia, Captain Geddes, from Havre, but last from Portsmouth in Great Britain; and to enclose copies of my letters to yourself of the 12th and 13th of May last, Nos. 1 and 2; of the correspondence between Mr. Talleyrand, the French Minister of Foreign

Affairs, and myself, numbered according to the respective dates, from 3 to 28 inclusively; of an arrêt enclosed in his last letter, No. 29; of my letter to Mr. Hautval, and his answer, Nos. 30 and 31; of my letter to Mr. King, our minister at London, and an extract to Dr. Taswell, the bearer thereof, Nos. 32 and 33; also the substance of a conference with the Dutch minister a day or two before I left Paris, No. 34; and an anonymous publication "on the President's communication" of our despatches, said to have issued from the French office of foreign affairs, No. 35.

When I left the United States in August, 1797, the citizens, in general, appeared to be earnestly desirous of a reconciliation with France, on terms consistent with the honor, interest, and welfare, of the two republics: these, being free from claims and controversies in regard to territory, boundaries, and many matters which embroil States, and from competitions relative to their productions, manufactures, and commerce, had a mutual and manifest interest in the renewal of their commercial and friendly intercourse with each other. Nature seemed to have entitled the United States, in their remote situation, to the peaceable pursuit of their industry, by means whereof, in its various branches, their wealth and power were rapidly increasing; and to an exemption from the conflicts of Europe, which, involving them, would check their population, drain their resources, and ensure their poverty. On a candid investigation, then, of the causes of the unhappy differences between the two Governments, on a disposition to correct errors, to which all Governments are more or less liable, and on their mutual resolution to reciprocate justice, the success of the mission was conceived to depend; and as this temper marked the plan of pacification adopted by the Government of the United States, there was a rational prospect of success.

Soon after our arrival in Paris, the scene was changed, and the hope of a reconciliation being diminished, the necessity of harmony in the United States was proportionably increased, as the only means for preserving their welfare and independence at home, their rights and respectability abroad. In case of a war, there was every reason to believe that they would be able to defend themselves against any nation or coalition that could be formed against them; whilst their citizens should consider the Government, chosen by themselves, as the pole star of their salvation; should rally round its standard, when raised for their defence; should rise superior to foreign intrigues, always expert in fomenting divisions, and often aided by popular elections, legislative debates, and clashing opinions and interests; and should promote unanimity, by toleration amongst themselves. Nevertheless, the critical state of our affairs required that France should not be furnished with pretexts for charging the American Government or ministers with neglect of means for obtaining a reconciliation.

When the Minister of Foreign Affairs, in October last, unauthorized by the Executive Directory, as Mr. Y. had informed the envoys, to have any communications with them, had expressed a desire to see them in their private capacities, I was opposed to a compliance *individually*, not from considerations of etiquette, which had no weight in my mind, but because it would infer in me a separate agency in matters wherein I was but jointly authorized. To prevent, however, the imputation of a failure of the negotiation, then daily expected, to the United States, I submitted to the measure, was unsuccessful in my attempts to make it general, and was thereby subjected to a series of embarrassments.

The particular attentions of the minister to me, lest they should be invidious, were in every instance but two declined, and in one of these I yielded to importunity: preferences I viewed as a source of division.

The second conference which I held with the minister, being on the 17th of December, and his propositions to the envoys, were published with their despatches. Their answer, which was unanimously in the negative, was delivered by me to his secretary. Mr. Y. had expected it, and expressed a surprise that the secretary had applied for it.

On the 4th of February, the minister, by order of the Executive Directory, proposed that I should treat separately. The circumstances thereof, and of my refusal, are generally detailed in the correspondence enclosed.

The minister afterwards desired me, by his secretary, to communicate to the other envoys his proposition for a loan subsequent to the war, which he soon relinquished. On this subject, our first instructions were silent; the last were explicit, and necessary to determine my judgment.

In consequence of his letter to the envoys, of the 28th Ventose, (18th of March) the minister renewed his proposition for me to treat separately, and again received a negative answer. He then proposed that I should remain at Paris until the sense of the Government could be obtained; declaring, as before, that an immediate rupture would be the consequence of my departure. To have left France, under such circumstances, was a measure which I could not justify. The power of declaring war was not entrusted with the supreme Executive of the United States, much less with a minister; and to have thus provoked it would, in my mind, have been tantamount to a declaration thereof. Indeed, to have plunged the nation into a war suddenly, even if it was inevitable, appeared to me, in other respects, unwarrantable. Congress, who alone had the right to adopt this measure, might, by such a premature step, have been defeated in their previous arrangements, and subjected to other manifest inconveniences; and the Executive might have been placed on ground less advantageous for forming alliances, &c.: whereas, my detention at Paris gained time, if this was requisite, and could not procrastinate a declaration of war, if the United States were prepared for it. Other considerations had their weight. France, at that time, was making very formidable preparations, with a professed design *to overthrow the British Government:* and such were the exertions and enthusiasm of her citizens, armies, and administration, as to spread a general alarm throughout Great Britain. It was evident, then, to common observation, that, should France succeed, she would acquire, by the powerful navy and resources of Britain, such strength as to be able to give law to Europe, and to regions more remote; and it was rational to suppose that a coalition would be formed of such European Powers as were not in the interest or under the influence of France, to put an end to the war, by offering their mediation, and declaring their intention to oppose the Power which should refuse it: the temporizing negotiations at Rastadt had this aspect. Moreover the internal affairs of France were in an agitated state, and threatened civil commotions. If, then, on the one hand, a new coalition against France, a change in her Government, or even a successful resistance on the part of Great Britain, had happened, a favorable opportunity would have presented itself to the United States for obtaining of her a just and advantageous treaty; and this would have been lost by a previous rupture in consequence of my departure. If, on the other hand, Great Britain, unaided, had fallen, the United States would have been in a much better condition at peace than in war with the most formidable Power the world had exhibited. In such an event, they could have had but small hopes of resisting France; and it might have been deemed madness in them even to have attempted it. For these reasons, I thought it my indispensable duty to remain a short time at Paris.

The tenor of our instructions, the last as well as the first, shows that the Government did not anticipate the proposition for treating separately, and made no provision for such an event. The French minister has uniformly insisted that I had power to treat; because, in the instrument, he saw that the envoys had a separate and joint authority. If the position could be established, it would authorize a foreign Government, at pleasure, to reduce the number of a commission consisting of two or more members, and thus to deprive the constituting Government of the joint abilities of its ministers; or absurdly to insist on a separate negotiation with each minister, and to choose from their several treaties that which should best answer its purpose: besides, in case of the misconduct of ministers, their Government has a right to expect information thereof, and an opportunity of substituting others in their stead; but I trust that the arguments stated in the correspondence enclosed are sufficient to show that the power to treat did not exist; or, if it did, that I was justified, under existing circumstances, in refusing to exercise it.

On the 3d of April, I received the minister's note, No. 3; and, apprehending that he proposed to draw me into a negotiation, notwithstanding my resolution to the contrary, I sent him an answer on the 4th of April, (No. 4) to which he made no reply.

On the 20th of April, considering the unpleasant situation in which I was placed, detached from the other envoys, destitute of power to negotiate, irreconcileable to an application for it, and even to an acceptance of it, if offered, I addressed to the minister the letter No. 5, urged him to come forward with propositions for a reconciliation, and to release me from my confinement.

At our next interview, on the 28th of April, the minister informed me that he could not comply with my proposals; not knowing the views of the United States in regard to a treaty. To remove this obstacle, I gave the information, and in it the fullest extent to the claims of the American citizens against France, but I was silent with re-

spect to the guarantee of the eleventh article of the treaty of alliance, and to what relates to the Barbary Powers; and left it with him, in the first instance, to provide for a liberal commerce to the French colonies in the East and West Indies, and to express the views of France in regard to the proposed treaty. We afterwards conferred on the necessity of sending a French minister to the United States; and he promised to deliver me, within three or four days, the project of a treaty. On the evening of the 12th May, Mr. Humphreys arrived, and delivered me your letter of the 23d March, which, the next morning, was deciphered. Our Government could not then have been apprized of the new state of affairs; but, as it had signified "that suspense was ruinous," I thought myself authorized to give immediate information to the Minister of Foreign Affairs that I should return to America in the Sophia, as soon as she could be fitted for the sea, and that it was necessary to expedite the measures we had contemplated for effecting a treaty. The Executive Directory, as well as the minister, had, it was said, during the three preceding weeks, been indispensably occupied by the new elections; and these being finished, they could now proceed on American affairs: had the latter required more time than I had allotted for them, I was determined to have detained the Sophia a short period, rather than to have defeated the proposed arrangements. This I considered as my duty: for, whilst the Government manifested, in their instructions, a just indignation at the treatment which their envoys had received, it evinced a disposition to peace, and, as far as I could judge, the same temper now existed on the part of France.

On the 24th May, the minister sent the principal secretary of his bureau, to inform me that his Government did not wish to break the British treaty, but expected in the new treaty such provisions as would indemnify France, and put her on a footing with that nation. To this I answered that the information gave me pleasure; that it was impossible for the United States, by violating that treaty, to become perfidious; that the treaty itself was an evidence of their good faith, inasmuch as it contained a provision "that it should not be construed or operate contrary to former and existing public treaties with other sovereigns or States;" that, if in its construction or operation, France had sustained injuries, still she was sure of redress by the provisions thereof, as well as by her own treaty with the United States, and that the latter ensured to her an extension of favors, in regard to commerce and navigation, if any such had been granted to Great Britain.

He said there was a second point, which respected the claims of American citizens on the French republic; that, if the latter should not be able to pay them, when adjusted, and the United States would assume, and pay them, France would reimburse the amount thereof. To this I answered, that the measure was impossible, but, that the claims might be adjusted, funded, and made transferable by France, and be redeemed, pursuant to such stipulations as might be agreed on between the two Governments.

He then stated a third point, which respected the consular convention. I answered, that perhaps it would be best, as its duration would be short, to let it expire. But if the present war should soon terminate, and commerce revive in France, it may be well to revise it, in order to prevent further disputes respecting the evidence for apprehending deserters, the judicial officers for issuing warrants, and the mode of executing consular decisions, stating, at the same time, that foreign tribunals could never be admitted within the jurisdiction of the United States. The secretary reported the conference, and informed me, the next morning, that the minister would send me his answer, in writing, in a few days.

On the 26th May I had a conference with the minister, the substance of which is stated in my letter, No. 24. Having pressed, on this, as well as former occasions, the necessity of sending a minister to the United States, he now readily acceded to it; this would have enabled France to relax from any stipulations which she might have urged there, but which might be found by her minister in the United States, to endanger the treaty.

In this state were affairs on the 27th May, when I was called on by one of the city gazettes, which announced the publication of our despatches, to deny their authenticity. Having reason to suppose that the result of this new embarrassment, if not pacific, would be very violent, I prepared for the event, being obliged to abide the consequences.

On the 30th May, I received from the minister his letter No. 6; and returned, for answer, No. 7. In this I repeated what was published in our despatches, that X and Y had not produced a document of any kind, for authorizing their conference with us. I was not disposed to accuse or exculpate the French Government, or minister: the latter had disavowed the intriguers, as they were styled, and they, in their conferences with us, had declared that they were not authorized by the Government. The matter was, therefore, left with the public, as it had been referred to their tribunal.

On the 1st of June, the minister sent me his letter No. 8, and I desired to know of the bearer why application was again made to me for the names of the intriguers, when they could be otherwise ascertained. He answered, that he believed, by the exertions of the bureau and of the police of the city, the names were discovered, *and he mentioned them to me*. But, he added, that matters had become very serious; that the Directory expected something from me, in confirmation of this discovery; that this was the use which would be made of my letters; and, that the minister did not wish for any declaration from me, but what should be perfectly consistent with truth. I assured him that no extremity should produce from me any other declaration, and sent the minister my letter, No. 10. In this I guarded against the publication, on my authority, of the names thus communicated, and did justice to certain individuals, who, being suspected, were, nevertheless, innocent.

On the 7th June, the publication, No. 35, appeared in the Redacteur. In this, contrary to assurances received, I was made to act a very conspicuous part, and was attacked under a thin veil of insidious compliments: the cause thereof was the detail, in the despatches, of my particular conferences. The next day I prepared a letter to the minister for detecting the artifices, and correcting the abuses of that curious performance. But having considered that it might open a door to altercation and delay, if not defeat the great object in view, or produce a mere disavowal of the anonymous publication, which, afterwards, was made in No. 21, I suppressed the letter, and, on the 10th June, addressed to him No. 13. In this, availing myself of the *pacific declaration* contained in the strictures, I urged the *expedition of pacific measures*, as a requisite to their success.

On the 11th of June I received from the minister No. 14, in which, as he had informed my secretary, he revived the disagreeable subject of the despatches; and he concluded by formally demanding whether I was in a situation to treat. Every circumstance concurred now to prove that the despatches had excited the resentment of the minister against the Government, as well as myself, and had changed his plan in regard to the United States.

On the 13th June I answered that letter, by No. 15; and, on the 20th, received a reply, No. 16. In this, the minister, in lieu of the proposed plan of a treaty, presented a general plan of negotiation, notwithstanding, as he stated it, "my persevering to think my powers were inadequate," and "the most irritating provocations;" by the *first* "*point*" of this plan, a door would have been open to endless altercations respecting the supposed abuse of the French Government, by private writings, public acts of the United States, official letters, and the despatches of the envoys: by the *second point*, the sense of the treaties was to be fixed, and the rights flowing therefrom were to be established; and, by the *third point*, the damages of deviations from the treaties were to be examined: he then stated that "*very general instructions* were necessary for the negotiations; and proposed that I should apply for them. *Very general indeed* must the instructions have been, to have negotiated on such a plan as this: and it was impossible to view it in any other light than that of an evasion of the arrangements proposed. It was easy to have pointed out the misinterpretations and misrepresentations, as well as the impolicy of the plan; but I was under the necessity of avoiding this, or of entering into a formal negotiation. To allure me into it, was, probably, the object of the minister: for soon afterwards he invited me to discuss, in *writing*, some articles of the *second* point. In my answer, therefore, of the 22d June, (No. 17) I merely observed that, "if he conceived a reconciliation would be best promoted by his mode only, I sincerely wished it success."

On the 29th June, I received the minister's letter, No. 19; in which, after relaxing from the *first* point of his general plan, and suggesting that the *third* would not meet with much difficulty, as soon as the *second* should be amicably adjusted, he, for the first time, proposed that I should discuss in *writing* some articles of the treaty comprised under the *second* point. Nearly *three months* had then elapsed since I had declared I could only *confer* with him informally on the objects of the mission; nearly *two months* since he was informed of the views of the United States in regard to a treaty, and had promised to come forward in a few days with the project thereof; and *six weeks*

since I had apprized him of my intention to embark in the Sophia. As then a compliance with his wishes would have given a sanction, not only to his departure from the plan we had agreed on for forming an arrangement, but also to the measure adopted by his Government, of accrediting, at pleasure, the whole or a part only of a commission; and as I had frequently demanded my passport, by letters, as well as by my secretary, I passed in silence his proposition for discussion, *as a measure he well knew was inadmissible*, and urged, in my letter of the 1st of July, No. 20, in a more decided tone, the demand for the passport, &c.

On the 5th July, not having received an answer to my last, I called on the minister, to know the cause of his detaining my passport, and to give him an opportunity, before my departure, of removing the obstacles to a plan of pacification. He began by observing that, in a note accompanying his last letter, he had stated two points respecting the consular convention, expecting that I would discuss them, as he had done, but I had not taken any notice of them; that I had said I had no powers. He had powers; and, of consequence, I should not compromit my State, whilst he would compromit his; that I might take the discussion to the United States, and my Government might judge of it; that when my colleagues were here, the Government could not treat with them; that when they were sent off, it was ready to treat with me; that, although I had no powers, I might send for them; or, remaining there, might give my Government an opportunity of sending other ministers, if I did not choose to proceed in the business; that in this there would be no responsibility on my part; that there were but a few points for discussion, which might soon be finished; and that, if a war was the consequence of my leaving the country, it would be chargeable to me. To which I replied, that the last proposition of the Directory for me to treat, was one which I had before rejected; that, in April last, he knew I would only *confer* on the subjects of the mission, and made no objection to the measure; that, on the 29th June, after my baggage was on board, and I was ready to embark, he first proposed a discussion in *writing* of the articles of the treaty; that I considered this, however qualified, as a formal mode of negotiation, which I had uniformly declined; that, had he brought forward, as he had proposed, the plan of a treaty, and in it comprised the articles which I had stated, we might have passed on it expeditiously, and might have made it acceptable to both Governments; that the most important parts might have been first considered, and, if not adjusted, might have precluded the necessity of passing on the rest; that, in addition to the objection already stated to his mode, it commenced with the consular convention, which would soon expire; that, should we agree on this, and on the lesser points of the commercial treaty, he may reserve to the last the weighty articles thereof; and, failing in these, we might waste several months by a fruitless *negotiation;* that, should we unite in all the points which he has suggested, his mode of discussion would require several months; that the loss of time, by these or other means, might compromit the Government of the United States, and myself likewise; that, if a war should be the consequence of his departing from the plan we had agreed on for obtaining a treaty, he would be chargeable as the cause of it. The minister said the mode he had proposed was generally adopted by France. I replied, the other was not unusual, and, in the present case, was preferable, if not indispensable. He observed that the notes which I had lent him, respecting the views of the United States, were informal. I answered it was true, but that I would remove that difficulty. He then proposed the 7th July for another interview; but afterwards put it off till the ninth. On the 6th I reduced the notes to form, for constituting a part of the treaty.

On the 9th of July I called on the minister, and he inquired whether I had received his letter of that morning. I answered in the negative, and desired to know the contents. He replied, a discussion of two other points of the consular convention, on which I want your opinion in writing. I informed him that I had stated the views of the United States without discussion, and expected the same of him on the part of France; that when this was done, I would proceed to a conference on each point, but not to an epistolary discussion; that such a mode would require, of diligent negotiation, three months, and with his official engagements, double that time. He said, no; that it would not require as much time as I had conceived; that there were at most but six other points. On your side, I replied, but many on ours. He answered, "pas d'avantage," none besides. I said that I was glad to hear it; but to such a discussion as he proposed, I should prefer treating effectually. Some of the conversation was repeated which we had on the 7th, and I renewed my demand for the passport. He answered, that my refusal to discuss must first be given in writing, and we parted. This is the substance of the two interviews.

On the same day I received the letter mentioned at the interview, No. 21, dated the 18th Messidor, (6th July) in which, speaking of his general plan in No. 16, he says, "but it is not sufficient to send these propositions to your Government; they are only the basis of discussions, necessary on each question of detail, the solution of which we ought to find;" although in the last mentioned number he had said, in reference to them, "I am persuaded that you will transmit to your Government exact documents: it will be *its* province to take the best measures for accomplishing a speedy reconciliation." In the letter first mentioned, the minister also observes, "I have apprized you that it would be inconvenient to charge with this discussion a minister plenipotentiary at Philadelphia. Circumstances have rendered this inconvenience more serious, and I do not conceal from you, that I fear new incidents." The fact was, as I ascertained to my satisfaction, that, after the arrival of the despatches and other intelligence from the United States, the Executive Directory apprehended, if a minister was sent there, that he would not be accredited; and that overtures, or any plan unaccompanied by a minister, would meet a similar fate.

On the 10th July, in my letter, No. 22, I refused an epistolary discussion; and demanded a definite answer to my application for a passport and other documents.

On the 15th July I received the minister's letter of the 24th Messidor, (the 12th July) No. 23, in which he appeals to me for the truth of his assertion, "that, if nothing had prevented me from pursuing with him the examination of the grievances which separate the two countries, we should have needed nothing more than their respective ratifications." Before the arrival of the despatches of the envoys, the minister appeared to me sincere and anxious to obtain a reconciliation. He had proposed, by his secretary, an assumption of the debts due to American citizens, which I rejected; but he had made no other proposition of a loan whatever, and never renewed that. Indeed, his views in general, as far as I could then ascertain them, were liberal in regard to a treaty. It is, nevertheless, impossible for me to determine whether we should have united in opinion on every point of dispute between the republics. I had a full expectation that, by the middle of June at farthest, we should have agreed on the plan of a treaty; and that a French minister would have been sent to America for completing it. I was likewise informed of the candidate. But after the arrival of the despatches, although the minister, in the name of the Executive Directory, declared that they persevered in their pacific intentions, he, probably for the reasons stated in explaining, No. 21, abandoned the plan we had at first agreed on, substituted a general plan of negotiation, discussed some articles thereof in *writing*, and insisted, contrary to stipulations, on my answering him in the same mode. At this period, a reconciliation being quite problematical, one of his objects evidently was to prepare materials for a manifesto, in the event of a war, to show that it was a matter of necessity, and not of choice. He says, "that after the arrival of the Sophia, I was disposed to depart; till that time, he had never conceived that I had a design to embark, *before we should have agreed on the definitive articles to be ratified by my Government.*" Before and after the arrival of the Sophia, I had announced my intention to embark early in June; conceiving that the arrangements might be made by that period. I had no design, however, of departing before they were completed: provided, there should have been no reason to doubt of the minister's disposition, or of the success of our endeavors for obtaining a reconciliation. His general conduct would have been the criterion of the first, and our progress in this business, of the last point; but having abandoned our original plan, he has not given me an opportunity to judge effectually of either.

On the 20th of July, I sent the minister No 24, and received, on the 22d, his reply, No. 25. In this he declines a contest in regard to the facts stated by me in No. 24, which I was ready to support: he complains of my proposition for lopping from any future negotiation every preliminary of a loan, and of explanations upon speeches; and refers to his letter of the 30th of Prairial, No. 16, to prove that this step was unnecessary. But, although the first point of his plan in that letter is silent on these demands, they might, as I conceived, be hereafter revived, and were, for this reason, brought again into view: by these means they were effectually renounced.

The minister having, the day before I left Paris, *published his letter*, No. 23, rendered necessary the publication of my answer, No. 24, and the note, No. 26, as a preliminary thereto.

On the 8th of August I received at Havre, the minister's letter, No. 27, to which No. 28 is an answer: the former contained the arrêté No. 29; and his desire to send it by the Sophia probably produced the official impediments which, for several days, prevented her sailing. The minister is unwilling to admit that the arrêté was the effect of my representations: I believe there is no doubt of the fact; but it is a matter of little consequence.

Nos. 30 and 31 will show that Mr. Hautval, in his letter to the minister, relative to our first interview, committed some errors, and candidly corrected them.

Nos. 32 and 33 require no explanation.

No. 34 will show the object of the Dutch minister in his conference with me, and requires no comment. I was before informed that this gentleman, if requested, would interpose his good offices, but did not think it proper to make the application.

No. 35 has already been the subject of some general remarks.

To No. 9 a verbal answer was sent by the minister, that the letters and despatches therein mentioned "had never reached the Government."

On the 26th of July, I left Paris; and, from the best information which I could obtain relative to the disposition of the Executive Directory, (for I never had any direct communication with them) they were very desirous of a reconciliation between the republics. Every impediment to my departure had been adopted by the French minister: and he would have prevented it, had he succeeded in his plan of an epistolary discussion. His object was, as I conceived, to gain time for ascertaining whether the United States were then disposed to a treaty; of this he manifested doubts, being persuaded that their resentment was too great to admit of it. He seemed also to apprehend that, in consequence of the incredible exertions of Great Britain, and the unequivocal evidence she had given of her ability to defend herself, they were inclined to avenge their injuries by an alliance with her; and that, should France come forward with overtures, or the plan of a treaty, she would fail therein, and compromit her honor I was, nevertheless, of opinion that, should France be just and liberal in her measures, the Government ofthe United States would still meet her on the ground of accommodation. My judgment was the result of their instructions: for I had never received any other official intelligence since my departure from America; I have, therefore, uniformly inculcated that sentiment.

Having been thus in a situation wherein, amidst a series of events, each has been productive of fresh embarrassments, I have invariably pursued what to me appeared the honor, interest, and welfare, of my country, and been guided by the sense of the Government, as far as I could ascertain it.

If the door is still open to peace, the establishment of it must be a happy event to the United States, as it will exempt them from calamities, which, notwithstanding delusive appearances, will, with short intervals, probably continue, for half a century, to exhaust and depopulate Europe.

But, if the national pulse beats high for war, and the wise and constitutional councils of the United States shall consider it as the only safe and honorable alternative, may that Omnipotent Being, who controls events, protect them; and may they commence the war with ardor, continue it with vigor, and terminate it with glory. That this will be the issue there can be no doubt, whilst the American republic shall choose UNION for her MOTTO; and profiting by the misfortunes of other nations, shall be convinced that *discord will ensure dependence, and concord independence in war and peace.*

I shall, probably, when at leisure, give you some other details of less consequence, and, in the interim,

Remain, sir, with much esteem and respect, your very humble servant,

E. GERRY.

TIMOTHY PICKERING, Esq. *Secretary of State of the United States.*

No. 1.

PARIS, *May* 12, 1798.

SIR:

Being informed that Messrs. Prince and Brownfield, who expected to sail in the same ship with General Marshall, are yet at Bordeaux, I embrace the only favorable opportunity which has occurred, since his departure, to enclose you a copy of a note, which I received from M. Talleyrand, Minister of Foreign Relations, dated the 14th Germinal, (April 3d) of my answer of the 4th of April, and of my letter of the 20th of the same month, being the day after General Pinckney left Paris. I had intended to have sent Dr. Tazewell, who is now in my family as secretary, with my despatches to our Government, that no time might be lost in obtaining from it such arrangements for supplying my place as might have enabled me, immediately on his return, to leave France; but the measure is become unnecessary, by the prospect which I have of being able soon to embark for the United States, with the acquiescence of this Government.

The decision of the Executive Directory with respect to my colleagues, after we had obtained what we had been informed, in our first conference with Mr. Bellamy, was impracticable, a joint interview with the Minister of Foreign Relations, and, after the latter had seemed disposed to suspend matters until we could obtain from our Government an answer to our letters, was not less perplexing than surprising; and their proposition to treat with me separately was inadmissible. It was a proposition to which I had given my negative above a month before, when made to me, under an injunction of secrecy, by the Minister of Foreign Relations. I was then informed that an immediate rupture would be the result of my departure from France; and the same communication being again made, with information that, if I was determined not to negotiate separately, this Government would be satisfied with my residence here, until the Government of the United States could take their measures, I consented to this, from public considerations solely: for every private one was opposed to it. In my embarrassed situation, not losing sight of the great object of our mission, a reconciliation with this powerful republic, I have taken a position, by which I mean to ascertain, if possible, without compromitting the Government of the United States or myself, the ultimate views of France with respect to them. It would have been impossible for me, under existing circumstances, to have consented to a separate negotiation, had the provision been made in our powers and instructions: for two of my colleagues, one from the Southern, and the other from the Middle States, having been sent back, I could have had no prospect of forming a treaty which would have given general satisfaction to my country; and I could never have undertaken any negotiation without that prospect. It is therefore incumbent on me to declare that, should the result of my present endeavors present to our Government more pleasing prospects, it is, nevertheless, my firm determination to proceed no further in this negotiation. The want of time and health preventing further communications at present,

I have the honor to remain, sir, with great esteem and respect, your most obedient, &c.

E. GERRY.

To the SECRETARY OF STATE *of the United States of America.*

No. 2.

PARIS, *May* 13, 1798.

DEAR SIR:

I have the honor to inform you that the brigantine Sophia arrived at Havre the 11th instant; and last evening, at the moment of enclosing my despatches to you of yesterday, Mr. Humphreys delivered me your letter of instructions of the 23d of March, which shall be duly observed. The arrival of this vessel is a fortunate circumstance for me, and I shall embark in her for the United States, in lieu of taking my passage, as I had proposed, in one of the American merchantmen, now in the ports of France. The ultimate views of this Government, which their minister has promised in writing in a few days, shall be obtained if possible.

I am, sir, &c.

E. GERRY.

To the SECRETARY OF STATE *of the United States of America.*

No. 3.

LIBERTY. EQUALITY.

EXTERIOR RELATION'S OFFICE, PARIS, *14th Germinal, April* 3, 1798,
6th year of the French republic, one and indivisible.

The Minister of Exterior Relations to Mr. Gerry, Envoy Extraordinary of the United States of America to the French republic.

I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations which the end of my note of the 28th of last Ventose [18th March, 1798] presents, and the obstacle which their known opinions have induced to the desired reconciliation, to quit the territory of the republic. In this supposition I have the honor to point out to you the fifth or the seventh of this decade, to resume our reciprocal communications upon the interests of the French republic and the United States of America.

Receive, I pray you, &c.

CH. MAU. TALLEYRAND.

No. 4.

PARIS, *April* 4, 1798. (*Germinal* 15*th, an* 6.)

I had the honor, citizen minister, of receiving your letter of the 14th Germinal, (the 3d instant) and Mr. Deutrement, who delivered it, informed me that it was intended to be shown to General Pinckney and General Marshall.

Whilst my colleagues and myself, to whom the Government of the United States have intrusted the affairs of the embassy, had a joint agency therein, I have carefully imparted to them all the propositions which you have requested, and the relative conferences, and to yourself our decisions thereon; regretting, at the same time, the unfortunate and embarrassing circumstances which imposed on me this disagreeable task. But as, by the tenor of your letter, it is now expected that they will quit the territory of the French republic, it will be impossible for me to be the medium of, or to take, any measures which will be painful to my colleagues, or not to afford them all the assistance in my power; and it would be moreover inconsistent with the line of conduct, which you well know, citizen minister, I have uniformly observed, for removing the unfavorable impressions which existed on the part of this Government against them. Indeed, in our last letter, there is a conditional application for passports, which, as it appears to me, supersedes the necessity of a hint to them on this subject; and General Marshall is waiting impatiently for an answer to that part of it which respects a letter of safe conduct, for the vessel in which he and his suite may take passage for the United States, to determine whether he shall embark from France or from Great Britain; but the unfortunate situation of General Pinckney, with respect to the critical state of his daughter's health, renders it utterly impossible for him to depart under existing circumstances.

You have proposed, citizen minister, the fifth or seventh of this decade for me to resume (reprendre) our reciprocal communications, upon the interests of the French republic and of the United States. The reciprocal communications which we have had were such only as I have alluded to in the beginning of this letter, unless your proposition, accompanied with an injunction of secrecy, for me to treat separately, is considered in that light. To resume this subject will be unavailing, because the measure, for the reasons which I then urged, is utterly impracticable. I can only then confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being, in my individual capacity, unauthorized to give them an official stamp. Nevertheless, every measure in my power, and in conformity with the duty I owe to my country, shall be zealously pursued to restore harmony and cordial friendship between the two republics. I had the honor of calling on you last evening, for the purpose of making this communication verbally; but, as you were absent, to prevent misconceptions, I have thought it best to reduce it to writing.

Accept, I pray you, citizen minister, the assurances of my perfect esteem and respect.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French republic.*

No. 5.

PARIS, *April* 20, 1798. (1 *Floreal, an* 6.)

CITIZEN MINISTER:

My colleagues having been under the necessity of departing from Paris, have left me in the most painful situation; as it respects themselves, the Government and nation, which I had the honor with them to represent, and my personal circumstances. The alternatives presented to my choice were the continuance of my residence here, or an immediate rupture on my departure; I have chosen the former, prompted by every consideration of the duty I owed my country.

The object of this Government, in my remaining here, as announced in your official note of the 14th Germinal, (3d April) was "to resume our reciprocal communications on the interests of the French republic and of the United States." My answer informed you that "I could only confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences, being, in my individual capacity, unauthorized to give them an official stamp." This, then, I consider as the line of conduct well understood to be observed on my part; and, in the present state of affairs, citizen minister, I flatter myself that propositions for terminating all differences for the restoration of harmony and friendship, and for the re-establishment of commerce between the United States and France will be promptly made on the part of the latter; that they will be such as, corresponding with the justice and magnanimity of this great nation, and with sound policy, will ensure success; that I shall have an opportunity of soon embarking for the United States, and presenting them to my Government for their consideration; and that all further depredations on our commerce, by French cruisers, will, in the interim, be prohibited. If, in forming this arrangement, I can render any services, you may be always sure of my immediate and cheerful co-operation.

Measures like these will at once extinguish those coals of discord which, kindled into a flame, must be destructive of the respective interests of the two republics; will not only restore but increase, if possible, their former confidence, and terminate in a competition for excelling each other in mutual acts of generosity and kindness.

In any event, citizen minister, I flatter myself it will not be thought necessary for me to remain long in France, as the state of my family and affairs requires my immediate return to the United States; and as their consul general will continue his residence here, which, pending negotiation, will answer every political purpose. I pray you, citizen minister, to accept the assurances of my most perfect esteem and regard.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French republic.*

No. 6.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, 11*th Prairial, 6th year of the republic, one and indivisible,* (*May* 30, 1798.)

I communicate to you, sir, a London Gazette, of the 26th of last Floreal [May 15, 1798.] You will therein find a very strange publication. I cannot observe without surprise, that intriguers have profited of the insulated condition in which the envoys of the United States have kept themselves, to make proposals and hold conversations, the object of which was evidently to deceive you.

I pray you to make known to me immediately the names denoted by the initials W. X. Y. and Z. and that of the woman who is described as having had conversations with Mr. Pinckney upon the interests of America. If you are averse to sending them to me in writing, be pleased to communicate them confidentially to the bearer.

I must rely upon your eagerness to enable the Government to fathom those practices, of which I felicitate you on not having been the dupe, and which you must wish to see cleared up. Accept the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 7.

PARIS, *May* 31, 1798.

Your letter, citizen minister, of the 11th Prairial, [30th May] and the gazette to which it refers, were delivered to me by Mr. ——; the latter contains the whole of the informal negotiations communicated by the envoys to their Government, and the letter states that certain intriguers have made propositions and held conversations with the envoys, the object of which was evidently to deceive them. You have, therefore, desired me to communicate their names. If any of those persons were unauthorized to act, or, having definite powers, have exceeded them, they certainly have abused this Government and the envoys likewise; but I am incompetent to judge of these points, as they did not produce, to my knowledge, credentials or documents of any kind.

The publications referred to are sufficient to show the delicate situation I am in with respect to the names of the persons, and are marked with such circumstances, as to enable you, I flatter myself, to investigate the subject without insisting on any communications on my part.

To free, however, some innocent persons from suspicions which are said to have embarrassed them, I have no objection to declare that three of the persons were foreigners, and that the fourth acted merely as a messenger and linguist.

You will observe, citizen minister, how extremely averse the envoys were from such an informal mode of proceeding, by their answer of October the 30th, to certain propositions previously made to them; that, on the 1st of November, they agreed to put an end to such an intercourse; and that they carried into effect their resolution, notwithstanding the reiterated attempts afterwards made to defeat it. They conceived it nevertheless to be their duty to make a communication of the whole to their Government.

Accept, citizen minister, the assurances of my perfect esteem.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French Republic.*

No. 8.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, 13*th Prairial, 6th year,* (*June* 1, 1798.)

I have received, sir, your letter of yesterday. You inform me, 1st, that the gazette presented contains all the informal negotiations communicated by the envoys to their Government; 2d, that the persons referred to have not produced, to your knowledge, any authority, any document of any kind whatever, to accredit themselves; 3d, that three of the individuals mentioned (that is to say, in the order in which I have placed them, W. X. Y.) are foreigners, and the fourth (that is to say Z.) acted only as messenger and interpreter.

Although I perceive your repugnance to naming those individuals, I must earnestly request you to yield it to the importance of the object. Be pleased, therefore, 1st, either to give me their names in writing, or communicate them confidentially to the bearer; 2d, to name the woman whom Mr. Pinckney mentions; 3d, to tell me whether any of the citizens attached to my service, and authorized by me to see the envoys, told them a word which had the least relation to the disgusting proposition which was made by X. and Y. to give any sum whatever for corrupt distribution.

Receive, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 9.

PARIS, *June* 1, 1798.

CITIZEN MINISTER:

Being officially informed that sundry letters for General Marshall, Mr. Murray, our minister at the Hague, Mr. Bourne, our consul at Amsterdam, the house of Lange & Bourne, and myself, captured in the American ship Farmer, some time since, and sent to Rotterdam, were, by order of Mr. Delacroix, transmitted to Paris, in pursuance of the instructions he received from this Government, and having made several unsuccessful efforts to recover these despatches, permit me to request your assistance for obtaining them without further delay.

Accept, citizen minister, the assurances of my perfect esteem and respect.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French Republic.*

No. 10.

PARIS, *June* 3, 1798, *Prairial* 15, *an* 6.

CITIZEN MINISTER:

Mr. —— has delivered me your letter of the 13th Prairial, wherein, after recapitulating a part of mine, of the 31st of May, you request me immediately to submit to the importance of the object, and, 1st, to give you in writing, or communicate confidentially to him, the names of those persons designated by the letters W. X. Y. Z.; 2dly, to name the woman quoted by Mr. Pinckney; 3dly, to inform you whether any of the citizens attached to your employments, and authorized by you to see the envoys, have said one word which had the least relation to the shocking proposition which has been made by X. and Y. for us to deliver any sum whatever for a corrupt distribution.

With respect to the persons designated by X. Y. Z. I will enclose you their names under my hand and seal, on your assuring me that they shall not be published on my authority, although the measure does not appear to me necessary for their discovery; and Z, as he informs me, has made himself known to you. But W. never having spoken to me a word relative to X. or to any part of our communications, the manifest impropriety of my giving hearsay information, will, I presume, apologize for omitting it.

I cannot give you the name of any lady, for no one has made any political communications to me since my arrival in Paris.

In regard to the citizens attached to your employments, and authorized by you to see the envoys on your official communications, I do not recollect a word from any of them which had the least relation to the proposition made by X. and Y. in their informal negotiations to pay money for corrupt purposes.

Accept, &c.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French Republic.*

No. 11.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, 16*th Prairial*, 6*th year* (4*th June*, 1798.)

Your letter of yesterday, sir, has just been handed to me. You may render to me, in perfect confidence, the names you mention to me, under your hand and seal. I assure you that they shall not be published as coming from you.

Receive, sir, the assurance, &c.

CH. MAU. TALLEYRAND.

No. 12.

PARIS, *June* —, 1798, *Prairial*, —, 6 *an.*

The names of the persons designated in the communications of the envoys extraordinary of the United States to their Government, published in the Commercial Advertiser of the 11th of April last, at New York, are as follow:

X, is Mr. ———.*
Y, is Mr. Bellamy.
Z, is Mr. Hautval.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French republic.*

No. 13.

PARIS, *June* 10, 1798.

CITIZEN MINISTER:

Having been informed by my secretary, on the 7th, that you proposed to write to me the beginning of this decade, I have impatiently expected, but have not yet received your communications.

The arrival of the newspapers, containing the despatches of the envoys to the Government of the United States, after embarrassing and detaining me a fortnight, has produced a publication, wherein it is declared that this republic "will never cease to manifest her dispositions to live in peace with America."

If this declaration really is, as it appears to be, official and expressive of the sense of this Government, and is followed by a system of policy superior to unimportant considerations, permanent friendship may be soon established between the two republics.

When it is considered that nine months have elapsed since the arrival in Paris of the ministers who were charged with this important negotiation, and six weeks since the departure of two of them; when this delay, and a series of the most unfortunate events, have inevitably produced alarming apprehensions, on the part of the Government and citizens of the United States, that France is hostile towards them, and waits only for a favorable opportunity to evince it; when France herself, in the publication mentioned, has declared that her enemies flatter themselves with the hope of exciting in the United States a war against her; when in this belief she must be convinced that, in such a critical state of affairs, events are too rapid to admit of delay; when such is the decision and ability of this Government, in some of its most important negotiations, as to require but a few days to complete them; I flatter myself that such an arrangement on the part of this Government will speedily be made, as will manifest its amicable dispositions towards the United States, quiet the apprehensions of their Government, open, on a liberal system, the channels of their commerce with this country, and afford them a well grounded assurance of a speedy and happy issue to their efforts for peace.

The brigantine Sophia, Henry Geddes, master, in which I mean immediately to embark, is national property; but, nevertheless, subject, as is represented, to detention by the embargo at Havre; I must request, therefore, an order for exempting her from this prohibition.

My passport, and the letter of safe conduct for the vessel, are not yet received.

Accept, I pray you, &c.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French republic.*

No. 14.

The Minister of Exterior Relations of the French republic to Mr. Gerry, Envoy of the United States.

PARIS, 22 *Prairial*, 6*th year*, (*June* 10, 1798.)

You could hitherto have remarked, sir, in my letters of the 11th, 13th, and 16th of this month, nothing but my eagerness to fathom the dark intrigue therein referred to, and to discover its ramifications. All further explanation, in this respect, would be beneath the dignity of the French Government.

But I will not preserve the same silence on the intention manifested by the message of the President of the United States to the Legislature, of the 14th Germinal, (April 3d, 1798) by the nature of the documents adduced as pertaining to the basis of a negotiation, by the rapid publicity given to this strange collection, by the concealments made of the official communications. That intention is too well perceived in France and in America to require a develop-

* Mr. Gerry has inserted the proper name of X. in this document, as given to Mr. Talleyrand; but the person designated by X. not having (like Y.) avowed himself, the promise made by the envoys to him and Y. "that their names should in no event be made public," is still obligatory on the Executive in respect to X. and therefore his name is here omitted.

T. PICKERING.

ment. It is sufficient to repel the rumor so injuriously spread of the hostile dispositions of France: I will, therefore, refer myself to the note I addressed to the envoys on the 20th of last Ventose, (March 18, 1798.) I doubt not that they will have promptly forwarded it to the President of the United States; and I must believe that, as soon as it shall be made public, it will efface from the minds of the American people the ill founded uneasiness which they have been made to entertain. As to the French Government, superior to all the personalities, to all the manœuvres of its enemies, it perseveres in the intention of conciliating with sincerity all the differences which have happened between the two countries. I confirm it to you anew. The French republic desires to be restored to the rights which its treaties with your Government confer upon it, and through those means it desires to assure yours. You claim indemnities; it equally demands them: and this disposition being as sincere on the part of the Government of the United States, as it is on its part, will speedily remove all the difficulties.

It remains for me to ask you, sir, whether you are at length in a situation to proceed towards this important object.

Receive, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 15.

Mr. Gerry to the Minister of Foreign Affairs of the French republic.

PARIS, *June* 13, 1798.

I have received, citizen minister, your letter of the 22d Prairial, (10th June) wherein, after informing me that all further explanation, respecting the dark intrigue in question, will be below the dignity of the French Government, you say that you will not keep the same silence upon the intention manifested in the message of the President of the United States to the Legislature, the 14th Germinal (3d April); in the nature of the pieces produced, as forming part of a negotiation; in the rapid publicity given to this strange collection; and in the concealment of official communications, by which, in the subsequent part of your letter, you allude to your note to the envoys, of the 28th Ventose, (18th March last.)

If the wishes and interests of the two republics call loudly for an accommodation of their differences, (and of this the *Government of France*, as well as *that of the United States*, appears to be convinced) is not a restoration of friendship between *them* one of the most direct means for accomplishing that desirable object? And is it not altogether neglected? The unfounded prejudices against the President of the United States, in regard to his message, will be manifest by comparing it with his official duty, designated by the constitution, and also by referring to the dates of your note and of his message: whereby it will appear that the latter was but sixteen days later than the former, and that it was impossible that the President could have received your note, or concealed it from the public. The Government of the United States, pure in its principles, just in its objects, and wise in its councils, is also superior to all personalities; and I wish these may for ever cease: for sure I am that, from such a source, no good, but infinite injuries, may result to the two republics. You conceive that your note, which was duly transmitted by the envoys to the Government, when published, will efface from the minds of the American people their unfounded inquietude. Of this I can form no judgment; but, before you addressed that note to the envoys, the proposition therein contained had been made to me to treat separately, and I had stated that the measure was in itself impolitic, and, as it respected myself, impossible.

I have, nevertheless, contrary to my wishes and interests, complied with your subsequent proposition for remaining here to prevent a rupture. I have been happy, since, by your repeated assurances that this Government was sincerely disposed to reconcile all differences between the two countries, and probably would soon make an arrangement adequate to the object: indeed I had great reason to hope that I should have been furnished with a copy of it before my leaving Paris, and I earnestly wished it, lest the disappointment which might result from my return to the United States without it, should produce unhappy effects; but the vessel in which I am to embark being ready for sea, waits only for my arrival at Havre, with the requisite documents for the voyage.

The sincerity of the disposition of the Government of the United States to meet this Government on the ground of the existing treaties between the two countries, and to do justice to France, as well as to receive it from her, is too evident to admit, for a moment, of the least doubt; but I again repeat that I have no powers to enter on the negotiation. Nevertheless, the proposed arrangement might be made by this Government, and a minister be sent to America to complete it; as it is of little consequence to either in which nation the negotiation is concluded, but of great importance to both that it should terminate in an immediate accommodation, and in the restoration of their friendship. I presume that in this our wishes are alike sincere and ardent, and that the magnanimous policy of this Government to persevere in the intention to reconcile with sincerity all the differences between the two countries, will have a speedy and happy effect.

Accept, citizen minister, the assurances of my perfect respect.

E. GERRY.

No. 16.

The Minister of Exterior Relations to Mr. Gerry, Envoy of the United States.

PARIS, 30*th Prairial*, 6*th year*, (*June* 18*th* 1798.)

I have received, sir, your answer of the 27th of this month, to my letter of the 22d. You take the trouble to observe to me that my note of the 28th Ventose (18th March, 1798) could not have made a part of the documents communicated by the President of the United States on the 14th Germinal (April 3d, 1798.) Do me the justice to believe that I have not committed this mistake.

You persist in thinking that your powers and your instructions do not permit you to proceed to the conciliating of the differences between our two republics. You even announce to me, positively, your departure for the United States in the vessel which your Government has despatched to Havre. I should have presumed that, after having received and transmitted to Philadelphia my note of the 28th Ventose, that one of the envoys, whose impartial dispositions appeared to promise a reconciliation, would wait at Paris for further instructions and powers, if he had need of them. It even appears to me that these documents cannot now be long in reaching you, provided your Government is as averse to a rupture as you assure me. The part you take tends to give room to conjecture that the vessel arrived at Havre has only brought you orders similar to the acts of which I complained on the 22d of this month.

Nevertheless, sir, such is the sincerity of the assurances which I have given you in the name of the Executive Directory, on the 28th Ventose, and which I have since repeated to you, notwithstanding the most irritating provocations, that I do not hesitate to explain myself to you as if you were in a situation to receive my overtures.

All negotiation between France and the United States must essentially rest upon three principal points.

1st. Frank and amicable declarations concerning certain circumstances which malevolence has, and may yet, misrepresent.

It is utterly false, notwithstanding the public and private insinuations which have been made in private writings and in solemn acts, that the French Government has ever sought to detach the people of the United States from the constitution they have given to themselves. It has complained of the American Government, but to the Government itself. Justice demanded that it should render homage to the sympathy of a free people for the cause of liberty, and it did not go farther.

The Secretary of State, Mr. Pickering, has inserted in his public letter to Mr. Pinckney, (of the 16th of January, 1797) assertions against the good faith of France in the negotiations of 1782, which have no other foundations than the interested communications of the English negotiator. It is a long time that this insidious weapon, forged by the enemies of France, has been used in the dark.

It is of importance to the two countries to understand each other equally concerning the true value of several documents published as emanating from the French Government, and of the private acts of certain agents, whom it has disavowed. In effect, it is only by destroying all the germs of distrust that a good understanding can re-appear, and continue hereafter without being obscured.

2d. Fixing the meaning of several articles of the treaties between the two countries, and the absolute enjoyment of the rights which flow from them.

Long before the war, the 9th and 12th articles of the convention of the 14th of November, 1788, the first relative to deserters, and the second relative to the jurisdiction of the consuls, were a continual source of altercations. They have become completely null by interpretations foreign to their manifest intent. It is necessary to perfect them.

By the 6th article of the treaty of alliance, France has renounced the Bermudas, New Brunswick, Nova Scotia, Cape Breton, Canada; in other words, it has renounced the procuring for itself of one of the ports, which would have been so necessary for it to possess for the protection of its sugar islands. It devoted, in preference, the effort of its arms to the defence of the United States. It was understood that it should find proportionate advantages in their ports. One of these advantages is found implicitly in the 17th article of the treaty of commerce of the same day. The French ships, public and private, may freely enter into the American ports with the prizes which they may take. The ships, public and private, of the enemies of France, who may have taken prizes from it, shall not, on the contrary, have any asylum in those ports. Such is the literal sense, such is the intended sense. Does good faith permit a distinction between the vessels of the enemies of France, who leave their prizes without the port, and those who come in with them? Can it be decided that the latter only should be excluded, without evidently violating the clause of the treaty which is the most important to France? Can it be invalidated by subsequent engagements? Doubtless not.

In virtue of the same 17th article, no authority whatever of the United States is permitted to interfere with the prizes taken by French ships, public and private. The captains are bound only to show their commissions, because it is necessary to be able to distinguish the pirate from authorized vessels. It is also lawful to demand the release of a prize taken within the extent of the jurisdiction, that is to say, within the reach of cannon shot. But what abuse, what vexations, what odious chicanery, have flowed from the deviation from the meaning of the article? The Government of the United States has rejected the precautions suggested to remedy the evil. Experience has shown that without those precautions the article is illusory.

The United States permitted the sale of French prizes until Prairial, 4th year (May or June, 1796.) At this period the supreme court decreed the revocation of this advantage, in virtue of the 24th article of the treaty with Great Britain. The 27th article, nevertheless, adds, that that treaty shall, in no respect, alter those which the United States may have previously contracted. But the liberty enjoyed by the French vessels of war of selling their prizes is derived from the 17th and 22d articles of the treaty of commerce of the 6th February, 1778. The 17th article would be of little value, if it were confined to the right of asylum. The 22d article would be mere surplusage, if it did not declare a right for the French and an interdiction for their enemies. Great Britain obtained a similar right only on condition that it should be without force in all cases wherein France should be interested. When the United States concluded their treaty with Holland, in October 1782, the memory of the treaty of 1778 was not yet weakened, and the exclusive privilege of the 22d article of the latter is formally acknowledged in the 22d article of the former.

The same 22d article of the treaty of 1778 must be appealed to against the refusal given to French vessels of war to make any change of their armament in the United States. If the desire to prevent the disorders of which the American Government complained, induced the committee of public safety, in the beginning of the second year, to cause all original armament in the name of the republic, in the United States, to be stopped, it did not intend that the abandonment of a doubtful pretension should carry with it that of an explicit right.

In the 23d and 24th articles France and the United States have agreed that the neutrality of the flag should determine that of the cargo, and have contracted the too extended catalogue of contraband merchandise. It would have been pleasing to the republic to see in general prevalence, a system conformable with sound justice, and which it flatters itself one day to extend. But how could the obligation remain reciprocal between it and the United States, when there no longer remained a parity of situation.

The English Government has abused the liberality of France to her injury, since the commencement of 1793, and has not even spared American cargoes bound to French ports. Principles, contrary to those which influence the republic, have been consecrated since, in the 17th and 18th articles of the treaty of London. It is doubtless a forced concession on the part of the United States, who, until then, made it their glory, in all their treaties, to aim at the liberty of the seas; but finally, it is a concession made by them in favor of England. France ought to enjoy it, in virtue of the second article of the treaty of Paris: its regrets cannot render it insensible to its rights.

It ought, in virtue of this second article, which renders immediately common to it every favor accorded by the United States to any nation whatever, to claim some other parts of the treaty of London.

3d. The impartial examination of the damages which have resulted from the deviation from the treaties of 1778.

The treaties which bind the two nations have been insensibly rendered insignificant by sophistical interpretations. The clearest clauses have been finally denied. The American Government has never paid regard to the successive complaints of the ministers plenipotentiary of the republic. It has never admitted them to enter into conference on this subject. It has always taken upon itself to decide; although in every reciprocal contract, neither party possesses the exclusive right of interpretation. After having exhausted itself in representations, the French Government was obliged to cause its complaints to be unfolded for the last time, on the 25th Brumaire, 5th year (Nov. 15, 1796.) Stripped of the advantages which the most sacred, the most liberal treaty assured to it, it has been forced, in order to bring the United States back to their obligations to France, to imitate the conduct which England pursued previously to the treaty of London.

That court moderated its measures after its object was accomplished: the present complaints of the United States might have been prevented, if those of the French Government had been attended to. The complaints which the United States now make are, in fine, only the consequence of a state of things which has cost the French republic and its citizens the most considerable damages. The French Government, nevertheless, has not ceased to offer the exact justice which it demands. It has never refused, and never will refuse, to enter into discussion upon every proper subject.

I have given, sir, to these three points a large development. We are very near an agreement, when we really desire it on both sides, and when we candidly admit the state of the question. You see the negotiators require very general instructions, in order to obviate the inconveniences which are prolonged even until now. I believe, to fix the meaning of our treaties, it will be proper to draw up a declaration concerning it, to be hereafter obligatory upon the two parties, and considered as making a part of the original acts; a declaration which, that it may have the force of law, should be established by the ratifications which the constitutional forms respectively require.

The United States are placed in that happy unconnected state, which makes them, doubtless, set a particular value upon the clauses of their treaties, relative to their commerce and navigation. It is the effect of the long neutrality which they have the hope of maintaining. But France, although firmly determined, since it has become a republic, to live in peace with all nations, cannot flatter itself with escaping the scourge which periodically torments Europe; and prudence requires that it preserve the rights which treaties secure to it, in neutral ports, in time of war. With this double view, the American negotiators digested the treaty of commerce of 1778. Although it be reciprocal upon the whole, some provisions are more specially applicable to the fixed position of the United States; and others have allusion only to the eventual position of France. The latter has made great sacrifices for the independence of the former.

France has stipulated few advantages—advantages which do not in any respect injure the United States, and the lawfulness of which no foreign nation can contest. The French republic will never renounce them.

It is now in the power of the United States to realize the dispositions which you manifest in their name. The prudence of your connexions in France has preserved you from the prejudices which it is difficult not to contract, when one is less on his guard against foreign and even domestic intrigues. I persuade myself that you will transmit to your Government only accurate documents. It will belong to it to pursue the best measures to effectuate a prompt reconciliation; and I ardently desirethat they may correspond with the wish of the Executive Directory.

I continue, however, to think that, instead of returning to the United States, it would be preferable that you should ask for the instruments necessary to the negotiation. Nothing could more accelerate the drawing together of those ties, which the French republic and the true Americans have regretted to see relaxed. Your presence at Paris, if the powers, which must be supposed to be on the road, should soon arrive, may momently accomplish the object which we both ambitiously pursue.

Your departure, on the contrary, will give a new activity to the plots laid for precipitating the two countries into measures which are as repugnant to their inclination as to their interests.

The French Government being, besides, penetrated with the same sentiments, which you testify, will hereafter wait for what may be addressed to it, and with pleasure will behold you as the organ. Accept, sir, the assurances of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 17.

Mr. Gerry to the Minister of Foreign Affairs of the French republic.

PARIS, *June* 22, 1798.

I received, citizen minister, on the evening of the 20th instant, your letter of the 30th Prairial (18th of June) in answer to mine of the 13th. You say you have not made the mistake respecting your letter of the 28th Ventose. I am not disposed to impute to you a mistake, if you have not made it; although I think that your letter will warrant the construction I gave it: be this as it may, justice requires that the President of the United States should be free from the imputation of having concealed official communications, when he had published all which it was possible for him to have received.

You should have presumed, as you state, that, after having received and transmitted to Philadelphia your note of the 28th Ventose, (the 18th of March) I would wait at Paris for instructions, and further powers, if necessary. But I had a right to expect, from what had passed between us before the arrival of the brigantine Sophia, and indeed after it, that I should have received, for the consideration of the Government of the United States, propositions on the part of this Government for reconciling the differences and restoring friendship between the two republics; that I should, ere this, have been on my passage to the United States; and that a French minister would have been sent to Philadelphia to complete the negotiation.

I accordingly informed you, before the arrival of the brigantine, that I should embark for America in June; and after her arrival, that I should take my passage in her, as soon as she could be fitted for the sea.

You have stated, and developed three points, on which you conceive the negotiation between France and the United States ought essentially to rest. Your letter on this subject I will carefully communicate to my Government; and if, after the voluminous official discussions, on the part of each of the republics, of the subjects in dispute between them, you conceive that a reconciliation will be best promoted by this mode only, I sincerely wish it success.

You say that France, in her treaty with the United States, has stipulated few advantages, which in no wise injure them, and the legality of which cannot be contested by any foreign nation. You then add, that the French Government will never renounce them.

The Government of the United States never desired of France a renunciation of any right, to which she is entitled by their existing treaties; in construing some parts of these, the two Governments have different opinions; but this is not unusual between nations; and when they are amicably disposed, and governed by the principles you have justly laid down, that neither party has the right of exclusive interpretation, they are generally successful, if direct measures fail, in adjusting their disputes by arbitration: this mode has been successfully adopted by the United States with other nations.

My connexions in France, citizen minister, have neither preserved me from, nor subjected me to prejudices. I am governed by my own principles; those, you may be assured, will always prompt me, in the discharge of my duty, to present to my Government exact documents and statements of facts.

It is impossible for me to apply to the Government for the necessary instruments to conduct the negotiation. On the other hand, should such a proposition be made to me, I should certainly, under existing circumstances, decline it. Nevertheless, I again assure you, that it will give me the greatest pleasure, if, by any other means, I can contribute to a just and honorable accommodation of the differences between the two republics.

My return to the United States, which is indispensable, cannot, as I conceive, be attended with the effect you mention; more especially as the connexion between the two countries will be still kept up by their respective consuls. Accept, citizen minister, the assurances of my perfect respect.

E. GERRY.

No. 18.

Mr. Gerry to the Minister of Foreign Relations of the French republic.

PARIS, *June* 25, 1798.

CITIZEN MINISTER:

I am again under the necessity of applying for necessary documents to enable me to return to the United States; and as you cannot be insensible of the manifest disadvantages on my part resulting from the delay of them, I presume that they are now in readiness.

Accept my assurances of esteem and respect.

E. GERRY.

No. 19.

The Minister of Exterior Relations to Mr. Gerry, envoy of the United States.

PARIS, *9th Messidor, 6th year,* (*June* 27, 1798.)

In answering, sir, your letter of the 4th of this month (22d June, 1798,) I regret that I am obliged to recur to the first paragraph. I complained that the publications made at Philadelphia on the 19th Germinal (8th April, 1798,) did not contain all that your Government then knew. You supposed that I alluded to my note of the 28th Ventose (18th March,) which could not, however, have reached the President. I begged you not to attribute that mistake to me. You appear to adhere to your interpretation. From respect to your sincerity, of which I cannot doubt, I will surmount my repugnance to minute digressions, and will point out to you that one of the concealments which is the most striking.

I have been furnished from the United States with the clearest proofs, supported even by articles extracted from the American papers, of the knowledge which subsisted there before *Germinal* (before the 21st of March) of the objections of the Executive Directory to any negotiation with two of the envoys, and of its *express desire of treating*

with you. In effect I early testified to you these dispositions; and the declaration on this subject, inserted in my note of the 28th Ventose (18th March) was only the official expression of a thing already comprehended as well at Philadelphia as at Paris.

For the rest, sir, let us hereafter pass over these useless episodes, and let not our communications further bear the tint of recriminations. Those who are truly impartial, will, perhaps, discover a degree of generosity in this proposition coming from my side.

Let us seriously resume our explanations. It is for facts to prove the reality of the intentions professed on both sides. My last letter attested to you very forcibly those of the Executive Directory. You do not allow those of the President of the United States to be doubted. How, then, happens it that, after having received propositions, wherein every thing is combined for a frank and prompt conciliation, you in some sort shut the door against all future advance?

You seem to insinuate that these propositions have long been delayed. They could not have been made until after the departure of your colleagues: the first open negotiations upon the differences which subsist between the two countries take their date only since that recent period: nothing was entered upon as long as the three envoys were present: one alone manifested a temper of reconciliation. Afterwards, some time was necessary to unite the views you suggested with the determination the Executive Directory has made, to place the respective interests in front. I did not, above all, partake in your opinion concerning the utility of your carrying the overtures of the French Government personally to Philadelphia; and I never thought it advantageous to send thither a minister plenipotentiary from the republic, before the happy issue of the negotiations commenced. I was, nevertheless, about to transmit the result of my reflections in the beginning of Prairial, (between the 20th and the last of May) when the incident happened, which for a moment suspended the principal object. I do not see what delay I could have prevented. I am mortified that circumstances have not rendered our progress more rapid, and it is in order to accelerate it, as well as to obviate every new casualty, that I have pressed you in my last letter to remain at Paris.

Did you not come here, sir, to establish friendship between the two republics, and determined to spare nothing to attain this end, as desirable to the United States as to France? Do not the full powers given to the envoys authorize them to negotiate separately? Is it after what has passed at Philadelphia that you can withdraw yourself? Ought you to do so when the French Government, superior to all resentments, and never listening to any thing but justice, manifests itself anxious to conclude a solid and mutually satisfactory agreement? I have invited you to request promptly new powers, if you thought you stood in need of them, and they were not on their passage. You answer, that this step *is for you impossible*, and *that you would, besides, under existing circumstances, decline taking upon yourself the conducting of the negotiation*, if it was confided to you. I cannot reconcile this language with the avowed object of your voyage to France, with your full powers, with your attachment to your country, with the assurances you do not cease to give of the sincerity of your Government.

I commend these observations to you, sir. Reflect on the possible consequences of your departure, and judge for yourself, whether he who truly wishes for peace ought to consent to it.

Let us continue more and more to advance the work we have entered upon. I may almost venture to say that it is your duty. The propositions which I have made to you embrace three points.

The first will take but little time, and may be postponed.

The third will doubtless experience no difficulty on either side, after the second shall be amicably settled.

It is to the second, therefore, that we should first attend; and it is so much the more important, as it embraces the source of all our differences. A calm and candid discussion will successively clear up every article of them. I do not see that the voluminous discussions which have been entered into at Philadelphia have shed any light upon it. They have rather contributed to set up the passions in the seat of reason. Ours shall always be followed by a conclusion either in the cessation or admission of the right reclaimed. It is necessary, in order to effect the act declaratory of the meaning of our treaties. As to the eventual arbitrament of a third Power, I do not know whether the United States have sometimes had recourse to it. The French republic has never experienced the want of it; and I am persuaded, that, on this particular occasion, it will readily come to an understanding with the United States, if they are determined to be just towards it, as it desires to be towards them.

Let us begin with the ninth article of the consular convention of the 14th November, 1788. I annex a note upon the difficulties its execution meets with in the ports of the United States. It shall be followed by similar notes, upon each of which we will endeavor to come to an agreement.

Accept, sir, &c.

CH. MAU. TALLEYRAND.

Note upon the 9th article of the Convention between France and the United States of the 14th November, 1788.

The beginning of this article declares, "that the consuls and vice consuls may cause to be arrested the captains, officers, mariners, sailors, and all other persons, being part of the crews of the vessels of their respective nations, who shall have deserted from the said vessels, in order to send them back and transport them out of the country. For which purpose the said consuls and vice consuls shall address themselves to the courts, judges, and officers *competent*." Before 1792 it frequently happened that the judges, acting under the authority of the individual States, have pretended that they were incompetent. On the 14th April, 1792, an act of Congress declared that the district judges, acting under the authority of the United States, should be *competent*. All the judges of the individual States have since thought themselves justified in declining to render their aid; but as there are many more ports in the United States than district judges, and as they do not even always reside at a port, the French consuls and vice consuls have often been unable to hinder desertion, to the great detriment of the vessels of their nation. The consuls of the United States do not experience those difficulties in the ports of the republic. Reciprocity, as well as the meaning of the article, require that it should be declared "that all the officers of justice having power to order the arrest of mariners, shall be considered competent, and as such bound to comply with the request of the consuls, in the manner and in the cases stipulated."

The article proceeds: "and shall demand the said deserters in writing, proving, by an exhibition of the registers of the vessel or ship's roll, that those men were part of the said crews."

The mariners have often waited till the departure of their vessel to desert, and have afterwards not only braved the authority of the consul, but served to debauch other crews. It has often been sufficient for them to go from one port to the nearest neighboring port, to be secure from all pursuit. The consul being no longer able to produce the roll with ease, or not having it in his power to detach it from the vessel, where it should remain, is no longer admitted to make a claim. He in vain produces a copy of the roll made in chancery and duly authenticated: no faith is ascribed to it, notwithstanding the tenor of the first paragraph of the 5th article of the convention; it is maintained that the original roll is necessary; and thus the spirit of an important stipulation is destroyed by the ambiguity attributed to the letter. It would be requisite to declare "that, by register or ship's roll, not only the original is understood, but every authentic copy or extract, certified to be conformable to the original, by a judge of the country, before the departure of the vessel, and that this extract or copy shall have, in all the ports of the respective Powers, the same force with the original for three months."

CH. MAU. TALLEYRAND,
The Minister of Exterior Relations.

PARIS, *9th Messidor, 6th year.*

No. 20.

Mr. Gerry to the Minister of Foreign Affairs of the French republic.

PARIS, *July* 1, 1798.

I have received, citizen minister, on the 11th, your letter of the 9th Messidor, (27th of June) but without an answer to mine of the 25th of June, or the documents therein demanded for my voyage to America. You say "they have furnished you from the United States with the most clear proofs, supported even by articles extracted from the American papers, of the knowledge which they had there before Germinal (20th of March) of the objections of the Executive Directory to any negotiation with two of the envoys, and of its formal desire to treat with me." Admitting this, it does not prove, to my mind, that the President of the United States had received official communications and concealed them; but it is a convincing proof that the information of these facts must have been sent from hence to the United States, when secrecy respecting them, imposed on me previously to their communication, was strenuously insisted on.

You have made what you consider a generous proposition, that our communications should not be tinged with any more recriminations: is the subsequent part of your letter altogether free from them? My silence on the abuse offered to the Government of the United States, its envoys in general, and myself in particular, in an anonymous, but apparently official publication of the 7th of June, must afford you unequivocal evidence that I had already adopted the measure you have proposed.

It is inconceivable to me that being without powers to negotiate my return to the United States, after such long notice, can be supposed in any degree to close the door to subsequent steps for a reconciliation. The door has always been, and still is open, on the part of the Government of the United States. It is impossible for any Government to exceed it, in the moderation and justice of its measures towards France, or in its perseverance and patience to execute them; but it having failed in two attempts, will not France make one effort to obtain a reconciliation between the two republics? Consider the disagreeable predicament in which the Government of the United States has been involuntarily placed, and it is conceived you cannot fail to see the propriety and policy of this measure.

I have, in my last letter, stated to you truly, what I conceived was well understood between us, respecting my return to the United States with the overtures of France, and her sending a minister there to complete the negotiation. How we could misunderstand each other on these points is to me incomprehensible. Be this as it may, it is not very material who is to be the bearer of the propositions, if they are such as can be accepted by the United States.

You inquire whether I am not come to establish friendship between the two republics, and determined to spare no pains to attain this desirable object? Judge, yourself, citizen minister, whether I have not faithfully discharged my duty in this respect.

You ask whether I am not authorized to treat separately? Had my colleagues relinquished their office, been recalled, or by physical means been disqualified to act, my powers would have been adequate to a separate negotiation, and I would have entered on it without delay. As matters are circumstanced, I have no such powers. You differ from me in opinion on this subject, but I must abide by my own judgment.

You declare that France, superior to all resentment, and only listening to justice, manifests a zeal to conclude a treaty solid and mutually satisfactory. Be assured, citizen minister, that the United States will with ardor meet such a disposition on the part of France; and that it cannot fail of success, if accompanied with a suspension of the long and ruinous depredations on our commerce, and with proper arrangements for a negotiation.

In my last letter you will perceive that, having particularly referred to the mode adopted by the United States with other nations, I could only allude to that of deciding, by commissioners, disputes which could not be adjusted by direct means. You have misconceived my intention, if, you supposed it extended to the eventual arbitration of a third Power.

My frequent applications for a passport, letter of safe conduct for the vessel, and her exemption from the embargo at Havre, have been altogether unnoticed. I hope you will not, by the continuance of this unusual mode of conduct, render an explanation of it immediately necessary.

Accept, citizen minister, the assurances of my perfect respect.

E. GERRY.

No. 21.

The Minister of Exterior Relations to Mr. Gerry, envoy of the United States.

PARIS, 18*th Messidor*, 6*th year of the French republic*, (*July* 6, 1798.)

I have received, sir, your answer of the 13th of this month to my letter of the 9th. I will not conceal from you that this kind of correspondence gives me the more pain as it injures the progress of our business.

It is clear that *before Germinal* (before 21st March) the intentions of the Executive Directory could not be known at Philadelphia, but by communication from Paris; but I attest, that they did not proceed either from the French Government, or its agents, or from any one whatever, to my knowledge.

In the mean time, let us admit the gratuitous supposition that you make upon this subject. Is it, therefore, less true that my overtures to treat with you were known in the United States, when it was there declared that France refused all negotiation?

You tell me that the United States having been twice baffled in their attempts, it belongs to France to make an effort in order to effect a reconciliation between the two republics. What name, therefore, do you give to the indefatigable zeal which I manifest to smooth all the difficulties, and bring about an honorable accommodation? It is a genuine effort, sir, the merit of which might be better appreciated. What, on the other hand, are the two attempts of the United States? I know of no other mission on their part, in consequence of the declaration made at Philadelphia, on the 25th Brumaire, 5th year (Nov. 15, 1796) than that confided jointly and separately to Messrs. Pinckney, Marshall, and yourself. I will not retrace the causes which have prevented the envoys collectively from attaining the most complete success: but I will affirm that they are foreign to the French Government, and that, in any state of the cause, it depends upon you to fulfil the expectation of the two countries.

You deny, sir, that there was some generosity on my part in proposing to you to banish hereafter, from our communications, all useless episodes, and especially no longer to give a place in them to recriminations. This is another episode; but, since you force me to it, it is necessary that I should explain myself more fully. If, now and then, some anonymous publications, of a nature disagreeable to the American Government, have crept into the French papers, it would not become it to complain. For a long time, certain papers of the United States, the editor of one of which is the printer of the Senate, daily spread abroad the most atrocious calumnies, the most injurious insinuations, the most base reflections upon the French people, their institutions, their Government, their legislators, the heads of their executive, their ministers, their agents, their glorious defenders. Yes, those same warriors, who respect their enemies, receive the most ignominious appellations among a friendly people for whom many have combated. Nay, more; within the very walls of the national representation of the United States how many deeply insulting speeches have been and yet are delivered. Nothing is spared in order to endeavor to degrade the French republic in the opinion of the American people; and the silence of your Government leaves an open field to this torrent of invectives, whilst scarcely now and then a word of reply escapes, notwithstanding our vigilance, from the indignation of some French citizen. Is it not repeated in the United States, that the Executive Directory repels

negotiations in order to wait an opportunity of carrying the war there? This odious assertion has been credited; and your Government, which ought to know that such a thought was never conceived, opposes no corrective to the impression which it is calculated to make. Whatever may be your opinion of it, sir, it is generous to stifle all the sentiments which arise in abundance on reading your public papers, and even the debates of your legislature upon the subject of France. And yet until the two Governments shall be so far reconciled as to concert the means of remedying these abuses, it is expedient that those who are to treat upon the interest of the two nations adopt a conciliatory language, and hereafter avoid what may give rise to painful recollections. I repeat to you, that it is my desire; that I will set the example; that I am impatient to abjure reproaches; and that I insist that this point may be well understood.

This is the last time I shall yield to these digressions, which ought to be as disagreeable to you as they are to me.

You have not transmitted to me any opinion, sir, upon the note annexed to my letter of the 9th of this month. I have delayed until now sending you the following ones. I flatter myself that the long conference which I have had with you will have produced some modification of the resolution in which you might appear to persevere. I therefore recommend to your attention two fresh notes, one upon the twelfth article, and the other upon the sixteenth article of the convention of the 14th November, 1788. They contain every thing which it is important to explain at present, in relation to this act. We will immediately after proceed to the treaties of February, 1778. You desired that I might send you some propositions. I did so on the 30th Prairial, (18th June) and you should have had them sooner, had it not been for the incident which has happened. I have therein traced the plan of the negotiation. I have therein pointed out generally the intentions of France; I have therein entered into an engagement to discuss every proper subject; I have assured you that the Executive Directory would render to the United States that justice which it expects itself: I have excluded nothing which we can suggest, on either side, to strengthen still more the good understanding between our two republics.

But it is not enough to transmit these propositions to your Government; they are only the foundation of the necessary discussions upon every question of detail of which we ought to find the solution. The reconciling of the different points upon which we will have fixed our ideas will form the act to be drawn up. I do not think that we could come to conclusions in any other manner. It even appears to me, that there will be an evident loss of time if, in the state of things, this discussion is adjourned. I have already given you to understand that it would be inconvenient to give it in charge to a minister plenipotentiary at Philadelphia. Circumstances have rendered this inconvenience more important, and I will not conceal from you that I should fear fresh incidents.

I therefore urge you more pressingly than ever, sir, whilst I refer to what I have already written to you on this subject, to postpone your departure, and to attend quickly to the discussions which I urge. I know that you are not of the same opinion with me, with respect to the validity of your full powers; but reflect, that, in any case, you can in nothing bind your Government, which has reserved the right of ratifying.

I will add that, in the situation in which you stand, it is contrary to all usage to depart, without notifying that you have received an order therefor; that the usage on the contrary is, when a doubt is raised upon the full powers, the envoy waits the decision of his Government, without breaking off the negotiation. Receive, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

EXTERIOR RELATIONS.

Note upon the twelfth article of the Convention between France and the United States, of the 14th November, 1788.

This article has been executed in France in its literal meaning, and in its implicit meaning: that is to say, that all the differences between the citizens of the United States in France have been left to the decision of their consuls, and that the sentences of the latter have been executed, when coercion was necessary, in the same manner, and by the same officers of justice as the sentences of the French tribunals.

Nothing has been changed, in this respect, since the establishment of the republican form of government, notwithstanding the jealousy which is peculiar to it, and which the judiciary authorities of every country possess in general.

It has been judged, as to the literal meaning, that the jurisdiction given to the consuls of the United States over their countrymen was not in any respect optional. The 12th article does not declare in effect that all the differences *may be* determined, &c. which would imply only a power in persons of the nation to sue before their consuls, and a power in the latter to admit or decline. It declares formally, that all differences *shall be* determined, &c. which implies a reciprocal obligation upon the persons of the nation and their consuls. This obligation is confirmed by the last paragraph, which pronounces an absolute interdiction upon the territorial officers, civil or military, to interfere in any manner whatever, and consequently obliges the persons of the nation to apply to their consuls, and the consuls to decide their differences.

It has been judged, as to the implied meaning, that the stipulation being express, mutual, and guarantied by the public faith, included within it the engagement to give it effect. It would have been ridiculous to put the citizens of the United States in France under the necessity of referring, exclusively, their differences to their consuls, and the necessity of taking them up, as the only competent judges, without intending the execution of the sentences. But this execution can proceed only from the territorial power which disposes of the force.

It has finally been judged, that this kind of jurisdiction was not, in any respect, repugnant to the local sovereignty, because its admission was mutually agreed upon; that it did not stand in competition with the French tribunals, because it did not embrace objects common to them; that it did not abridge the territorial rights, because it extended only to foreigners.

There has been no reciprocity on the part of the United States, wherein this question has been viewed under a different aspect, and the French Government has constantly received complaints upon this subject. In 1792, attention seemed to be paid to the representations which it caused to be made. An act of Congress of the 14th April, of that year, declares, "that in all cases wherein, by any article of the convention, the consuls of France are entitled to aid in the execution of any order, the marshals of the district courts of the United States, or their deputies, should be the officers competent, and should give their aid according to the tenor of the stipulations." The same act having provided, in the preceding paragraphs for the execution of the seventh and ninth articles of the convention, that which has been just cited is applicable only to the twelfth article, the last of the three which were foreseen, and the only one wherein an order might be issued. But soon afterwards the officers designated eluded this provision.

Since that time, some courts in the United States have declared that they would not take cognizance of actions at law between Frenchmen. These actions have been sustained in other courts, notwithstanding the remonstrances of the defendants. On the other hand, the consuls of the republic decided in vain upon the differences submitted to their judgment. One while the justice of the country was refused, by arguing from the tenor of the twelfth article; at another time the consular jurisdiction was palsied, by arguing from its pretended silence; and sometimes it was entirely forgotten.

It is of pressing importance to put an end to these uncertainties, which are discouraging to the French merchants, and embarrassing to their Government, whose protection they claim.

The twelfth article of the convention between France and the United States gives to the consuls a judiciary authority over their countrymen, to the exclusion of the respective tribunals. This authority is not optional; it does not derogate from the rights of sovereignty of either republic; it is founded on a reciprocal agreement; it is conformable with the principles asserted by the most enlightened writers upon public law; it meets with no opposition in France, and it ought to be faithfully facilitated in the United States.

The French Government will not insist upon a particular mode of executing the sentences of the consuls in the United States. It asks only the express recognition of the implied meaning of the twelfth article, and a promise to provide for it fully at the next session of Congress, in the manner most consonant with the forms used in the country.

CH. MAU. TALLEYRAND,
The Minister of Exterior Relations.

PARIS, 18*th Messidor*, 6*th year*, (*July* 6, 1798.)

EXTERIOR RELATIONS.

Note upon the sixteenth article of the Convention between France and the United States, of the 14*th November*, 1788, *and general observations.*

PARIS, 18*th Messidor*, 6*th year*, (*July* 6, 1798.)

This article declares that the convention shall be fully and completely executed during the space of twelve years, to be reckoned from the day of the exchange of the ratifications.

The exchange took place in January, 1790, and the term appointed will expire in January, 1802.

It will be proper, before that period, to set about the revision of the convention. Many articles require it. The French republic will show itself less jealous of the privileges of the consuls than of the stipulations useful to its merchants and navigators. The United States will doubtless be guided by the same laudable views. Two republics will the more readily agree on this subject, as they are founded upon the same principles.

But it is possible that, on the one side or the other, the parties may not be prepared at the time fixed for the intended negotiation; that more experience may be desired; or that they may not even agree as to the best system to be adopted. The French Government proposes that it be declared "that, on account of the events which have prevented a judgment upon the effect of the present convention, it shall be prolonged for six years after the expiration of the twelve first years, if it be not renewed in the interval."

The French Government also proposes, "that in all quotations of any article of the convention, the denomination of *French citizen* be submitted for that of *subject;* and the words *French republic* be placed in the stead of *most christian king*, *most christian majesty.*

CH. MAU. TALLEYRAND,
The Minister of Exterior Relations.

No. 22.

Mr. Gerry to the Minister of Foreign Affairs of the French republic.

PARIS, *July* 10, 1798.

CITIZEN MINISTER:

I received, on the 9th instant, your letter of the 6th, being the 18th Messidor, and shall briefly reply to it.

You inform me that the communication of the intentions of the Executive Directory, sent to Philadelphia before Germinal, the 20th of March, did not proceed from the French Government, its agents, or any person whatever, to your knowledge: and I affirm that it did not directly, or indirectly, proceed from me.

The rumor then must have been vague, and could not have merited the attention of the President of the United States, much less could it have authorized his formal communication thereof to Congress.

The two attempts of the United States to obtain a reconciliation between the republics, to which I referred in my last, were those of the mission of a minister to efface unfavorable impressions, banish suspicions, and restore cordiality between them, and afterwards, of the three envoys, whose powers were more extensive. I made no allusion to your conduct, and, with respect to my own, have done every thing incumbent on me.

You complain that certain newspapers of the United States, one of which has, for its editor, the printer of the Senate, calumniate, daily, the French people, their institutions, government, legislators, and others. The envoys, in their letter to yourself, of the 3d of April, have discussed this subject so fully as to leave nothing further necessary to be said thereon.

You also complain of some speeches of the national representation of the United States, degrading the French republic in the opinion of the American people, and of the silence of our Government thereon. The constitution of the United States expressly provides that the Senators and Representatives, for any speech or debate in either house, shall not be questioned in any other place. So essential is the freedom of debate to each house, as to be sacredly preserved by the constitution, and to be above the control of every other department of Government. The Government of the United States, on their part, pay no regard to offensive speeches in foreign Legislatures, well knowing that, however amicably disposed Governments may be towards each other, such a mode of conduct must be productive of perpetual sources of discord between them.

And now having replied, citizen minister, to your observations, on these subjects, I assure you that nothing can be more disagreeable to me than such discussions. I did not give rise to them, and here I shall terminate them.

On the 27th of June, about six weeks after I had demanded my passport, and when my baggage was on board the Sophia, you sent me a note containing some remarks on the consular convention, and expected a formal discussion of them: to this, without powers, I should not have consented at any time; I have repeatedly refused it; and must adhere to my determination,

You conclude by observing that, in my situation, which is that of an unaccredited minister, it is contrary to all usages to depart, without notifying that I have received orders therefor; and that, on the contrary, it is customary, when a doubt arrises upon full powers, to wait the decision of the Government of which one is the envoy without breaking the negotiation. On my part there has been no doubt of a want of powers, and there has not been any negotiation; there cannot, then, be a rupture of it by my departure. I am to judge of the necessity of demanding my passport. I now renew my demand of it, and the other documents necessary for the voyage, and request a definite answer.

Accept, citizen minister, the assurances of my perfect consideration.

E. GERRY.

No. 23.

The Minister of Exterior Relations to Mr. Gerry, envoy of the United States.

MINISTRY OF FOREIGN RELATIONS, PARIS, 24th *Messidor*, (*July* 12, 1798.)
6*th year of the French republic, one and indivisible.*

As long as I could flatter myself, sir, with fulfilling the wish of the Executive Directory, by endeavoring with you to re-establish the good understanding between the French republic and the United States, I used my efforts, both in our conferences and in my correspondence with you, to smooth the paths; to establish the basis; to enter on

the business; and to convince you of the utility of your presence at Paris. It is in your character of envoy of the American Government, that I received you and wrote to you: it depended upon yourself to be publicly received by the Executive Directory. Without partaking in your opinion with respect to the change which the departure of Messrs. Pinckney and Marshall might produce in the full powers, wherein I have read that you have been authorized to treat *separately;* it appeared to me that, in the hypothesis even in which you placed yourself, you ought to refer the question to your Government, and, in the interval, fix with me, by a calm and friendly discussion, all the questionable points of our differences.

This proceeding was the more natural, as, setting aside the premature knowledge which your Government had of the offer to treat with you, after the departure of your colleagues; my note, of the 28th Ventose, (18th of March) which must have reached Philadelphia about the end of Floreal, (May 19) left no more doubt upon this subject. It comprehends three objects perfectly distinct. It begins by rectifying, with the dignity which becomes the French Government, the statement of grievances of the United States, drawn up by their envoys in the inverted order of facts, on the 28th Nivose preceding, (17th January.) It next points out the reasons which prevented the negotiation from being carried on with the envoys collectively. It finally declares, solemnly, the conciliatory dispositions of the Executive Directory; its express desire of renewing, between the two countries, the ties of their former friendship; and the intention to treat with you. A declaration so explicit was made only to furnish the President of the United States with an infallible means of accommodation. It was a pledge of peace that might be taken up. I presumed you could not be long in receiving analogous instructions, and even other powers, if they were necessary; or that at least if you had announced to the President a wish to return to America, another envoy would come to consummate the happy work, which we should have had the satisfaction to prepare.

With such well grounded hopes were mingled considerations upon the inconveniences of your departure. I have given you to understand that, notwithstanding the assurances you have given me, nobody would believe that it was owing solely to your inclination, to a thorough conviction of the invalidity of your powers, or to a wish to see the care of the negotiation confided to other hands. I have conversed with you respecting the conjectures which it would give rise to; on the means it would furnish the British cabinet, which spares nothing to draw France and the United States to extremities, from which it calculates to derive the sole profit; and on the suspicions even which the French Government would be made to conceive. I endeavored to make you see into its possible consequences. The happening of several circumstances has already retarded the reconciliation of the two republics. It may be permitted to him, who sincerely wishes for peace, to fear new ones. These views, for which I shall ever honor myself, induced me to resist, as much as I could, the desire you manifested of quitting France. You decisively insist upon it in your letter of the 22d of this month, (10th July.) The Executive Directory has consequently authorized me to send you the passports which you request, for yourself and the vessel which awaits you at Havre. You will find them enclosed.

May your return to the United States, and the communication of what has passed between us, since you have solely represented your Government, remove there the injurious opinion of hostile intentions on the part of France: you have often repeated to me, since you pressed your departure, that if you could not treat here as an envoy, your good offices in the United States should not be spared as a citizen. You have it not in your power to render to the two countries a more signal service, than by contributing to make their political and commercial relations accord with their inclination and interest. Assure your Government that the Executive Directory perseveres in the intention of conciliating with sincerity, the differences which have arisen between the French republic and the United States, as soon as an opportunity for that purpose shall be sincerely presented. If it be really true that the dispositions of your Government correspond therewith, let it give a proof of it, and you may answer beforehand for the success.

You cannot dissemble, sir, that if nothing prevented you from pursuing with me the examining and reconciling of the grievances which divide the two countries, we should not long stand in need of any thing but the respective ratifications.

Who will doubt of the sincerity of the French Government, when it shall be known that, for nearly three months every pressing solicitation came from me, and that, faithful to the engagements I have made in my note of the 28th Ventose, (18th March) I have been the first seriously to press the negotiation after the departure of Messrs. Pinckney and Marshall? It will not be said, I hope, that the refusal to treat with them is a refusal of conciliation, because this refusal was accompanied with a promise to treat with you, and your full powers presented you as separately authorized.

I shall incessantly appeal to that document, because it is the foundation of the opinion which the Government must have formed; and even admitting that you were tied down by secret restrictions, I could not in my mind oppose what I did not know, on account of the credence due to the ostensible power.

Yes, sir, when scarcely informed of the departure of Messrs. Pinckney and Marshall, I endeavored, in every conference I afterwards had with you, to demonstrate to you the urgency, the propriety, and the possibility of an active negotiation. I collected your ideas; they differed from my own; I endeavored to reconcile them, and I was about to transmit some propositions to you, when a packet from your Government arrived at Havre. You then appeared to be preparing to depart. Until then I never supposed you entertained the design of embarking before we had come to an agreement upon the definitive articles to be ratified by your Government. A few days afterwards, I received some despatches from Philadelphia, the contents of which for a moment gave a new course to my correspondence with you. On the 22d Prairial, (10th June) I notified you that the dispositions of the Executive Directory were the same, and I prayed you to inform me, whether you were finally in a situation to negotiate. On the 30th Prairial, (18th June) I transmitted to you a complete plan of the negotiations. On the 9th Messidor, (27th June) I sent you my first note for discussion upon one of the points of our treaties, which are unexecuted in the United States. You declined answering it. It is necessary, however, to be agreed upon the details in order to arrive at the conclusions. On the 18th Messidor, (6th July) I sent you two others. In vain I accompanied these documents with the most cordial invitation rapidly to run over with me this series of indispensable discussions upon all our grievances. You have not even given me an opportunity of proving what liberality the Executive Directory would use on the occasion. You never wrote, in fact, but for your departure. And it is the French republic, which is accused in the United States with not wishing for peace! Perfidious instigators will insinuate that it never wished it. I will therefore ascend to the period when the first symptoms of discontent manifested themselves, that is to say, to the arrival of the minister Genet at Philadelphia in Prairial of the 1st year. An universal joy burst forth in the United States at the declarations he was charged to make. He then expressed the friendly and generous intentions of the French Government, which, powerful in the national energy, forbore to claim aid from its allies. Some of his measures soon afterwards gave umbrage. They were the effect of a zeal badly adapted to local circumstances, and unfortunately still worse interpreted. The President caused his complaints concerning them to be made in France at the close of the same year. The committee of public safety immediately rendered satisfaction; and other agents arrived at Philadelphia in the beginning of Ventose, 2d year: their instructions will bear the utmost publicity: not to interfere in any party matter; to respect the Government; to prompt it to maintain its neutrality with vigor; to repress all armaments which might endanger it; to maintain the rights secured to France by its treaties: such is the substance of them: such also were the instructions given to the minister Adet, who succeeded them in the 3d year. Surely nothing cah be more pacific. Nevertheless, the rights of France are insensibly forgotten; the most important clauses of its treaties are rendered insignificant: its vessels experience the most discouraging vexations; England sports with impunity with the neutrality of the United States, which to France, who is too confident in it, becomes a source of loss. A transaction clandestinely negotiated ends by consecrating, to the detriment of a friendly nation, the pretensions of its implacable enemy. After that time, nothing has passed between the American Government which the representations thwart, and the ministers plenipotentiary of the republic, who could not avoid making them, but a correspondence gradually increasing in asperity. The French Government never interferes in them: it reposes upon the hope, that their own interest would lead the United States to perceive that England was drawing them within its vortex. Far from taking an hostile attitude, it affects indifference in order to show itself patient with

dignity. The crowd of complaints which it receives, obliges it finally to change this line of conduct. It causes its grievances to be declared on the 25th Brumaire, 5th year, (November 15, 1796) and in order to produce a negotiation, too long delayed, it draws from the treaties of Paris and of London the most suitable means of hastening it. It is animated by no view of aggression, by no hostile intention. In order to obtain from the United States some degree of justice, it places them in a situation to be obliged to demand an arrangement themselves. Let us now see whether it has rejected any honorable propositions.

Mr. Pinckney had departed before the declaration of the 25th Brumaire (November 15, 1796) which suspended the customary relations. He came to succeed Mr. Monroe, and, like him, to explain and palliate the conduct of the United States, without any special power for the negotiation demanded by France. He could not be received, because he was not in a situation to fulfil the conditions required, upon the resumption of political connexions. The President of the United States thought it his duty to call an extraordinary meeting of the Legislature. I shall not review the opening speech, nor the turn which the debates took in that session. But I will say, that the impression, which resulted therefrom, at Paris, was unfavorable previous to the arrival of the envoys; that this circumstance alone raised an obstacle, which ought to have been foreseen at Philadelphia; that the envoys themselves, unwilling to comprehend the natural effect of this kind of provocation, have contributed to render the impression more durable. It has finally, however, yielded to the primitive desire of a sincere reconciliation. You find a proof of it in the very expedient suggested of treating with you separately; for a Government hostilely disposed would not have taken the delicate course which guards its honor and fulfils its pacific intentions.

You have given me to understand, sir, that it would have been well had the Executive Directory supported the declarations which I have made to you in its name, by a change in the measures which affect the commerce of the United States.

I might answer you, that your Government might have also secured its object by restoring at first the French republic to the rights which flow from its treaties. But let us exact less rigidly and be more equitable towards each other. Although the measures of France are no more than the consequence of those of the United States, you must have remarked, that, in my propositions of the 30th Prairial (18th June) the intention of the Executive Directory is, that the respective pretensions may be collaterally examined and adjusted. It intends to place, in a single act, a durable monument of the future friendship of the two republics, and the justice which they owe to each other, and no idea of false glory enters its mind. On taking leave of you, sir, I have supposed that I owed you a testimony of my esteem: it consists altogether in the unreservedness with which I have just spoken to you, and in the expression of the regret which your departure, under the present circumstances, gives me.

Receive the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

P. S. of the 27th Messidor, (July 15, 1798.)

A circumstance, sir, of infinite importance, has delayed the despatching of this letter. I do not know how it happens that at every step towards a reconciliation a cause of irritation intervenes, and that the United States always give rise to it. Some days since different advices were successively received by the Executive Directory. It seems that, hurried beyond every limit, your Government no longer preserves appearances. A law of the 7th of last month authorizes it to cause every French vessel of war to be attacked, which may have stopped or *intended* to stop American vessels. A resolution of the House of Representatives suspends, from the 13th of this month, all commercial relations with the French republic and its possessions. Several plans of a law have been proposed for banishing the French and sequestrating French property.

The long suffering of the Executive Directory is about to manifest itself in the most unquestionable manner. Perfidy will no longer be able to throw a veil over the pacific dispositions which it has never ceased to manifest.

It is at the very moment of this fresh provocation, which would appear to leave no honorable choice but war, that it confirms the assurances which I have given you on its behalf. In the present crisis, it confines itself to a measure of security and self-preservation, by laying a temporary embargo on American vessels, with a reserve of indemnities, if there be occasion for them. It is yet ready, it is as much disposed as ever, to terminate, by a candid negotiation the differences which subsist between the two countries. Such is its repugnance to consider the United States as enemies, that, notwithstanding their hostile demonstrations, it means to wait until it be irresistibly forced to it by real hostilities.

Since you will depart, sir, hasten, at least, to transmit to your Government this solemn declaration.

CH. MAU. TALLEYRAND.

No. 24.

Mr. Gerry to the Minister of Foreign Affairs of the French Republic.

PARIS, *July* 20, 1798.

CITIZEN MINISTER:

I received, on the 27th Messidor, (15th July) your letter of the 24th (the 12th of July) on which permit me to make some observations.

You allege that, in the United States, the French republic is accused of not wishing for peace, and to show that it was always desirous thereof, you recur to the arrival of Mr. Genet in America. Far from accusations of any kind, I wish to cultivate harmony between the two Governments, as the solid basis of peace. From that epoch, to the departure from the United States of Mr. Adet, the correspondence of the Secretaries of State of the United States, with the French ministers in America, and the American ministers in France, contains the history to that time, of the unhappy differences between the two republics, and evinces the sincere desire of the Government of the United States, amidst the inevitable embarrassments resulting from the convulsive state of Europe, to preserve harmony and friendship with the French republic, and to perform, with scrupulous attention, the duties of neutrality. If, by any unfortunate events, France had sustained injuries during that term, still the manifest disposition of the Government of the United States to justice and moderation, was a sure pledge of redress.

When Mr. Monroe was recalled, a minister was sent to supply his place, and you say, "he could not be received, because he was not in a situation to fulfil the conditions necessary for the renewal of the political connexions." Had he been received, he could have applied for other powers if necessary: nothing is more usual. The application, which you have so strenuously urged on my part, must have been for the renewal of powers annulled by the act of sending away the other envoys: surely, then, your arguments would have applied with much more force to the case of a minister, whose powers were only supposed inadequate to the objects of his mission. The act of rejecting this minister, accompanied with circumstances of high displeasure on the part of the Government of the French republic, could not fail to wound deeply the Government of the United States, and to produce observations on such an important event. Let the cause and effect be buried in oblivion: the remembrance thereof cannot promote harmony. This you will readily accede to, when you consider the amicable and attentive conduct immediately adopted by the American Government, in sending three envoys extraordinary with adequate powers to effect a reconciliation and a renewal of a commercial intercourse between the republics.

From the arrival of the envoys at Paris to the departure of two of them, the objects of their mission were defeated by insuperable bars arising from demands of loans, which, violating the neutrality of the United States, would have involved them in immediate war, and of procuring reparations for the observations hinted at. Towards the end of that period, after imposing on me secrecy, you stated the embarrassments and dissatisfaction of the Executive Directory, on account of the opinions and conversations of my colleagues, its determination not to treat with them, and its desire to negotiate with me; and you added, that my departure would produce an immediate rupture. Astonished as I was at this communication, I informed you that I had no powers to treat separately; the

measure was impossible; and that had my powers been adequate, a treaty made under such circumstances could never be ratified by my Government. You differed from me, we reasoned on the subject, and each adhered to his opinion. I urged, in vain, the unreasonableness of admitting prejudices against my colleagues, without informing them of the causes thereof; the good effect in removing these, which might result from such information, and the necessity of making known to them all that had now passed between us. You held me to the promise of secrecy, adding that, if I would negotiate, we could soon finish a treaty; for the Executive Directory were not in the habit of spending much time about such matters. You desired another interview, in which, after a discussion of the subject, I confirmed and adhered to my determination. In this state affairs remained for some time, and I flattered myself with the hope that, failing in the proposition for negotiating with me separately, your next would be to accredit the three envoys; in such an event the secrecy mentioned would have been proper. This expectation was strengthened by the two subsequent interviews which they had with you; and you may judge of my surprise on the receipt of your letter of the 28th Ventose, (18th of March) containing a refusal to treat with two of the envoys, and renewing the proposition to treat with me. Finding that I was the person alluded to, and that all hopes of our being jointly accredited were at an end, I again refused, in the most positive terms, to negotiate separately: another proposition was then made, that, to prevent a rupture, I should remain here till information could be sent to my Government of the events. Embarrassing as such a state was, I submitted to it, rather than to bring on a war. You afterwards sent me your note of the 14th Germinal, (3d April) proposing that I should resume our reciprocal communications upon the interests of the French republic and the United States. To this I replied on the 4th of April "that I could only confer informally and unaccredited, on any subject respecting our mission, and communicate to the Government of the United States the result of such conferences; being, in my individual capacity, unauthorized to give them an official stamp." The day after the departure from Paris of the last of my colleagues, I again addressed you, and quoting the above paragraph, informed you that this I considered as the line of conduct well understood to be observed on my part; to this you made no objection, verbally or by writing, and thus acquiesced in it. Had you not, I should have immediately demanded my passport.

At one of our first interviews, after that letter, you stated a difficulty in adopting the plan proposed by my letter of the 20th of April, from your not being informed of the wishes of the Government of the United States in regard to a treaty: these were so reasonable that I thought it best to communicate them to you; and according to your own opinion, since expressed, they would require little or no time for discussion: nothing can exceed them for moderation or justice. Believing that you were seriously disposed to bring forward the plan of a treaty, for the consideration of the Government of the United States, and being also convinced that the subject thereof had been so fully discussed, and was so well understood, as not to require much time to accomplish it, I informed you that I should embark for America in June; and although you objected to it in the first instance, you afterwards appeared to be fully convinced of the necessity of it, promised to digest the plan proposed without delay, and to send it to me for examination. I conferred with you, at different times, on the expediency of sending a minister to Philadelphia to complete the negotiation; and you promised to consider of it. At length the Sophia arrived, and a few days afterwards you informed me that I might make myself quite easy, that France did not wish a war with the United States; that she had no thoughts of it; that the American affairs were before the Executive Directory; and that every thing would be arranged to my wishes. I again stated the necessity of sending a minister to America to complete the negotiation. You said you would propose one to the Executive Directory. This I could not suppose was for the purpose you have since stated, of residing there after the ratification of the treaty.

Thus were matters circumstanced until the arrival of the gazettes, containing the despatches of the envoys to their Government, which gave more than a momentary turn to your correspondence with me. When I informed you that I should embark in the Sophia, as soon as she could be fitted for sea, there was still time to finish the plan of the treaty, and to send it by me, if expedient. You desired me to remain here; I told you my return was indispensable, and gave you no other reason. I thought that sufficient. You conceive it depended on me to be publicly received by the Executive Directory; but our opinions are different on this point. A Government sends three envoys to treat with another Government; this rejects two of them, and proposes to treat with the third. Candor must admit, I think, that the latter cannot accept the proposal, without transferring, in this instance, the Executive authority of his Government, who would only have *nominated* three envoys to the foreign Government, who would have *appointed* one of them. You say that if my powers are altered by the departure of my colleagues, yet, on my own hypothesis, I ought to have referred the question to my Government, and in the interim to have fixed with you, by a calm and amicable discussion, all the contentious points of our differences. If my Government, as you repeatedly have asserted, was apprized before the 20th of March of the proposition to treat with me separately, it is evident that it was not disposed to send me new powers; for the Sophia sailed on the 28th of that month, and knowing this, you still urged me to make the application. I have been always ready, and had you come forward with the project of a treaty, would have entered into a calm and amicable conference with you on every part of it; but not into a formal epistolary discussion, which was not proposed till some time after I was ready to embark, was only relative to the consular convention, which will soon expire, was contrary to my stipulation relative to conferences, in which you acquiesced, and would have required months to be completed.

You was the first, you affirm, to press seriously the negotiation: you will agree with me that the merit would have been *greater* had the measure itself been *feasible*.

You frequently remind me of your exertions, which I am disposed as much as possible to appreciate, regretting at the same time their circuitous direction. On my part, I think you will be convinced that every thing has been done which circumstances herein truly detailed would admit.

It is with pleasure I learn that the Executive Directory is still ready, and is as much disposed as ever to terminate, by a liberal negotiation, the differences which subsist between the two countries.

This disposition has always existed on the part of the Government of the United States. A negotiation, then, if set on foot free from all propositions of loans and explanations of speeches, to be held, if necessary, in a city of some neutral nation, and providing for a decision by three or five commissioners of all points which may not be determined by direct negotiation, would still be accompanied, in my opinion, with success: but having no authority, I cannot make the proposition. A preliminary measure appears to be requisite, in which the dignity of this Government is as deeply concerned as the interest of the United States. The depredations, outrages, and cruelties, committed on our commerce and citizens, in the West Indies and on our coasts, by French privateers, some of which it is said have no commissions, are perhaps seldom paralleled amongst civilized nations. It is said that this Government has not been early apprized of these events, which have been a great source of irritation in the United States, and a principal cause of the repressive measures adopted by them. A recall of the commissions of the privateers, and restraining them by severe penalties to the proper objects of capture, cannot fail to have a happy effect.

You claim a promise of my good offices as a private citizen in America. These shall not be wanting to represent truly every measure of this Government, and to render successful all such as may be well adapted to effect a reconciliation. This is all that can be expected of me, and the duty which I owe to my country will require it.

And now, citizen minister, having given you a testimony of my esteem, such as results from a frank and candid conduct, I bid you adieu, wishing sincerely a speedy renewal of amity and commerce between the two republics.

Accept, citizen minister, the assurances of my perfect consideration.

E. GERRY.

No. 25.

LIBERTY. EQUALITY.

The Minister of Exterior Relations to Mr. Gerry, envoy of the United States.

PARIS, *4th Thermidor, (July* 22, 1798*)*
6th year of the French republic, one and indivisible.

Allow me, sir, to confine myself to the two last paragraphs of your answer of the 2d of this month to my letter of the 24th Messidor, (July 12.) Easy as it may be to rectify those which go before, it would be to enter uselessly into the circle of digressions. It is my duty to feel what in the state of things you think due to your Government; and this consideration would be alone sufficient to stop me if I set a less value upon conciliation.

You repeat to me that the Government of the United States has always been disposed to terminate amicably the differences which subsist between the two republics. This fresh assurance, at a time when hostile demonstrations have just been made, could not but temper their effect. But, let then, a frank, candid, and truly amicable act speedily realize those dispositions. Far from entering into the answers of the President to the addresses which have been presented to him from different parts of the United States, whatsoever they may be, I would fain behold in his expressions nothing but a political expedient. I do not thence judge less favorably of the true intentions which you profess in his name, and I would not have engaged you to warrant the success of the first proof which he will render of them, if the Executive Directory, which was ready to receive you, had not made a fixed determination upon the subject. A negotiation may therefore be resumed even at Paris, where I flatter myself you have observed nothing but testimonies of esteem, and where every envoy who shall unite your advantages cannot fail to be well received. Moreover, I know not, sir, why you tell me that it would be requisite to lop from this negotiation every preliminary respecting a loan, and explanations on the subject of the speeches delivered. Be pleased to read over again the propositions which I transmitted to you on the 30th Prairial, (June 18;) they contain all the ideas of the French Government; and you will not find in them a word which justifies your recurring to those two questions. An odious intrigue had got possession of them: the dignity of the French Government could not permit this mixture; and it did not wish that views as pure as its own should be associated therewith hereafter. As to the preliminary measures which you suggest, sir, the Government has already anticipated your desire. By information which it has just received, it indeed learns that violences have been committed upon the commerce and citizens of the United States in the West Indies, and on their coasts. Do it the justice to believe that it needs only to know the facts, to disavow all acts contrary to the laws of the republic and its own decrees. A remedy is preparing for it, and orders will soon arrive in the West Indies calculated to cause every thing to return within its just limits, until an amicable arrangement between France and the United States shall re-establish them respectively in the enjoyment of their treaties.

This period, sir, cannot be too near at hand. I do not cease to regret, that you should refuse yourself the accelerating of it, by yielding to circumstances, persuaded as I ever am, that you were fully authorized.

Accept my wishes for your happy passage, and the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 26.

Mr. Gerry to the Minister of Exterior Relations.

PARIS, *July* 25, 1798.

Mr. Gerry having seen in the Redacteur of this morning the publication of a letter to him from the Minister of Foreign Affairs of the French republic, dated the 24th Messidor, (12th of July) requests him to order a just translation of the answer dated the 20th of July, to be also published. Mr. G. being on the eve of his departure from Paris, presumes the minister will readily comply herewith, to prevent partial and undue impressions against him in his absence.

No. 27.

LIBERTY. EQUALITY.

The Minister of Exterior Relations to Mr. Gerry, envoy of the United States.

EXTERIOR RELATIONS, PARIS, 16*th Thermidor*, (*August* 3, 1798)
6th year of the French republic, one and indivisible.

Presuming, sir, that you have not yet embarked, I address to you a decree of the Executive Directory, wherein you will find a part of the measures which I announced to you the 4th of this month. Its solicitude will not be confined to that. Neutrals, in general, will have reason soon to be convinced of its firm attachment to the principles to which it is desirous that all the maritime nations might agree. It depends upon the United States, in particular, to cause every misunderstanding immediately to disappear between them and the French republic.

Accept, sir, the assurance of my perfect consideration.

CH. MAU. TALLEYRAND.

No. 28.

HAVRE, *August* 8, 1798.

At the moment of my embarkation, citizen minister, I have the honor of receiving your letter of the 16th Thermidor, (3d August) with the arrêt of the Executive Directory of the 13th. both of which shall be communicated to the Supreme Executive of the United States immediately after my arrival there.

Accept, citizen minister, the assurance of my perfect respect.

E. GERRY.

To the MINISTER OF FOREIGN AFFAIRS *of the French republic.*

No. 29.

Extract from the Registers of the Deliberations of the Executive Directory.

PARIS, *the 13th Thermidor, 6th year of the French republic,*
(*July* 31, 1798.)

The Executive Directory having heard the report of the Minister of Marine and the Colonies;

Considering that information recently received from the French colonies and the continent of America leave no room to doubt that French cruisers, or such as call themselves French, have infringed the laws of the republic relative to cruising and prizes;

Considering that foreigners and pirates have abused the latitude allowed at Cayenne, and in the West Indian islands, to vessels fitted out for cruising, or for war and commerce, in order to cover with the French flag their extortions, and the violation of the respect due to the law of nations, and to the persons and property of allies and neutrals;

Decrees—

ART. I. Hereafter no letters of marque, authorizations, or permissions, to fit out vessels either for cruising, or for war and commerce, shall be issued in the colonies of America, but by the special agents of the Directory themselves, who shall not delegate that power to any one: they shall exercise it only in favor of owners of vessels whose principles and responsibility are well known to them; and they shall be bound to conform themselves to all the laws relative to cruising and prizes, and especially to those of the 1st October, 1793 (O. S.)

ART. II. All letters of marque, authorizations, or permissions, granted in the colonies of America by the particular agents of the Executive Directory, and all other agents, civil and military, under their orders, to fit out vessels either for cruising, or for war and commerce, shall be considered as not having been done, after the thirtieth day from the publication of the present decree in the said colonies.

ART. III. All agents and other deputies in the neutral possessions, appointed to decide there upon the validity of prizes taken by the French cruisers, and who shall be suspected of having a direct or indirect interest in the vessels fitted out for cruising, or for war and commerce, shall be immediately recalled.

ART. IV. The special agents of the Executive Directory at Cayenne, St. Domingo, and Guadaloupe, shall studiously take care that the interests and property of vessels belonging to neutrals or allies, be scrupulously respected; and they shall in no case bargain for their cargoes, but by mutual consent, and to the full and entire satisfaction of the contracting parties.

ART. V. The said special agents of the Executive Directory, the commanders of all vessels of the republic, the consuls, vice consuls, and all others invested with powers for that purpose, shall cause to be arrested and punished, conformably to the laws, all those who shall contravene the provisions of the present decree, which shall be printed in the bulletin of the laws, and with the execution of which the ministers of foreign relations, and of the marine and the colonies, are charged.

For a true copy, as the President of the Executive Directory: MERLIN.
By the Executive Directory, as the Secretary General: TREILHARD.

For a true copy: The Minister of Exterior Relations, CH. MAU. TALLEYRAND.
By the Minister: The Secretary General, PAGANES. [L. S.]

No. 30.

PARIS, *June* 9, 1798.

SIR:

In your letter to the Minister of Foreign Affairs, of the 13th Prairial, published in the Bien Informé of this day, you have deviated in some points, not very material, from the statement communicated by the envoys of the Government of the United States respecting a conference which I had with the minister aforesaid on the 22d of October last, viz: that I requested the interview, instead of the minister, and that I met him twice on this communication, whereas I saw him but once. I wish, therefore, you would revise the statement referred to, and inform me whether it is not, to the best of your memory, literally true; it is precisely the same, without changing a word, which we communicated to my colleagues.

I am, sir, &c. E. GERRY.

Mr. HAUTEVAL.

No. 31.

PARIS, *the 22d Prairial, 6th year,* (*June* 10, 1798.)

SIR:

I have received the letter which you did me the honor to write to me yesterday, relative to that which I deemed it my duty to write to the Minister of Exterior Relations, on the 13th of this month, and which the Government caused to be printed.

It is not at all astonishing that my memory may not have served me with precision upon a subject which passed more than six months ago, and of which I have not taken notes. I undertook merely to repeat with exactness the essential heads, which I believe I have done.

I, indeed, recollect that, having been together at the minister's, and not having met with him, I left our names with his porter; that, having returned there the next day alone, he expressed to me his regret at not having been at home when you called there the day before, and charged me to tell you that he would receive you with a great deal of pleasure, on a day he assigned to me. The appointment, therefore, proceeded from the minister, and not from your request, as I have said in my letter; but the matter appears to me to be of little consequence.

The second error which you remind me of having committed, is that of having separated into two conferences what passed in one. On every occasion when I have had the pleasure to see the minister, I have always conversed with him on matters relating to the negotiations with the United States of America, the success of which I have never ceased anxiously to desire. In my letter, I might be mistaken in some details; but you, sir, could not, having immediately taken a written note of what had just passed between the minister, yourself, and me. I regret that I had not the pleasure to see you before I transmitted my letter to the minister. By communicating it to you, I should have rectified the two slight errors which crept into it; but I was constrained by the occasion, and was very far from thinking that it would be printed.

I shall ever be anxious to render homage to the truth, and to seize occasions of assuring you of my respectful attachment.

I have the honor to be, &c.

L. HAUTEVAL.

To Mr. GERRY, *Envoy of the United States of America, Rue de Vaugirard, Paris.*

No. 32.

PARIS, *July* 16, 1798.

DEAR SIR:

Some part of the last instructions of the Secretary of State of the United States to the envoys, and to Mr. Humphreys, who brought the despatches, induces me to think, that, in the precarious state of our affairs with France, you may have conditional instructions, which may require particular information of what respects the existing state of affairs here. I have, therefore, thought it best to enclose, in the most perfect confidence, by my Secretary, Mr. Tazewell, the documents necessary to attain this object, and contained in the schedule annexed, for your use only. If you have not received such instructions, your prudence will dictate the necessity of observing the most profound secrecy, pending any subsequent measures which may take place for restoring friendship between the two republics.

I shall leave Paris for Havre as soon as possible, and expect on my arrival there to embark immediately for the United States.

Be assured that I remain, &c.

E. GERRY.

Mr. KING, *Minister Plenipotentiary of the United States, at London.*

Schedule enclosed in a letter to Mr. King.

Letters from Mr. Gerry to the Minister of Foreign Affairs.

No. 1,	April	4.
2,	"	20.
3,	May	31.
4,	June	3.
5,	"	10.
6,	"	13.
7,	"	22.
8,	July	1.
9,	"	10.
10,	"	20.

To Mr. Pickering.

No. 1,	May	12.
2,	"	13.

Letters from the Minister to Mr. Gerry.

No. 1,	Germinal	14,	April 3.
2,	Prairial	11,	May 30.
3,	"	13,	June 1.
4,	"	22,	" 10.
5,	"	30,	" 18.
6,	Messidor	9,	" 27.
7,	"	18,	July 6.
8,	"	24,	" 12.
9,	Thermidor	4,	" 22.

No. 33.

Extract of Mr. Gerry's letter to Dr. Tazewell, as far as it relates to Mr. King, minister of the United States at London.

MIGNON, *July* 27, 1798.

DEAR SIR:

The despatches for Mr. King are to be delivered to him by yourself; in the interim, you will please not to let them be put out of your possession, or communicated to any one.

No. 34.

Substance of a conference with the Dutch minister the 25th July, 1798.

Just before dinner, the Dutch minister called on me, and said he had received from Mr. Talleyrand a printed copy of his letter to me, dated 24th Messidor, (12th July) that the Dutch Government took a friendly part in the disputes between France and the United States, and that he came to offer his services, and the mediation of his Government, who had authorized and instructed him on this head.

I answered, that the conduct of Mr. Talleyrand, in publishing his letter to me, had an hostile appearance; that, if a mediation could be supposed necessary, it must be offered to the Government of the United States; I had no authority to accept it; that, if the Government of France was sincere in its declaration, made through M. Talleyrand, its minister, all that was wanting was to open a negotiation: for he had expressed a desire to show, by treaty, how well disposed France was to put an end to these disputes; that the Government of the United States was so reasonable and just in its demands that it could not fail to evince a good disposition to a reconciliation; that the etiquette of setting on foot a negotiation appeared, at present, to be the only embarrassment, more especially as the principal obstruction to a negotiation had ceased, this Government having relinquished all claims of loans and reparations on account of the President's speeches; that, as the United States had been twice defeated in sending ministers to Paris, the Government might not be disposed to send them a third time; and, that, if the French Government would propose some city in a neutral nation, as a place for opening a new negotiation, or, which would be better, would send a minister to the United States, I did not doubt it would succeed; that this was a mere matter of opinion: for I had no instructions on the subject; neither was I informed whether my Government had or had not formed an alliance with any other nation, as had been frequently reported. The Dutch minister answered that the proposal of a mediation must go to the Government, and inquired, in that case, if I would stay at Paris: I answered no, it was not necessary: neither did I conceive the propriety of offering, at this period, a mediation: the proper mode of settling disputes was, in the first instance, by treaty; if, in any points, this should fail, still there were other means besides the mediation of a third Power, which might be adopted; but that, if his Government wished to make the proposition, I would carefully transmit it to the Government of the United States.

He said that Mr. Talleyrand, who had styled his letter a pacific manifesto, and had sent a printed copy to each foreign minister, had no hostile intention in publishing it; but considered it as a friendly measure. I answered we then had different views of the subject. I then showed the answer to that letter, which the Dutch minister read. I thought it necessary, for the information of his Government, to make to him the communications mentioned.

No. 35.

Upon the communications made by the President of the United States to the American Congress, on the 14th Germinal, 6th year, (April 3, 1798.)

The American and English papers have lately resounded with the publication of the most strange communications, which the envoys of the United States have thought it their duty to make to their Government. It is, with respect to those envoys, a deplorable monument of credulity and contradictions; and it is, with respect to that Government, a provocation still more deplorable.

It is requisite, by the evidence of facts and the very words of the envoys themselves, to show their inconceivable error. It is requisite, by the force of reason and the mere sentiment of the happiness of the two republics, to answer to the provocation so visibly suggested by the British Government.

That Government, indeed, after so many and such ridiculous efforts against the French republic, endeavors to organize corruption around it. Grown desperate on account of so many glorious treaties of peace which the latter has concluded, it has flattered itself, by its peculiar perfidies, to rekindle the former wars in Europe, and to excite against it a new war in America; but all this system of British corruption shall be exposed and confounded; and the American people shall know the height of the precipice to which they are urged by the servile friends of their former oppressors.

For a long time the French republic complained, and certainly it had a right to do so, against the inexecution of the most important parts of the convention of 1788, concluded between France and the United States. The mari-

time hostilities were soon followed by the most aggravating injuries. It was in vain that the republic made a sacrifice of armaments, which might compromit the American neutrality.

The most legitimate of its armaments was soon after contested. The French vessels experienced a thousand vexations. Their prizes were no longer under the protection of the treaties. The courts of justice arrogated a jurisdiction over them; lengthy and ruinous chicaneries discouraged the captors; the French ports in the two worlds were soon declared to be blockaded by British proclamations; the vessels which departed from them were stopped on a loose suspicion of being enemies' property; those which carried provisions thither were turned back. On the other hand, the British ships of war entered the ports of the United States, after seizing French property or property claimed to be such. By degrees they became stationary there, and made of them military stations, whence they attacked both the French, and the Americans in connexion with France. The republic, however, confined itself to appealing to its treaties with the United States, and to pressing their Government to cause their own neutrality to be respected. They answered it with a treaty clandestinely negotiated and concluded with Great Britain.

Does this treaty, however, secure the neutrality of the United States? No. It renders the presence of the English forces in their ports lawful; it gives to England rights which, in the midst of war, ameliorate its situation to the prejudice of France; it allows the facility of again starving France and its colonies; it sacrifices the generous principles established, in favour of the liberty of the seas, in former treaties.

France makes complaints; the American Government eludes, and wanders from them; it multiplies official notes without approaching the main point of the question. Reparations are demanded; they are not made. It speaks of nothing but wrongs experienced by the United States; it skips over those which it makes France suffer; the treaty of 1778 is rendered more and more insignificant; and the last blows are struck at the French cruisers in the American seas, by the prohibition to sell their prizes. The republic is under the necessity, in order to manifest its too long suspended resentment, and bring about a negotiation, to appropriate to itself the same clauses of the English treaty. At length the United States, sensible only to the disagreeable consequences which have resulted therefrom to themselves, appeared to wish a reconciliation.

Three commissioners have been sent for that end to the French republic: two of them, General Pinckney and Mr. Marshall, manifesting against France prejudices brought from America, or imbibed from the nature of the connexions which they lost no time in forming here; and the third, Mr. Gerry, announcing more impartiality, and manifesting himself more disposed to lend a favorable ear to every thing which might reconcile the two republics.

From this ill-suited union, which disclosed dispositions not very conciliatory, there must needs result, and there has in fact resulted, a crooked and embarrassed career, on the part of those commissioners: hence, in their constant aversion to do what might reconcile, their eagerness to write what might disgust.

At first they manifested a desire to be acknowledged; but explanations of some expressions, evidently insulting to the republic, which were contained in the opening speech of the President of the United States, were demanded from them as a previous condition. They did more than to refuse; they did not even comprehend this demand; and had recourse to groundless recriminations. Soon afterwards a willingness appeared to spare them the embarrassment of the disavowals; and in order to detach them from England, and to restore, in small degree, the balance so strongly inclined in favor of that Power, by the last treaty, it was wished that an unequivocal proof of attachment to our cause, which so recently was their own, might be obtained from them: it suited the finances to exchange, at that period, for specie, some Batavian inscriptions at gradual instalments: the Minister of Foreign Relations gave them to understand, that their offering to purchase a certain quantity of them would be considered as a friendly act. They said they did not possess the power: and they showed that they had not the will. To come at some accommodation, some friendly explanation, frequent communications with the Minister of the Exterior were necessary. The latter complained publicly that he did not see them, and they avowed that he caused them to be often informed of this reproach; but two of the commissioners, shielding themselves under ceremony, refused to comply with the desire. Mr. Gerry at length resolved to go; spoke twice with the minister; and whether from embarrassment in explaining himself, or fear of compromitting himself, he said but little, and did not venture to decide on any thing.

In the mean time the envoys thought themselves bound to transmit to the President of the United States a very voluminous account of their negotiation. Of what then could this account be composed? It was necessary to fill it with the despicable manœuvres of all the intriguers, who, seeing the commissioners charged with the most important interests, secluding themselves from the Government, with which they ought to treat, hastened to gather round them, and infatuated them with the idea of their credit and the opinion of their importance.

One of these intriguers appears to have grounded himself on some acquaintance which, as a foreigner, having a recommendation, he had succeeded in obtaining with the minister: another, (and it is the one who is the most active) grounds himself solely upon the acquaintance which he had with the first intriguer; for he declares that he does not even know the minister. Such, moreover, is the situation of the man, whoever he may be, who is placed at the head of this department, that he is obliged to receive and listen to many persons, who are far from having any share in his confidence, and he has no means of preventing the abuse they may make, in his absence, of the most insignificant visits, of which they avail themselves, as suits their interest, with men of no experience.

In the publication which the American Government has made of the report of its envoys, these persons, without being avowed, are designated each by a letter. The minister, impatient to know their names, demanded them with importunity, and finally obtained the communication, which he immediately handed to the proper authority. It will be learned with pleasure that they are foreigners, and it will be readily believed that they did justice to themselves by hastening to quit the territory of the republic. Only one of those letters, Z., designates a Frenchman, who hastened to declare himself.* The language he held is irreproachable: he is presented as having sometimes served as interpreter; but it is clearly seen that he interpreted none but honorable propositions.

As to the foreigners who are seen figuring in this negotiation, it appears that the object of their whole intrigue was to obtain from the Americans a sum of one million two hundred thousand livres, to be distributed for corrupt purposes. Hence begin and end all the bustle, all the conversations, all the proceedings, minutely detailed in the report of the envoys.

It will be for ever inconceivable that men, authorized to represent the United States near the French republic, could have been for an instant deceived by manœuvres no evidently counterfeit, and that there should exist a temptation to convert the error in this respect into bad faith.

What! Three men are sent envoys from America to France to negotiate there a reconciliation between the two republics: embarrassed in a preliminary matter, they cannot at once confer with the minister as commissioners; but they have a thousand ways of seeing him as individuals, either at his own house or elsewhere; and two of them constantly refuse all the facilities which are offered to them.

This is not all: we see them present the details of their negotiation, as if persuaded that the disgusting propositions, which they say were made to them, were addressed by a man clothed with the confidence of the Government; and, nevertheless, in the course of their recital, they suffer an avowal to escape, that they several times suspected these clandestine communications, and that they finally decided to reject them for the future. Mr. Gerry even declares positively, that these meddlers *did not produce any authority or any documents of any kind whatever.*† At the same time, they continued to decline the direct communications, which were offered to them continually by the minister. Is not all this a labyrinth of contradictions?

And when we examine by what a series of intermediate persons they thought to approach the minister, whom it was so easy to them to consult immediately, is it not rendered impossible for us to think that they have seriously adopted the consequences of their recital?

Here it is a lady known to be connected with Mr. Pinckney, who holds with him the most innocent discourse, which has been repeated to him from one end of France to the other: *lend us* (says she to him one day) *money in our war; we lent it to you in yours:* and a conversation thus simple is taken up by Mr. Pinckney, who finds it necessary to write every thing, and to poison every thing; it is mysteriously sent by him to his Government, as if it

* See his letter printed at the end of these reflections.
† See, at the end, his first answer to the minister.

had any relation to the clandestine propositions made by the intriguers: thus minute is distrust! Thus is prejudice led astray in its reasonings! In this manner are the politics of some men a pest to social intercourse!

There is one W. whom we have not succeeded in discovering, who introduces to General Pinckney one X., a very hasty fellow, who says he is charged with a message from the minister; who being soon afterwards pressed to answer whether he is personally known to him, is forced to say no; but that he has the propositions which he made from Y. who, he says, had connexions with the minister; and nevertheless when they want to intrust Y. with the negative answer to his proposition for the one million two hundred thousand livres, he declined being charged with it, and is compelled to avow, through a kind of shame, and at the risk of discrediting the part he was playing, that the proposition did not come from the Directory, nor even from the minister; and that it came solely from him, Y., who was desirous of saving the envoys the mortification of the disavowals. If these same men have afterwards held a different language, was it not natural for the envoys for ever to mistrust their reports, and, above all, to endeavor to reach the source? They have not done so. How can this conduct be reconciled either with reason or good faith?

In the same report they manifest themselves desirous of informing their Government, with the utmost detail, of every thing which passed in relation to their commission; and whilst with such a scrupulous care they collect so many absurdities and miserable puerilities, they are silent upon the official communications, which the persons employed in the office of exterior relations had with them on behalf of the minister. It is, without doubt, because those communications, agreeing with the few which the minister himself made, were pure, upright, and calculated to do honor to the French Government. It was part of their plan to pass them over in silence. The others, so suspicious in their origin, were defamatory in their object. They had the utmost impatience to make them known.*

They had just presented a voluminous memorial setting forth their pretended grievances. They well knew that the minister was about to address a note to them in answer, which ought to have formed one of the authentic documents of the negotiation, and which, in fact, was sent to them in the month of Ventose last, (March 19.) They hastened to publish every thing that evidently did not come from the minister, and which they endeavored to impute to him, in order, doubtless, to weaken thereby the very different impression which must have been produced by the note, wherein every thing breathes a sincere desire to conciliate.

This group of facts presents such a tissue of incongruities and contradictions, that the mind is lost in it. One is at a loss to specify with precision the reproaches to be made to the American envoys. But it is very evident that they have been most strangely deceived, if they did not believe, and that they are most perfidious, if they did not believe what they relate. [In the expression of these reproaches which escape from indignation, it is requisite to hasten to except Mr. Gerry, who, doubtless, may have been deceived both by the foreign intriguers, and perhaps, also, by his very colleagues, but to whom no suspicion of bad faith or insincerity can attach.]

Now, what could be the secret motive which caused such puerile communications to be circulated with so much eclat? How, then, can they justify the pompous affectation by which the American people has been prepared to hear them? How can we conceive that it was hoped to render the farce more imposing by fasts and public prayers?

Doubtless, a great object caused them to hazard the holding up as discoveries of the greatest importance the incoherent prating of two intriguers, who were foreigners with respect to France. Perhaps it was supposed that the citizens of the United States would judge of the French Government by these caricatures, and that the French Government would be sensible to such a marked provocation. The effect of the outrage was calculated from the malignity of the intention, and not from the littleness of the means.

In one word, they flattered themselves with exciting indignation instead of pity. They wish for war; and they wished that insulted France might declare it against a people whose cause she defended, and that it might be restored by her to the arms of England.

By that war, the British cabinet would gain an ally who would labor for its interest, second its projects upon the French and Spanish colonies, and retard the moment of its humiliation; by that war, too, the British Government would accelerate the execution of a favorite plan of which it has never lost sight.

It is known that, since it despaired of re-uniting to the triple crown the States whose independence it was obliged to acknowledge, it aspired at least to prejudice them in favor of limited monarchy; that it endeavored to fortify, by the similarity of constitutional forms, the habits common to the English and American people; and that it took care to keep for a long time one of the sons of George III. in the vicinity of the United States. Can it, then, be true that, to the disgrace of the human mind, many citizens of the United States should be found who are seriously reconciled to the English form of government? Can it, then, be true that men, called by the public confidence to the head of the Government of the United States, have written in favor of the British constitution, merely to prepare its adoption in their own country? Can it be true that a thirst for honors, greediness of wealth, and a desire of perpetuating power, have already ripened this conspiracy against liberty?

If this ought to be no longer considered as a suspicion, all is explained. War is necessary in order to raise troops and obtain supplies: an unnatural war against old friends, against brothers, against republicans, is more expecially necessary. It is necessary that this war should excite civil commotions; shock every idea of morality; and rouse to resistance the true sons of America: and pretences will arise in abundance for stigmatizing with sedition the honorable defenders of principles, and for substituting a monarchical in the room of a representative government.

It would be hereafter unnecessary to dissemble. Such are the criminal practices of the English cabinet. Such is the blind propensity of a Government which it influences; and it is the French republic which sacrificed the blood and fortune of its citizens in the cause of liberty; it is the French republic that is instigated to strike the fatal blow! But superior to the influence of her resentments, she will be actuated by nothing but the happiness of the two republics, and she will appeal to the whole universe to judge of the sincerity of the dispositions which she has never ceased, and which she will never cease, to manifest, for living in peace with America.

P. S. It is of extreme importance to lay before the public the letters written to Mr. Gerry, envoy of the United States, by the Minister of Exterior Relations as soon as this strange publication came to his knowledge; and it is of equal importance to know the answers given by Mr. Gerry. Both are as follow. [*See the preceding numbers* 6, 7, 8, 10, 11.]

NOTE.—The names were in fact sent to the minister, who immediately deposited them in the proper place.

[The following letter of the citizen, designated by the letter Z. it is not less essential to publish.]

13th Prairial, 6th year, (*June* 1, 1798.)

TO THE MINISTER OF EXTERIOR RELATIONS:

Mr. Gerry having communicated to me the letter which you yesterday wrote to him, by which you expressly desire that he may make known to you the persons meant by the letters W. X. Y. Z. in the correspondence of the American envoys, printed in a public paper of the United States of America, dated April 12, (O. S.)

My sensibility must be much affected on finding myself, under the letter Z., acting a part in company with certain intriguers, whose plan it doubtless was to take advantage of the good faith of the American envoys and make them their dupes. Finding myself implicated in this affair, and wishing to remove my uneasiness respecting the disagreeable impressions, and the consequence which the publication of your letter to Mr. Gerry might produce, I thought it my duty to hasten to you, and pray you, citizen minister, to be pleased to declare in writing that, in the conferences I had with those gentlemen, I pursued the communications which you authorized me to make to them, in the manner I shall state below.

*See in the second letter of Mr. Gerry, dated 15th Prairial, (June 3, 1798) which follows these reflections, the express declaration of Mr. Gerry, that, in the course of the negotiations, he saw persons employed by the office of exterior relations, and the justice he does them *of never having uttered a word which had the least relation to propositions, such as the intriguing foreigners X. and Y. appeared to have made.*

In the beginning of last Brumaire, (October 22, 1797,) having been to pay my respects to the citizen Minister of Exterior Relations, and, the conversation turning upon the United States of America, he expressed to me his surprize that none of the Americans, and especially the new envoys, ever came to his house; that this was not the way to open a negotiation, the success of which they had more reason than we to wish; that he would receive them individually with great pleasure, and particularly Mr. Gerry, whom he had known at Boston. Knowing my friendly connexions with Mr. Gerry, he charged me to impart to them what he had said. I accordingly waited on Mr. Gerry, who, having sent for his colleagues, I communicated to them the conversation I had had with the citizen minister.

Messrs. Pinckney and Marshall declined waiting on the minister upon the ground of ceremony; but as the same reason did not apply to Mr. Gerry, it was agreed that he should go the next day, and that I should accompany him, Mr. Gerry at that time not being able to express himself in French. The next day we went; but not finding the minister at home, Mr. Gerry requested him to appoint a time for an interview, which was fixed for a few days after. We attended accordingly, and, after the usual compliments, Mr. Gerry having expressed to the minister his desire to see harmony and a good understanding re-established between the two republics, the minister answered him that the Directory had made a determination not to treat with them, unless they previously made reparation for some parts of the President's speech at the opening of Congress, and gave an explanation of some others; that he could not delay, but for a few days, communicating this determination officially to them; that, until then, if they had any propositions to make, which could be agreeable to the Directory, he would communicate them with alacrity; that considering the circumstance, and the services of the same kind which France had formerly rendered to the United States, the best way would be for them to offer to make a loan to France, either by taking Batavian inscriptions for the sum of fifteen or sixteen millions of florins, or in any other manner. Mr. Gerry, after having replied in a polite, but evasive manner to the first article, added, on the subject of the loan, that their powers did not extend so far, but that he would confer with his colleagues upon the subject. It is to be observed that, as the minister spoke nothing but French, I repeated in English to Mr. Gerry what he had said to him, and that, although certain that he very well understood the answers of Mr. Gerry, I repeated them to him in French. We took our leave of the minister who had just received a courier, and he charged me, on parting, to repeat to Mr. Gerry and his colleagues what he had said to us. Accordingly I repeated to Messrs. Pinckney and Marshall, in the presence of Mr. Gerry, the conversation which we had had with the minister.

A few days afterwards Mr. Gerry requested me to accompany him again on a visit to the minister, and having repeated to him the extreme desire he felt to see the most perfect union re-established between the two nations, he resorted to the insufficiency of their powers, and proposed, in the name of his colleagues and himself, that one of them should immediately depart for America with the propositions which the French Government might make. The minister answered that it would require six months to have an answer, and that it was of importance to have a speedy determination; that he was extremely desirous to have frequent communications with them individually and amicably. This course appearing to him to be the best adapted to come at the issue of a speedy negotiation, he therefore lamented that he had yet had no communication with them.

Such, citizen minister, as far as my memory serves me, are the particulars of the only two conferences at which I was present. I shall add that no person has had a greater desire than myself to see this negotiation succeed.

Health and respect,

HAUTEVAL.

MR. SKIPWITH'S COMMUNICATIONS.

To the Secretary of State of the United States of America.

PARIS, *August* 4, 1798.

SIR:

I have the honor to send you enclosed the official copy of an arrêt of the Executive Directory of the French republic, concerning the French privateers in the West Indies, which was transmitted to me by the French Minister of Foreign Affairs.

I have the honor to be, sir, &c.

FULWAR SKIPWITH.

PARIS, *August* 8, 1798.

SIR:

Having had the honor of transmitting to you three official copies of the arrêt of the Directory, of the 13th Thermidor,* concerning their privateers in the West Indies, the present is merely to enclose you a copy of a letter which I yesterday received from the Minister of Foreign Relations, on the subject of that arrêt.

I have the honor to be, sir, &c.

FULWAR SKIPWITH.

To the SECRETARY OF STATE.

The Minister of Exterior Relations to citizen Skipwith, Consul General of the United States of America.

PARIS, 19 *Thermidor*, (*August* 6, 1798)
6th year of the French republic.

CITIZEN:

You will have seen in No. 961 of the Redacteur, a copy of a decree made by the Directory, in order to cause the privateers to return within the rules and limits whence they ought never to have departed.

By this measure foreign Powers will be convinced that the Executive Directory, when informed of the abuses which may be directed against them, takes every pains to stop them, and to prevent their return.

You will doubtless see in the intention and the acts of the Directory, cause for feeling a security with respect to the commerce of your fellow citizens, so long as it shall be confined within just bounds.

I wish, citizen, that, for the good of the two countries, the conduct of the Federal Government may correspond with that of the Directory. In this supposition, the friendly relations of the two people would be soon re-established.

C. M. TALLEYRAND.

Fulwar Skipwith, Consul General for the United States near the French republic, to Timothy Pickering, Esq. Secretary of State of the United States.

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA,
PARIS, *August* 22, 1798.

SIR:

With a copy of a letter I have just received from the Minister of Foreign Affairs, I have the honor, under cover hereof, to transmit to you copies of two letters which have been officially communicated to me from the Minister of Marine, to all principal civil and military officers, at the different ports of this republic, concerning the safety and protection of American citizens in general, and those seamen in particular, who were detained or are in con-

*31st July, 1798. The arrêt here referred to.

finement at those ports. Agreeably to the intimations contained in the minister's letter to me, I have this day made application to the Minister of Police in favor of the American seamen, who, by means of one of the public authorities at L'Orient, had been arrested as Englishmen, and are at present confined at Orleans as prisoners of war. In a few days I expect to obtain their liberation, and shall procure their passages home.

I have likewise the pleasure of forwarding to you an official copy of an arrêt of the Directory for raising the embargo, imposed by Government on all vessels belonging to the United States in the ports of this republic.

I deem it my duty to observe that, from informal communications which I have recently and repeatedly had with some of the best informed individuals of the Government on the subject of American vessels and property, now under trial before the different tribunals of this republic, I have derived such information of the present disposition and intentions of the Directory, as to be satisfied myself that they will, ere long, endeavor to provoke in the Legislature a revision of their maritime laws, and that such a system will be organized as will secure the most important rights of neutrality upon the seas: this pleasing event is generally expected, and will, I am persuaded, arrive before this can reach you. Though many of the late arrêts of the Directory have certainly encouraged the tribunals in the most pernicious applications of existing laws in regard to neutral property captured and brought in for adjudication, yet it may not be unimportant to remark to you, sir, that the Directory, however well disposed, cannot change the conduct of the tribunals in regard to American and other neutral vessels now before them, without legislative interference; and that, owing to particular circumstances, it appears evidently that some time is necessary for them to prepare and dispose that body to alter some laws and make others, which shall cause the tribunals and privateers to respect neutrals in general, and the flag of the United States in particular: but from the present manifest dispositions and endeavors of the Directory to produce that end, I am happy to add, that the tribunal of cassation, before whom appeals have been made on most of the American property condemned in France, appear disposed to procrastinate pronouncing upon them until the sentiment of the Legislature shall be declared upon the laws which are operating against their success.

I have the honor to be, &c.

FULWAR SKIPWITH.

LIBERTY. EQUALITY.

The Minister of Foreign Relations to Mr. Fulwar Skipwith, Consul General of the United States to the French republic.

PARIS, *3d Fructidor, 6th year of the French republic*, (*August* 20, 1798.)

I send you, sir, copies of two letters written by the Minister of Marine to all the principal officers, civil and military, of the ports of the republic. Their contents will prove to you the attention of the Government to remedy the abuses committed against its intentions.

With respect to the persons detained in the civil prisons of Orleans, because they are not possessed of papers to prove that they are not English, and who claim to be Americans, be pleased to call upon the Minister of General Police, to whose functions belong all the measures of safety. The Minister of Marine informs me that he has transmitted their petition to him, and I am going to write to him myself, in order to request him to admit your declaration in their favor, in the absence of other proofs.

Receive, sir, the assurance of my consideration.

CH. MAU. TALLEYRAND.

Copy of a Circular Letter, written by the Minister of Marine and the Colonies, to all the principal officers of the Ports, civil and military, on the 29th Thermidor, 6th year, (*16th August*, 1798.)

Our political situation with regard to the United States, citizen, not having, as yet, undergone any change which can affect the respect due to neutral nations, I do not think I have need to remind you that no injury should be done to the safety and liberty of the officers and crews of any American vessel found to be in order, and that the same conduct ought to be observed towards all passengers and other citizens of the United States furnished with the necessary passports or protections. You will be pleased to use a vigilant attention, that the intentions of the Government, in this respect, may be pursued by all those under you, and when any of them has departed from them, you will do justice upon the complaints which may be addressed to you, after ascertaining their validity.

The Minister of Marine and of the Colonies,

E. BRUIX.

For a true copy,
The Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

Copy of the Circular Letter written by the Minister of Marine and the Colonies to the Agents of the Marine in the ports of the republic.

PARIS, *the 24th Thermidor, 6th year* (*11th August*, 1798.)

I observe, citizen, by the correspondence of the greater part of the administrators of the ports, that the embargo recently laid upon the American vessels has occasioned the detention of the crews. The intentions of the Government were very badly understood, when a measure was adopted which, in the first place, hazards the safety of these vessels, and, in the second place, appears to place us in a hostile attitude with respect to the United States, whilst the acts of the Government evince, on the contrary, that it desires a good understanding between the two republics. I therefore charge you, citizen, immediately upon the receipt of this, to order the discharge of all the Americans who may have been considered as prisoners of war, in consequence of the embargo of their vessels. You will be pleased to render me a prompt account of the execution of this order.

The Minister of Marine and of the Colonies,

E. BRUIX.

For a true copy,
The Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

True and exact copies,

FULWAR SKIPWITH.

DEPARTMENT OF EXTERIOR RELATIONS.

LIBERTY. EQUALITY.

Copy of a Decree. *Extract from the Register of the Decrees of the Executive Directory, of the 29th Thermidor, 6th year of the French republic, one and indivisible,* (16th *August*, 1798.)

The Executive Directory considering that, notwithstanding the hostile manifestations of the Government of the United States, which have occasioned a momentary embargo upon their vessels, it must be believed that, unless abandoned to the passions of the British cabinet, that Government, faithful to the interests of the American nation, will take measures conformable to the pacific dispositions of the French republic, after it shall receive a confirmation of them; and, wishing to pursue the friendly and fraternal habits of France towards a people whose liberty it defended,

Decrees as follows:

ART. 1. The embargo laid upon the American vessels shall be immediately raised.

ART. 2. The Minister of Marine and of the Colonies is charged with the execution of the present decree, which shall not be printed.

For a true copy,
As President of the Executive Directory,

MERLIN.

By the Executive Directory,
As Secretary General,

J. M. REVEILLERE LEPEAUX.

For a true copy,
The Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

5th CONGRESS.] No. 149. [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, JANUARY 21, 1799.

UNITED STATES, *January* 21, 1799.

Gentlemen of the Senate and
Gentlemen of the House of Representatives:

According to an intimation in my message of Friday last, I now lay before Congress a report of the Secretary of State, containing his observations on some of the documents which attended it.

JOHN ADAMS.

DEPARTMENT OF STATE, *January* 18, 1799.

The Secretary of State respectfully submits the following report of the transactions relating to the United States and France, since the last communications to Congress on that subject.

TIMOTHY PICKERING.

To the PRESIDENT *of the United States.*

Report of the Secretary of State on the transactions relating to the United States and France, since the last communication to Congress on that subject.

The points chiefly meriting attention are the attempts of the French Government—

1. To exculpate itself from the charge of corruption, as having demanded a douceur of fifty thousand pounds sterling (222,000 dollars) for the pockets of the directors and ministers, as represented in the despatches of our envoys;
2. To detach Mr. Gerry from his colleagues, and to inveigle him into a separate negotiation; and
3. Its design, if the negotiation failed, and a war should take place between the United States and France, to throw the blame of the rupture on the United States.

1. The despatches of the envoys published in the United States, and republished in England, reached Paris towards the last of May; and on the 30th of that month, the French minister, Mr. Talleyrand, affecting an entire ignorance of the persons designated by the letters W. X. Y. and Z.—calling them intriguers, whose object was to deceive the envoys—writes to Mr. Gerry, and "prays him immediately to make known to him their names."

Mr. Gerry, in his answer of the 31st, wishes to evade Mr. Talleyrand's request; and with reason, for he and his colleagues had "promised Messrs. X. and Y. that *their* names should in no event be made public." Mr. Gerry, in his letter of October 1, in noting the repetition of Mr. Talleyrand's request for those names, states as an objection to giving them up "that they could be otherwise ascertained;" and that Mr. Talleyrand's messenger, admitting the fact that they were already known, immediately mentioned their names. Mr. Gerry, nevertheless, certified in writing the names of X. Y. and Z; with the reserve "that they should not be published on his authority:" and besides formally certifying to Mr. Talleyrand the names of his *own private agents*, added, that "they did not produce, to his knowledge, credentials or documents of any kind." "Credentials" in *writing* were certainly not to be expected to be produced by agents employed to make corrupt propositions: but Mr. Gerry had Mr. Talleyrand's own assurance that Mr. Y. was acting by his authority. It is recited in the envoys' despatches, and upon Mr. Gerry's own report to his colleagues, that, on the 17th of December, 1797, Mr. Y. "stated to him that two measures which Mr. Talleyrand proposed being adopted, a restoration of friendship between the republics would follow immediately; the one was a *gratuity of fifty thousand pounds sterling*; the other a purchase of thirty-two millions of Dutch rescriptions;" and after conversing on these topics, Mr. Gerry and Mr. Y. rode to Mr. Talleyrand's office, where "Mr. Gerry observed to Mr. Talleyrand that Mr. Y. had stated to him that morning some propositions as coming

from Mr. Talleyrand, respecting which Mr. Gerry could give no opinion;" and after making some other observations, Mr. Talleyrand answered, "that the information Mr. Y. had given him (Mr. Gerry) was just, *and might always be relied on.*" This declaration *stamps with the minister's authority* all the communications made by Mr. Y. to the envoys. And Mr. Y. himself, who is Mr. Bellamy, of Hamburg, in his public vindication declares, that "he had done nothing, said nothing, and written nothing, without the orders of citizen Talleyrand." The same may be asserted in regard to Mr. X., for he first introduced Mr. Y. to the envoys; and his separate communications were substantially the same with those of Y.; and both together were present with the envoys when the communications were more than once repeated.

It also deserves notice, that, in stating the preliminary demands of the French Government, the private agents, X. and Y., and the minister, use a similar language. The agents declare that the Directory are extremely irritated at the speech of the President, and require an explanation of some parts of it, and reparation for others; that this must give pain to the envoys, but the Directory would not dispense with it: and that as to the means of averting the demand concerning the President's speech, the envoys must search for them, and propose them, themselves. Being asked to suggest the means, the answer is "*money*"—the purchase of the Dutch rescriptions, and "the fifty thousand pounds sterling, as a douceur to the Directory."

The *minister* told the envoys that the Directory were wounded by the President's speech; and, in his conversation with Mr. Gerry on the 28th of October, said, "the Directory had passed an arrêt, which he offered for perusal, in which they had demanded of the envoys an explanation of some parts, and a reparation for others, of the President's speech to Congress of the 16th of May, 1797; that he was sensible that difficulties would exist on the part of the envoys relative to this demand; but that by their offering *money* he thought he could prevent the effect of the arrêt. Mr. Z., (the "interpreter") at the request of Mr. Gerry, having stated that the envoys have no such powers, Mr. Talleyrand replied, they can in such case take a power on themselves; and proposed that they should make a "loan." But this "loan," as will presently appear, did not mean the "money," which would "prevent the effect of the arrêt." Mr. Gerry then making some observations on the powers of the envoys—that they "were adequate to the discussion and adjustment of all points of real difference between the two nations; that they could alter and amend the treaty, or, if necessary, form a new one;" added, "that as to a loan, they had no powers whatever to make one, but that they could send one of their number for instructions on this proposition, if deemed expedient:" "That as he [Mr. Talleyrand] had expressed a desire to confer with the envoys individually, it was the wish of Mr. Gerry that such a conference should take place, and their opinions thus be ascertained." "Mr. Talleyrand, in answer said, he should be glad to confer with the other envoys, individually, *but that this matter about the* MONEY *must be settled directly* without sending to America; that he would not communicate the arrêt for a week; and that if he could adjust the difficulty respecting the speech, an application would nevertheless go to the United States for a LOAN." Now this matter *of the* MONEY *that must be settled directly* could only refer to the *douceur*; for a loan in the purchase of millions of Dutch rescriptions, or in any other form, could only be the subject of a *stipulation* to be *afterwards* fulfilled by the United States; but the *douceur* of fifty thousand pounds sterling was a sum within the immediate reach of the envoys; for their credit would certainly command it: in fact a mercantile house had offered to answer their draughts; and this Mr. Talleyrand unquestionably well knew; for it was a member of the same house who first introduced the minister's agent, Mr. X., to General Pinckney, in the manner stated in the envoys' despatches. A collateral evidence that, in "this matter of the money that must be settled directly," Mr. Talleyrand referred only to the *douceur*, arises from this circumstance: The very next day (October 29th) Mr. X. called on the envoys and said, "Mr. Talleyrand was extremely anxious to be of service to them, and had requested that one more effort should be made to induce us to enable him to be so." After a great deal of the same conversation which had passed at former interviews had been repeated, the envoys say—"the sum of his proposition was, that if we would pay by way of fees (that was his expression) *the sum of* MONEY *demanded for* PRIVATE USE, the Directory would not receive us, but would permit us to remain in Paris as we now were; and we should be received by Mr. Talleyrand, *until one of us could go to America and consult our Government on the subject of a* LOAN."

Although the envoys' despatches, and the facts and circumstances hereinbefore stated, cannot leave a doubt that X., as well as Y. and Z., was well known to Mr. Talleyrand, it will not be amiss to add, that on the 2d of December X. Y. and Z. dined together at Mr. Talleyrand's, in company with Mr. Gerry; and that after rising from table, the money propositions, which had before been made, were repeated, in the room and in the presence, though perhaps not in the hearing, of Mr. Talleyrand. Mr. X. put the question to Mr. Gerry in direct terms, either "whether the envoys would now give the *douceur*," or "whether they had got the *money* ready." Mr. Gerry, very justly offended, answered positively in the negative, and the conversation dropped.

Mr. Z., who has avowed himself to be Mr. Hauteval, was the person who first made known to the envoys the minister's desire to confer with them individually on the objects of their mission. He it was who first introduced Mr. Gerry to Mr. Talleyrand, and served as the interpreter of their conversations; and in his letter to Mr. Talleyrand, at the close of Mr. Gerry's document, No. 35, he announces himself to be the agent of the minister, to make communications to the envoys.

Mr. Hauteval declares "his sensibility must be much affected on finding himself, under the letter Z., acting a part in company with certain intriguers, whose plan, he says, it doubtless was to take advantage of the good faith of the American envoys, and make them their dupes;" yet this person, the avowed agent of the French minister, apparently so anxious to screen himself from the suspicion of an agency in soliciting the bribe required by Mr. Talleyrand, did himself urge a compliance with that corrupt proposition.*

The sensation which these details irresistibly excite is that of astonishment at the unparalleled effrontery of Mr. Talleyrand, in demanding of Mr. Gerry the names of X. Y. and Z., after Y. had accompanied him on a visit to the minister, *with whom the conversation detailed in the printed despatches then passed*, and who then assured Mr. Gerry "that the information Mr. Y. had given him was just, and might always be relied on;" after Z. had in the first instance introduced Mr. Gerry to the minister, and served as their mutual interpreter, *and when the conversation between them had also been stated in despatches;* and after X. Y. and Z. had all dined together with Mr. Gerry at Mr. Talleyrand's table, on rising from which X. and Y. renewed the proposition about the MONEY! The very circumstance of Mr. Talleyrand's being continued in office after the account of these intrigues had been published to the world is a decisive proof that they were commenced and carried on with the privity and by the secret orders of the Directory. It was to accomplish the object of these intrigues that the American envoys were kept at Paris unreceived six months after their credentials had been laid before the Directory; and it was only because they were superior to those intrigues, and that no hopes remained of wheedling or terrifying them into a compliance, that two of them were then sent away, and with marks of insult and contempt.

2. The fact that the French Government attempted to inveigle Mr. Gerry into a separate negotiation will not be questioned: at first, it was made *privately*, and under an injunction of *secrecy* towards his colleagues; it was afterwards plainly insinuated by the minister, in his letter of the 18th of March, 1798, in which he tells the envoys that the Executive Directory was disposed to treat with one of the three, and that one he openly avowed, in his letter of the 3d of April, to be Mr. Gerry. The *pretence* for selecting him was, that his "opinions presumed to be more impartial, promised, in the course of the explanations, more of that reciprocal confidence which was indispensable." But when before have their "*opinions*" been stated as a justifiable ground for rejecting the ambassadors of peace? ambassadors, too, of established probity, whose characters were of the first distinction in their own country, and whose demeanor towards the Government to which they were deputed was decent and respectful; who had, with a frankness which the candor of their instructions warranted, communicated the important points which they con-

* Extract of a letter, dated June 15th, 1798, from Mr. King, minister of the United States in London, to the Secretary of State:

"Colonel Trumbull, who was at Paris soon after the arrival there of the commissioners, has more than once informed me that Hauteval told him that both the *douceur* and the *loan* were indispensable, and urged him to employ his influence with the American commissioners to offer the *bribe* as well as the *loan*."

tained; and who unremittingly, and with the most anxious solicitude, entreated that the negotiations might be commenced. What more proper or more honorable qualities ought ministers deputed to negotiate with a foreign nation to possess? But why should a foreign Government question the *opinions* of the ambassadors sent to negotiate with it on subjects of *difference* between the two nations? If wisely chosen, and faithful to the interests of their own country, they must of course possess different opinions from the Government to which they are sent, *the differing opinions* maintained by the two nations on their respective rights and interests being the cause and objects of the negotiation. A Government really disposed to treat on fair principles would never object to the *opinions* of foreign ambassadors: it would receive them, and appoint its own ministers with proper powers to treat with them, propose its terms, and receive those offered, and discuss both; and if then they could not agree, put an end to the negotiation. The French Government did not wish to *negotiate*, it desired to *impose* a treaty on the United States. To this practice it had been accustomed towards the minor powers in Europe, whom it had subjected to its will; and it expected equal submission from the United States. Hence Mr. Talleyrand's secret declaration to Mr. Gerry, "that if he would negotiate, they could soon finish a treaty, *for the Executive Directory were not in the habit of spending much time about such matters.*" Hence the objections to General Pinckney and General Marshall: they manifested a discernment superior to the intrigues of the French Government, and an invincible determination not to surrender the honor, the interest, or the independence of their country. It was necessary, then, to get rid of them; and seeing that neither despair of negotiating nor studied indignities could induce them to quit their posts, passports were sent to them to quit France. It was with difficulty that General Pinckney could obtain permission to stay two or three months for the recovery of his sick daughter, to whom an immediate voyage would probably prove fatal. Unembarrassed by the presence of these envoys, the French Government, if it really desired a treaty on any terms, hoped to prevail on Mr. Gerry to negotiate separately, although from the first overture he declined, and continued to decline it. But after the expulsion of his colleagues, it hoped by its seductive arts to prevail over his scruples, and gain his consent to terms which, while they were present, would be rejected; or at all events to retain him, with the semblance of negotiating, regularly or informally, and thus keep the United States in the torpor of indecision, without preparation for offence or defence. Unfortunately, Mr. Gerry was induced, by the threats of immediate war against the United States, to separate from his colleagues, and stay in Paris—threats which, viewed with their motives, merited only detestation and contempt. Four or five months before, the threats of immediate orders to quit France, and the terrors of war in its most dreadful forms, had been held up to all the envoys, to frighten them into a compliance with the groundless, unjust, and corrupt demands of the French Government. Those threats had not been executed, and the unworthy purposes for which they had been uttered had been obvious. Happily for the United States, the character of the French Government, as delineated in the official despatches of all the envoys, and the knowledge of its conduct towards other countries whose Governments it had overturned, and whose people, in the names of Liberty and Equality, it had enslaved, so operated as not to leave us exposed to all the evils which *suspense* was calculated to produce. Mr. Gerry, indeed, resisted all the arts of the French minister to entice him into a formal negotiation after that Government had driven his colleagues from Paris—a negotiation which in its nature would have been a surrender of our independence, by admitting a foreign Government to choose for us the minister who should represent our country, to treat of our important rights and interests, which that Government had itself violated and deeply injured.

The Directory and their minister Mr. Talleyrand hoped and expected that General Pinckney and General Marshall would voluntarily have quitted France, after the minister's letter of the 18th of March, in which he made the offensive distinction between them and their colleague Mr. Gerry, on the pretence that his "opinions" were more "impartial" than theirs. Accordingly, Mr. Talleyrand, in his letter to Mr. Gerry of the 3d of April, says: "I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations which the end of my note of the 18th of March last presents, to quit the territory of the republic." Yet Mr. Talleyrand had given them neither passports nor letters of safe conduct! The fact is, the French Government wished to avoid the odium of sending them away, and the blame of a rupture, which Mr. Talleyrand predicted would be the consequence; while it was privately intimated to them that they must leave the country. The minister's conduct on this occasion towards General Marshall (as detailed in his journal) was particularly marked with indignities. When it was observed to Mr. Talleyrand, that this was not the manner in which a foreign minister ought to be treated, Mr. Talleyrand replied, that General Marshall was not a foreign minister, but was to be considered as a private American citizen; and must obtain his passport, like others, through the consul. To this it was answered, that General Marshall was a foreign minister* and that the French Government could not deprive him of that character, which was conferred upon him, not by Mr. Talleyrand, but by the United States; and though the Directory might refuse to receive or to treat with him, still his country had clothed him with the requisite powers, which he held independently of France; that if he was not acceptable to the French Government, and in consequence thereof it was determined to send him away, still he ought to be sent away like a minister; that he ought to have his passports, with letters of safe conduct, which would protect him from the cruisers of France. Mr. Talleyrand replied, that if General Marshall wished for a passport, he must give in his name, stature, age, complexion, &c. to the American consul, who would obtain a passport for him: that with respect to a letter of safe conduct it was unnecessary, as no risk from the cruisers would be incurred. The result of these conversations was a plain demonstration of the intention of the minister, that in consequence of his intimation at the close of his letter of the 18th of March, that the "opinions" of two of the envoys were not agreeable to the Government of France, Generals Pinckney and Marshall *should appropriate to themselves* the character which the minister had drawn *generally*. The envoys, aware of this snare, in their answer of the 3d of April to the intimation that "the Directory was disposed to treat with *one* of the envoys," declare to the minister, "that *no one* of the envoys was authorized to take upon himself a negotiation evidently entrusted to the whole," and "that no two of them could propose to withdraw themselves from the task committed to them by their Government, while there remained a possibility of performing it;" but that if "it should be the will of the Directory to *order* passports for the whole or any number of them," it was desired that such passports might be accompanied with letters of safe conduct, to protect them against the cruisers of France.

These endeavors of the French Government, whether real or affected, to draw Mr. Gerry into a separate negotiation, constitute the substance of the correspondence between him and Mr. Talleyrand. They appear to merit consideration in several points of view.

1. Because, if real, it was only in the hope and expectation, that by intrigues and terrors the French Government might influence Mr. Gerry to enter into a formal treaty, on the terms which he and his colleagues had repeatedly rejected as incompatible with the interest, honor, and independence of their country. For at this time Mr. Talleyrand had not renounced the demands of loans and a douceur as the indispensable preliminaries of a treaty. Accordingly we see Mr. Talleyrand, in his letter of the 3d of April to Mr. Gerry, proposed "to *resume* their reciprocal communications upon the interests of the French republic and the United States of America." And in his letter of July 12th to Mr. Gerry, having mentioned the arrival at Havre of a packet, the Sophia, from the American Government, he says, "until then I never supposed you entertained the design of embarking before we had come to an agreement upon the definitive articles to be ratified by your Government." 2. Because if that Government had so far succeeded, it would have insisted on its ratification by the President and Senate, on the ground constantly taken by Mr. Talleyrand, that the powers of the envoys being *several* as well as *joint*, Mr. Gerry when *alone*, *even after the French Government had* ordered *his colleagues to leave France*, were adequate to the formation of the treaty; and that, therefore, the public faith would be violated, if it were not ratified. 3. Because under such circumstances, the French Government doubtless calculated at least on a division of the public opinion in the United

* On the 9th of October, 1797, the day after the envoys had delivered to the minister a copy of their letter of credence, "cards of hospitality were sent to them and their secretaries, in a style suitable to their official character." [See page 158.] And in the minister's letter to them of the 18th of March, 1798, he calls them "the commissioners and envoys extraordinary of the United States of America." [See page 188.]

States in favor of the ratification of such a treaty; by means of which it might *enforce* the ratification, *or effect still greater mischiefs*. 4. But these endeavors to draw Mr. Gerry into a formal negotiation are chiefly remarkable because they were persevered in during nearly five months, against his constant, direct, and positive refusals to treat separately; Mr. Talleyrand asserting, and Mr. Gerry denying, the competency of his powers.

We have seen the envoys, from the 6th of October, 1797, the date of their first letter to the French minister, to the 3d of April, 1798, when their last was delivered to him, expressing their earnest desire to enter upon and prosecute the great business of their mission: we have seen them during that long period patiently enduring neglect and indignities, to which an ardent zeal to re-establish harmony and peace could alone induce freemen to submit: we have seen them while held in suspense—neither received nor rejected—yielding to the importunities of *private* agents of the French Government, and hearing and discussing their propositions, insulting as they were, in the hope that when these should be shown to be utterly inadmissible, others founded in reason and equity, and in the usual course of diplomatic negotiation, might be brought forward. Doubtless, they also wished, when their astonishment at the first overtures had subsided, by listening still longer to such dishonorable propositions, to ascertain the true character of the French Government. We have seen them, after waiting five weeks, from the presentation of a copy of their letters of credence, entirely unnoticed, "solicit an attention to their mission," and soliciting in vain. Thus denied an official hearing, they hoped, by an unusual step, to excite the attention of that Government: they determined to transmit to the minister a letter representing the views of their own Government in relation to the subjects in dispute with France. This letter, dated the 17th, was delivered the 31st of January, 1798. Waiting near a month without an answer, and "still being anxious to hear explicitly from Mr. Talleyrand himself, before they sent their final letter, whether there were no means within their powers of accommodating our differences with France, on just and reasonable grounds, on the 27th of February they desired "a personal interview on the subject of their mission;" and afterwards a second interview. They remark on what passed at these meetings, "that the views of France, with regard to the United States, were not essentially changed since their communications with its unofficial agents in the preceding October."

At length they received Mr. Talleyrand's letter of the 18th March, 1798, in answer to theirs of the 17th of January. The minister's letter represented the complaints of France; as usual, charging the American Government with the inexecution of the treaties with France; with *dissimulation*; insinuating that our tribunals were subject to a *secret influence*; holding up the British treaty as replete with evil and injury, and "the principal grievance of the republic;" accusing the American Government of a wish to seize the first favorable occasion to consummate an intimate union with Great Britain, and suggesting that a devotion and partiality to that Power have long been the principle of the conduct of the Federal Government.

To this letter of the French minister, the envoys sent their reply on the 3d of April. This reply and their former letter detect the sophisms and erroneous statements of the minister; expose his naked assertions; refute his arguments; repel his calumnies; and completely vindicate the fidelity, the justice, and, as a neutral power, the impartiality of the Government of the United States; and, at the same time, exhibit the weighty and well founded complaints of the United States against the French republic.

Hitherto, instead of a desire to obtain a reconciliation, we can discover in the French Government only *empty professions* of a desire to conciliate, while it haughtily refused to receive our envoys, and, during six months, disregarded their respectful and ardent solicitations to negotiate, and after *one* of them, whom it induced to remain in France, had declared that "*he had no powers to treat separately, that the measure was impossible*," then the Directory expelled the other *two!*

If now we survey Mr. Gerry's individual correspondence, we shall find no solid evidence of any change in the disposition of the French Government.

In his first letter to Mr. Gerry Mr. Talleyrand's artifice is visible; he addresses him as "envoy extraordinary of the United States of America to the French republic;" and proposes to him to "*resume* their reciprocal communications." Mr. Gerry, apprehending that the minister intended to draw him into a negotiation, repeats what he had often before declared, that for him to treat separately was impracticable; and that he can only confer with him informally.

On the 20th of April Mr. Gerry addresses a letter to the minister, and presses him to come forward with propositions for terminating all differences, restoring harmony, and re-establishing commerce between the two nations. He receives no answer. On the 28th he confers with the minister, who says he cannot make propositions, because he does not know the views of the United States in regard to a treaty. Mr. Gerry gives him the information. He then promises, in three or four days, to deliver Mr. Gerry the project of a treaty. This promise was never performed. On the 12th of May the new instructions of March 23d, sent by the Sophia packet, reached Mr. Gerry; and he gave immediate notice to the minister that he should return to America in the Sophia, as soon as she could be fitted for sea.

"On the 24th of May the minister sent his principal secretary to inform Mr. Gerry *that his Government did not wish to break the British treaty;* but expected such provisions as would indemnify France, and put her on a footing with that nation." Yet that treaty had been made, by the French Government, its chief pretence for those unjust and cruel depredations on American commerce, which have brought distress on multitudes, and ruin on many of our citizens; and occasioned a total loss of property to the United States of probably more than twenty millions of dollars, besides subjecting our fellow citizens to insults, stripes, wounds, torture, and imprisonment. And Mr. Talleyrand, in his letter of the 18th March to the envoys, declared that treaty to be "the principal grievance of the republic." But now, instead of breaking that treaty, France desires to be put on the same footing. This the United States would at any time have done, and the envoys were now explicitly instructed to do: and seven months before, all the envoys, in their conversation with Mr. Bellamy, (Y.) the confidential and authorized agent of the French minister, told him "that he might be assured that their powers were such as authorized them to place France on equal ground with England, in any respects in which an inequality might be supposed to exist at present between them, to the disadvantage of France."

The secretary also mentioned the claims of the American citizens on the French republic: he said if the latter should be unable to pay them, when adjusted, and the United States would assume and pay them, France would reimburse the amount thereof. This has the semblance of candor; but on the 4th of March, when the envoys were in conference with Mr. Talleyrand, and they disclosed their principal instructions, "General Pinckney and Mr. Gerry told him they were positively forbidden to assume the debts to our own citizens, even if we were to pay the money directly to them." And doubtless it was because the proposition was already known to be inadmissible that it was now renewed.

The secretary and Mr. Gerry had also some unimportant conversation about the consular convention. And it is plain that the whole object of the secretary's visit was to amuse, by keeping alive Mr. Gerry's hopes of some pacific arrangements.

On the 26th of May, Mr. Gerry had a conference with the minister, pressing on this, as on former occasions, the necessity of sending a minister to the United States, with powers to negotiate; to which, he says, the minister acceded; but afterwards explained himself to mean a minister to *reside there after the ratification of the talked of treaty.*

Such are the proceedings of the French Government by its minister, Mr. Talleyrand, before the arrival of the printed despatches of the envoys. We discover nothing but a proposition for treating with Mr. Gerry alone, which he had repeatedly declared to be *impossible*; and on terms which Mr. Gerry himself, as well as the other envoys, had long before pronounced to be utterly inadmissible, because directly repugnant to their instructions. We shall now see, by an examination of Mr. Gerry's subsequent communications, that the publication of the envoys' despatches, far from causing a discontinuance of negotiations with him, or any change in the disposition of the French Government more unfriendly to the United States, incomparably greater zeal for negotiating was exhibited afterwards than before.

On the 30th of May, the minister announces to Mr. Gerry the publication of the envoys' despatches. In his letter of the 27th of June, he says this incident only, "for a moment, suspended the principal object"—the negotiation with Mr. Gerry; and in his letter of June 10th he declares, that "the French Government, superior to all the personalities, to all the manœuvres of its enemies, perseveres in the intention of conciliating with sincerity all the differences which have happened between the two countries." On the 18th of June the minister sends him a plan for conducting the negotiations; for the first time states the "three points" on which he says "all negotiations between France and the United States must essentially rest;" and "gives (what he calls) a large development" of them; concluding by pressing him to remain at Paris, to accelerate the negotiation; "the drawing together of those ties which the French republic and the *true Americans* have regretted to see *relaxed*."

On the 27th of June the minister again writes to Mr. Gerry, and, in language the most importunate, such as had never before been used, urges him not to withdraw, "when the French Government, superior to all resentments, and never listening to any thing but justice, manifests itself anxious to conclude a solid and mutually satisfactory agreement." The minister even observes that the first of the "three points," mentioned in his preceding letter, (respecting amicable declarations about mutual recriminations) might be postponed; that the third, (about the examination of reciprocal damages,) would doubtless experience no difficulty on either side, after the second should be amicably settled; that it was to the *second*, therefore, they should first attend; it being so much the more important, as it embraced the source of all the differences between the two nations. And on the 22d of July, the minister renounces all demands of "loans and explanations on the subject of speeches;" and even affects to be hurt that Mr. Gerry should have mentioned them; although both he and his private agents had, before, so long and so obstinately persevered in demanding them of the envoys, as the indispensable preliminaries to a negotiation. And doubtless it is partly owing to the publication of their despatches, thereby exposing to the world those shameless demands, with the scandalous proposition of the douceur, that they are now relinquished.

In adducing these circumstances to show the *increased zeal* of the French Government since the publication of the despatches, to negotiate on its differences with the United States, it is not to be understood that they afford a shadow of evidence of its sincerity. But as *professions*, verbal or written, furnished the only ground on which Mr. Gerry could form his opinion, that "before the arrival of the despatches of the envoys, the minister was sincere and anxious to obtain a reconciliation," much more professions stronger, and more importunate, afterwards made, afford proportionably higher evidence of sincerity. But the present details demonstrate that all those professions were merely ostensible. In the minister's last mentioned letter, after saying that his "second point" (to fix the meaning of the treaties between the two countries) was most important, "*as it embraced the source of all the differences*," and that to this they should *first attend:* he purposely passes by the most interesting questions which it involves, and sends Mr. Gerry a note on the *consular convention*, of all possible subjects in difference the most insignificant, as it would have expired by its own limitation in two years and a half, within which time the commerce of France, judging from its present state of annihilation, would probably not furnish a single ship to visit the ports of the United States. In his next letter, dated July 6th, he pursues his speculations on the *consular convention*, and sends Mr. Gerry two more notes upon it, complaining that he had not transmitted to him his opinion upon his first note, and recommending the two last to his attention, although Mr. Gerry had repeatedly and positively declined a *formal discussion*, such as the minister now urged, in writing. Mr. Gerry states, also, that this first note of the minister on the consular convention was sent to him six weeks after he had demanded his passport, and when his baggage was actually on board the Sophia!

In a word, the more clearly the impossibility of entering on a formal negotiation appeared, the more was it pressed by the French minister. Mr. Gerry, in his letter to Mr. Talleyrand, of July 20th, as justly as pointedly exposes the boasted zeal of the minister. "You was the first, you affirm, to press seriously the negotiation; you will agree with me that the merit would have been greater, had the measure itself been *feasible*." Again he says to the minister, "you frequently remind me of your exertions, [to negotiate] which I am disposed as much as possible to appreciate, regretting, at the same time, *their circuitous direction*."

From this detail of facts, the following are the necessary conclusions:

That, by the exclusive attentions of the minister to Mr. Gerry, the French Government intended to excite the jealousy of his colleagues, to promote dissensions between them, to separate him from them, and induce him to remain in France, expecting either to seduce him into a formal negotiation of a treaty, on terms exclusively advantageous to France, and injurious and dishonorable to the United States; or, failing in this, to hold the United States in *suspense*, and prevent any measures for our security, in the event of a war; while we, amused and deluded by warm, but empty professions of the pacific views and wishes of France, and by "informal conferences," might wait in spiritless torpor, hoping for a peaceful result; and that, by this course of proceeding, this ostentatious display of zeal to adjust differences, and restore harmony and a friendly intercourse between the United States and France, the French Government intended, in case of a rupture, to throw the blame on the former.

It is necessary to make a few observations on the decree of the Executive Directory of the 31st July, 1798.

This decree was sent after Mr. Gerry to Havre, and he supposes that the official impediments which, for several days, prevented his sailing, are to be ascribed to the minister's desire of sending the decree by him. The minister introduces it as "a part of the measures which he had announced to Mr. Gerry on the 22d of July." In his letter of that date, to Mr. Gerry, the minister says: "By information which the Government has just received, it indeed learns that violences have been committed upon the commerce and citizens of the United States in the West Indies, and on their coasts. Do it the justice to believe that it needs only to know the facts, to disavow all acts *contrary to the laws of the republic, and its own decrees*. A remedy is preparing for it, and orders will soon arrive in the West Indies, calculated to cause every thing to return within its just limits." This "remedy" is the decree of the 31st of July.

1. The first article of this decree confines to the special agents of the Directory the right of issuing commissions to cruisers, and requires these to conform themselves to all the laws relative to cruising and prizes, and especially to those of the 1st of October, 1793. Although the injunction to conform to *all the laws* of the republic relative to cruising was ominous, as the *laws* most recently promulgated and best known were themselves the sources of the depredations and evils of which we complained, yet, not imagining that a decree, introduced with so much solemnity, of which one copy was sent to Mr. Gerry, another to the American consul general, at Paris, and a third to Mr. Létombe, late consul general of France, all to be communicated to the Executive of the United States, and all of which have been received, could be *a mere parade of words*, I was disposed to conclude that the law of the 1st of October, 1793, to which all cruisers were *especially* enjoined to conform, might contain regulations that would afford some relief from French depredations. By the favor of Mr. Létombe, I obtained a copy of that law, and to my astonishment, found its object, conformably to its title, was "To determine the mode of dividing prizes made by French vessels on the enemies of the republic."* And the only restriction in this lengthy law of six-and-forty articles, imposed on the individuals, officers, and all others composing the crews of their armed vessels, is, "that they shall not sell, beforehand, their eventual shares of prizes."

2. The second article declares that all commissions granted by the agents, in the French colonies in America, to fit out vessels for cruisers, or for war and commerce, shall be void in thirty days after the publication of the decree in those colonies.

It has been supposed that, by this regulation, the agents may gather a fresh harvest of fees for new commissions; and that this would be its only effect. The agents, however, had before taken care of this; they had been accustomed to limit the duration of privateers' commissions, and if they continued to cruise after their expiration, such privateers should have been considered as destitute of commissions, and, consequently, if they made any captures, as pirates. But the agents knew their interest better; they did not punish the piratical captors; they did not declare their captures void, and restore the property to the neutral owners; but, declaring such captors to have no title to

* "Décret de la Convention Nationale, du 1 8bre 1793, l'an 2d de la république Française, que détermine le mode de repartition des prises faites par les vaisseaux Français sur les ennemis de la république."

the captured vessels and cargoes, took the whole to themselves. A remarkable instance occurred in the last year, in the case of the East India ship New Jersey, belonging to Philadelphia, to redeem which, the owners have paid to General Hedouville, *special agent* of the *Executive Directory*, in St. Domingo, upwards of two hundred thousand dollars in cash. Whether any, and what portion of such prize-money goes into the chest of the republic, I am not informed.

3. The third article declares that all agents, and other deputies, in the *neutral possessions*, appointed to decide there on the validity of prizes taken by the French cruisers, and who shall be suspected of having a direct or indirect interest in the cruisers, shall be immediately recalled.

It is remarkable that this article, apparently designed to correct the monstrous abuse of public officers sitting in judgment in their own causes, should be limited to such of the French agents, and their deputies, as were appointed to reside in *neutral places*. I do not know that an instance of the kind exists: for, although the French privateers, and their prizes, find asylums in the Swedish and Danish islands, yet the papers are carried thence to Guadaloupe, and there the captured vessels receive their doom, under the superintendence of another *special agent* of the *Executive Directory*, Victor Hugues. And even the captured American vessels carried into the West India ports of Spain and Holland do not there receive sentence: these cases are decided by the agent, or his deputies, or other French tribunals, established in the island of St. Domingo, frequently, if not generally, in the absence of the masters and supercargoes. The French agents and judges find no difficulty in this mode of proceeding, *justice* being administered with more *facility* and *despatch* when only *one* of the *parties* is present at the trial, especially when the agents, or other judges, are interested in the privateers; and this the present decree impliedly allows, the penalty of "recall" being applicable, as above suggested, to such agents only as reside in *neutral places*, if any such there be.

It is also remarkable that this decree, which was to give the United States a proof of the justice of the French Government, (a Government, Mr. Talleyrand says, "never listening to any thing but justice") and of its desire of a reconciliation with the United States, should be limited to the *West Indies*, when as *great*, if not as *numerous abuses* were practised by French agents and tribunals in Europe, and even France itself, as in her remote possessions. This, too, many of our citizens well know. For captures and condemnations are not the less *abuses*, because made under the color of *municipal* laws and decrees which directly violate treaties, the law of nations, and the plainest principles of justice. At present I shall only mention that, in a report made by Major Mountflorence, chancellor of the American consulate at Paris, to General Pinckney, in December, 1796, and which was laid before Congress in May, 1797, he states, "That the tribunals of commerce in every port of France take cognizance, in the first instance, of every matter relative to captures at sea;" and "these tribunals (he adds) are chiefly composed of merchants, and most of them are, directly or indirectly, more or less interested in the fitting out of privateers; and therefore are often concerned in the controversies they are to determine upon."

4. The fourth article requires the special agents of the Executive Directory at Cayenne, St. Domingo, and Guadaloupe, studiously to take care that the interests and property of vessels belonging to neutrals and allies be scrupulously respected.

We have too long witnessed the studious and scrupulous care of these gentlemen respecting the property of neutrals and allies, and experienced its ruinous consequences; and as the same laws which authorized that "care" remain in force, and with a fresh injunction of a strict conformity to them, we can expect only a continuance of the same abuses.

5. The fifth article enjoins the special agents of the Executive Directory, consuls, and all others invested with powers for that purpose, to cause to be arrested and punished all who shall contravene the provisions of the present decree. Unfortunately, these special agents, consuls, and their deputies, are themselves the *aggressors*, and justify their proceedings under the laws of the republic and the decrees of the Executive Directory.

This analysis of the present decree manifests its futility; and, with some remarks on its preamble, will demonstrate it to be a bold imposture, intended to mislead the citizens of the United States into a belief that the French Government was going to put an end to the depredations of French cruisers on American commerce, while the means proposed are so gross as to be an insult on our understandings.

The preamble to the decree sets forth, "that information, *recently* received from the French colonies and the continent of America leaves no room to doubt that French cruisers, or such as call themselves French, have infringed the laws of the republic relative to cruising and prizes;" and "that foreigners and pirates have abused the latitude allowed at Cayenne and the West India islands to vessels fitted out for cruising, or for war and commerce, in order to cover with the French flag their extortions, and the violation of the respect due to the law of nations, and to the persons and property of allies and neutrals." And Mr. Talleyrand, in one of his letters before noticed, dated the 22d of July last, speaks of this information as having been "just received."

But what has been more notorious than French depredations on neutral, and especially on American commerce, in violation of treaties and the law of nations? These have been coeval with the existing war in Europe; but were multiplied under the loose decree of the Executive Directory, passed the 2d of July, 1796, declaring, that "the flag of the French republic will treat neutral vessels, either as to confiscation, to searches, or to capture, in the same manner as they *shall* suffer the English to treat them."

This decree committed the whole commerce of neutrals, in the first instance, to the rapacity of French privateers, and then to the discretion of their agents, consuls, and tribunals. These had only to say, truly or falsely, that the English treated neutrals in any given way, and then they were to treat them in the same manner. Accordingly we have seen Santhonax and Raimond, commissioners of the French Government in St. Domingo, in their adjudication of an American vessel, on the 10th of January, 1797, declare, "that the resolution (or decree) passed by the Executive Directory, on the 2d of July, 1796, prescribes to all the armed vessels of the republic, and the armed vessels belonging to individuals, to treat neutral vessels in the same manner as they suffer the English to treat them;" and "that it is in consequence of the above resolution of the Executive Directory, and in consequence of the manner in which the English Government in the Antilles *treats* neutral vessels, that the commission passed their resolution of the 7th of January, by which they declare all neutral vessels bound to or from English ports, to be legal prize." From these facts, and the tenor of the decree itself, we can form but one conclusion, *that it was framed in such indefinite terms on purpose to give scope for arbitrary constructions, and consequently for unlimited oppression and vexation.*

But without waiting for this decree, the commissioners of the French Government at St. Domingo began their piracies on the commerce of the United States; and, in February, 1797, wrote to the Minister of Marine, (and the extract of the letter appeared in the official journal of the Executive Directory of the 5th of June) "That, having found no resource in finance, and knowing the unfriendly dispositions of the Americans, and to avoid perishing in distress, they had armed for cruising, and that already eighty-seven cruisers were at sea; and that for three months preceding the administration had subsisted, and individuals been enriched, with the product of those prizes." "That the decree of the 2d of July was not known by them until five months afterwards. But (say they) the shocking conduct of the Americans, and the *indirect* knowledge of the *intentions* of our Government, made it our duty to order reprisals, even before we had received the official notice of the decree." "They felicitate themselves that American vessels were daily taken, and declare that they had learnt, by divers persons from the continent, that the Americans were perfidious, corrupt, the friends of England, and that, therefore, their vessels no longer entered the French ports, unless carried in by force."

After this recital, before the council of five hundred, Pastoret makes the following remarkable reflections:

"On reading this letter we should think that we had been dreaming; that we had been transported into a savage country, where men, still ignorant of the empire of morals and of laws, commit crimes without shame and without remorse, and applaud themselves for their robberies, as Paulus, Æmilius, or Cato, would have praised themselves for an eminent service rendered to their country. Cruisers armed against a friendly nation! Reprisals, when it is we ourselves who attack! Reprisals against a nation that has not taken a single vessel of ours! Riches acquired by the confiscation of the ships of a people to whom we are united by treaties, and whom no declaration of war had

separated from us!" "The whole discourse of the agents may be reduced to these few words: 'Having nothing wherewith to buy, I seize; I make myself amends for the property which I want, by the piracy which enriches me; and then I slander those whom I have pillaged.'" "This is robbery, justified by selfishness and calumny." Yet *Santhonax*, one of these "robbers," and the chief of those directorial agents, continued in office, and, going a few months afterwards from St. Domingo to France, was received as a member into one of the legislative councils.

Pastoret also adverts to a letter from *Merlin*, then minister of justice, and now a member of the Executive Directory, to Mr. Skipwith, consul general of the United States, which also appeared in the journal of the Directory, and quotes the following passage: "Let your Government break the inconceivable treaty which it concluded on the 19th of November, 1794, with our most implacable enemies, and immediately the French republic will cease to apply in its own favor the regulations in that treaty, which favor England to the injury of France, and I warrant you that we shall not see an appeal to those regulations, in any tribunal, to support *unjust pretensions*." "Have I (says Pastoret) read this rightly? *Unjust pretensions!* Could it be possible that they should thus have been characterized by the minister who is himself their agent and defender?"

After all, this "inconceivable British treaty" was itself but a *pretext* to countenance the "unjust pretensions," as Merlin himself calls them, used by the French Government in its tribunals, for the purpose of condemning American vessels. The details I have already given prove it. I beg leave to adduce other evidence. It is the testimony of Mr. Barlow, an American by birth, but for several years past a citizen of France, a man of acknowledged discernment and talents, devoted to the French republic, and intimate with their leading men. Mr. Barlow has long resided at Paris, and cannot have mistaken the views of the French Government, nor the motives of its conduct. Mr. Barlow's letter dated at Paris the first of March, 1798, to his brother-in-law Mr. Baldwin, has doomed the writer to infamy: yet when it describes the principles and conduct of the French republic, it merits attention. He says, "that act of submission to the British Government, commonly called Jay's treaty, is usually considered, both by its friends and enemies, as the sole cause, or at least the great cause, of the present hostile disposition of the French republic towards the United States. This opinion (says he) is erroneous." He then proceeds to an enumeration of a variety of matters which he says have influenced the conduct of France. But the most provoking, and the most unpardonable of all the offences of the United States against France, was, fortunately, not an act of the *Government*, but an act of the *people*. The *freemen* of the United States, "the true Americans," dared to exercise their independent rights, and contrary to the wishes of the French Government and the endeavors and practices of its minister Adet, elected Mr. ADAMS to the office of *President*. Mr. Barlow's observations on this event further develop the character and the principles of that Government. He says, "when the election of ADAMS was announced here, it produced the order of the 2d March,* which was meant to be little short of a declaration to war:" "the Government here was determined to *fleece* you of your property, to a sufficient degree to bring you of your feeling in the only nerve in which it was presumed your sensibility lay, which was your pecuniary interests." And what was this "feeling" to produce? The answer is obvious—*Submission to the will of the French Government*. The mystery of French politics is here unveiled. The United States *did not submit*. Hence the non-reception of her envoys, and their haughty treatment: hence the insulting demands of tribute as a preliminary even to their reception; and hence the expulsion of two of them from France.

But to return to the decree of the Executive Directory of the 31st of July last.

I have already shown that the mass of depredations on the commerce of the United States, under the French flag, of which we so justly complain, are not those committed, as the Directory in their preamble insinuate, by "foreigners and pirates" but by French armed vessels commissioned by the Government or its agents; or whether commissioned or not, whose acts in capturing American vessels receive the sanction of French consuls, of French tribunals, and of the special agents of the Directory. I have shown that the laws of France and the directorial decrees are themselves the sources of those violations of treaties and the law of nations, which have caused such immense losses to the citizens of the United States. And to the proofs already offered, that the information of such aggressions and abuses, particularly in the West Indies, and on the coast of America, was not, as the preamble suggests, but "recently received." I may add that their "special agents" authorized those depredations and violations of the law of nations, by decrees assuming the laws of the republic, or the acts of the Executive Directory, for their bases; by decrees printed and published, and undoubtedly from time to time reported by those agents to the Directory itself. Further, these outrages on the American commerce have for years past been the theme of every tongue, and filled columns in our newspapers—those newspapers which, Mr. Barlow says, the office of foreign affairs (at Paris) regularly receives." I will conclude this point with the testimony of Mr. Létombe, late consul general of the French republic, and still residing in Philadelphia. He has long since, and repeatedly assured me, that he collected all those accounts of depredations and outrages committed by French privateers, and transmitted them to his Government at Paris.

In relation to the depredations and outrages committed by the French on the commerce of the United States, I have said that as *great*, if not as *numerous* abuses were practised by the French in Europe, and even in France itself, as in her remote possessions; and that this fact was but too well known to our citizens, who had felt severely their effects. Among these we have seen the case of the ship Hare, Captain Hayley; but never in all its disgusting features. With this I will close my observations on the preamble of the directorial decree of the 31st July.

Extract of a letter from Rufus King, Esq. minister of the United States in London, dated September 3, 1798, to the Secretary of State of the United States.

"The pretence for this arrêt [the decree of the Directory of July 31st] is of a piece with the vindication of Talleyrand respecting X. Y. and Z. and the justice and sincerity of the Directory should be ascertained, not by their word, but by the following cotemporaneous fact:

"Hayley, an American citzien, master of the American ship Hare, lying in the port of London, laden with a rich cargo, the property of Americans, and bound to New York, went with my passport from London to Paris, where, in a personal interview, not with the agents of the Minister of Marine, but with *the minister himself*, he disclosed his plan of bringing the ship Hare and her cargo into France; and to enable him to receive the profits of the fraud, without risking the punishment of piracy, he demanded and received from the Minister of Marine, a commission naming him the commander of a privateer that did not exist; with which in his pocket, he returned to London; and soon after carried the ship Hare and her cargo as a prize into France.

"The ship and cargo were both claimed by the American owners; and upon the unveiling of this infamous proceeding before the lower tribunals, the judges hesitated; and finally refused to sanction so unheard of a fraud; though instead of restoring the property to its lawful owners, they on some frivolous pretence adjudged both ship and cargo to be good *prize* to the *nation*. Lately, the tribunal in the last resort, upon the appeal of Hayley, has reversed the judgment of the lower court, and "decreed the ship and cargo to be condemned as good prize to this renegado."

"If a transaction more grossly corrupt and infamous has occurred in the West Indies, I have not heard of it; and yet with this case of unequalled infamy and corruption before them, sanctioned by the highest tribunals of the nation, the Directory expect to amuse us with a disavowal of the conduct of a few subaltern agents in a remote part of their dominions!!!"

Besides the communications from Mr. Gerry, I have received from Fulwar Skipwith, Esq. consul general of the United States at Paris, three letters dated the 4th, 8th, and 22d of August, copies of which and of the papers therein referred to, are herewith presented, excepting the decree of July 31st, which appears among the communications from Mr. Gerry. Mr. Skipwith's letter of August 22d, with its enclosures, was delivered to me by Doctor Logan; I had previously received the original, which had been brought over by Mr. Woodward of Boston.

*It will be recollected that this is the decree of the Executive Directory, ordering the capture and condemnation of American vessels, not having a *role d'équipage*—that fruitful source of plunder to Frenchmen, and of ruin to American citizens: and which also declared all American seamen, making a part of the crew of enemies' ships, even when put on board of them by force, to be *pirates*, and directed them to be treated as such.

Docter Logan having been the bearer of the last mentioned communications from the French Government, and his EMBASSY having not only engaged the attention of the public, but been made the subject of debate in Congress, I trust it will not be deemed improper to introduce into this report some circumstances respecting it.

On the 12th of November the doctor came to me at Trenton: he advanced with eagerness, and handed me the packet from Mr. Skipwith. On examining its contents, I told the doctor that I already possessed the same papers. I made some remarks on the decree of the Directory of the 31st of July, to show that it was only ostensible and illusory, and that it would not give any relief to the commerce of the United States. The doctor, not contesting my arguments or opinion, said that more was intended to be done, but that the Directory could not accomplish it of themselves, seeing it depended on the *laws* which the *legislative councils* alone could change. I answered, that this was easy to be done; that as the Directory, on the 18th Fructidor, (September 4th, 1797) had garbled the two councils, and banished some, and dismissed others of the best members, all who were firmly opposed to their views, and as on the new elections to supply the vacancies and the new third of the councils, the Directory sent home every new member who was not agreeable to them, every body must see that the Directory had but to declare its *will* and it would be obeyed. The doctor said, that the Directory was very well disposed towards the United States, and desired a reconciliation; that they would promote a revision of the laws in regard to privateering, so as to put the rights of neutral nations on a just footing; but that it would take some time to bring this about, "*the people concerned in privateering having gained a very great influence in the two councils!*" ——! ——! Is it necessary to inquire how this "very great influence" has been obtained? Are the leading members owners of privateers? Or do they receive their shares of prize money from those who are? Do the legislative councils really act independently of the Directory? Or does the same "influence" actuate both? The printed despatches of our envoys, under the date of October 29, 1797, state, on the information of Mr. Talleyrand's private agent X. that Merlin, one of the members, and now or late president of the Directory, was to receive no part of the *douceur* demanded of the envoys, *because he was paid by the owners of privateers;* and in respect to the *loan* then demanded, on which subject it was suggested that one of the envoys should go to America to consult the Government, the envoys "asked Mr. X. if, in the mean time, the Directory would order the American property not yet passed into the hands of the privateers' men, to be restored? He said explicitly that they would not. The envoys asked him whether they would suspend further depredations on our commerce? He said they would not: but Mr. Talleyrand observed, that on this subject we could not sustain much additional injury, because the winter season was approaching, when few additional captures could be made." Here we see our envoys inquiring, not whether the *two councils* would suspend those depredations, but whether the *Directory* would do it: and Mr. Talleyrand's agent X., without intimating that the Directory *wanted power*, or that they could only "endeavor to provoke in the Legislature a revision of their maritime laws," answered peremptorily, that the Directory would not suspend the depredations. The truth is, that it was an act of the *Directory alone*, (their decree of the 2d of March, 1797) which authorized and produced more extensive depredations on the commerce of the United States than any other decree or law of the French republic. To effect a repeal of that decree, no application to the legislative councils could be necessary. They could also have repealed another of their own decrees, that of the 2d of July, 1796, which subjected neutral property, and particularly that of American citizens, to the discretion of their consuls and cruisers in the European seas, as well as of their privateers and agents in the West Indies, and on which these agents have founded other numerous decrees, which have occasioned those shocking depredations and abuses there and on the coast of the United States, which the Directory, by their decree of the 31st of July last, *affect* to restrain.

When the Executive Directory wished to enlarge the field of depredations on neutral commerce, and on the 4th of January, 1798, proposed to the two councils the project of the iniquitous law "to declare to be good prize every vessel and her cargo, *to whomsoever belonging*, if any part of the cargo came from England or her possessions," there was a ready obedience. "The Directory thinks it urgent and necessary to pass the law." The plan of a decree is reported to the council of five hundred on the 11th, and "urgency" being declared, is immediately and unanimously adopted. It goes to the council of ancients—that council approves the act of "urgency;" and on the 18th of January the project of the Directory becomes a law.

This law was necessary for the French Government: so many American vessels had been entrapped by the Directory's decree of March 2d, 1797, requiring the *rôle d'équipage*, that the residue were now generally provided with that paper: some new pretext was therefore requisite for "fleecing" the people of the United States of their property, and an ordinance of one of the Kings of France made near a century past, having declared lawful prize the vessels and their cargoes in which was found English merchandise *belonging to enemies*," the Directory declare that the provisions of this ordinance *ought to be extended*, to comprehend the vessels and cargoes of *friends*; that is, of allied and neutral nations. The Directory knew that the United States, whose inhabitants were chiefly *cultivators*, required a greater supply of English manufactures than any other neutral country of equal population; and those manufactures, too, were, from the course of American commerce, combined with almost all our mercantile operations, and pervaded entirely our great coasting trade. Hence, it is evident that this law was chiefly aimed at *them*.

It will be remembered also that this law was passed while our three envoys were at Paris, where they had passed three months unheeded by the French Government, except by its indignities, and where they had in vain solicited to be heard on the just claims of our citizens, plundered and ruined under the former decrees of the republic. This time was preferred, in order to add insult to injury. The envoys had firmly resisted her demands of loans and douceurs, and when speaking of their *country*, dared to intimate that it was *independent*. It was therefore requisite, on the French system, to "chastise," as well as to "fleece" it.

In closing this subject, it will be proper to notice an assertion of Mr. Talleyrand in a conversation with the envoys on the 2d March, 1798. In reply to some observations of his respecting the proofs of friendship required by France from the United States, General Pinckney observed, "that the envoys being in France was a proof of the friendly disposition of our Government; and that while they were there, the French Government had passed a decree for seizing neutral vessels having on board any article coming out of England, which in its operation would subject to capture all our property on the ocean. Mr. Talleyrand replied *that this was not particular to us, but was common to all the neutral Powers.*" This assertion of Mr. Talleyrand is not true. Although the decree in its *terms* is *general*, and *applicable* to *all* the neutral Powers, yet in its *operation it was not designed to be, and has not been so applied*—it has not touched a vessel of Prussia. The motives to this exemption are obvious: France wished not, by irritating Prussia, to add so powerful a nation, and one so near at hand, to the number of her enemies, while her peace with Austria remained precarious. But this exemption of Prussian vessels from the operation of a *general law* merits particular notice. It demonstrates that there exists in the French republic a *dispensing power—a power above the laws—a power which can prevent their execution:* and it is alike demonstrable that this sovereign controlling power can exist, and in fact does exist, in the Executive Directory. It might then, if the Directory desired it, be exercised in the exemption of *American* as well as *Prussian* vessels: but the Directory do not desire it: we have not yet been sufficiently "fleeced" and "chastised."

Mr. Skipwith's letter of the 4th of August enclosed the decree of the Executive Directory already noticed, passed the 31st of July, respecting French depredations in the West Indies, and on the coast of the United States. His letter of the 8th of August enclosed Mr. Talleyrand's letter to him of the 6th, respecting that decree, in which it is plain that the minister supposes the world, and particularly the United States, will be amused by that illusory device, and imagine that it was intended to stop abuses, and give security to neutral commerce.

Mr. Skipwith's letter of the 22d of August covers another letter from Mr. Talleyrand, dated the 20th of August, in which he encloses copies of two letters from the Minister of Marine, respecting American seamen who had been imprisoned. When in July last an embargo was laid on the American merchant vessels in the ports of France, the agents of the marine took out their crews, and threw them into prison; thus hazarding the loss of the vessels, and injuring the men by confinement, and the bad provisions of their gaols. These seamen were ordered to be released. The other letter from the Minister of Marine required that no injury should be done to the safety and liberty of the officers and crews of American vessels *found to be in order*, nor to passengers and other citizens of the United States having passports and protections.

The same letter from Mr. Skipwith enclosed the copy of a decree of the Directory, passed the 16th of August, for taking off the embargo, laid a month before on American vessels.

The decree itself occupies but two lines; but its preamble is extended, for the purpose of insulting the Government of the United States, when an act of common justice was done to some of their *citizens;* by insinuating that the *Government* was "abandoned to the passions of the British cabinet." This, however, is but the repetition of a calumny familiar in French diplomacy, respecting other nations as well as our own. Barras, President of the Directory, in his valedictory address to Mr. Monroe, declared that "France would not abase herself by calculating the consequences of the condescension of the American *Government* to the suggestions of her former tyrants;" professing, at the same time, great "esteem for the American *people*." Mr. Adet had before charged the American *Government* with a "*perfidious* condescension to the English;" and after making his last communications to the *Government*, he, by their immediate publication under his orders, *appealed* from the *Government* to the *people* of the United States. Yet Mr. Talleyrand says, that the French Government has indeed "complained of the American Government, but to the *Government itself;*" meaning to have it understood, though carefully avoiding the expression, that it had complained to the *Government alone*. With the like sophistry he attempts to evade our well founded allegations, that the French Government has made reproachful and injurious distinctions between the *Government and people* of the United States, endeavoring to *separate* the latter from the former. He says "it is utterly *false*, notwithstanding the *public* and private insinuations which have been made, in private writings and in solemn acts, that the French Government has ever sought to detach the people of the United States from *the constitution they have given themselves.*" Such a charge against the French Government has not, that I know, ever been made by the American Government; but we have accused them, and *truly*, with endeavors to detach the *people* of the United States from the *government* chosen by themselves *to administer* that constitution: and this the minister does not attempt to deny. The Directory would perhaps be contented that the *people* should retain the *forms* of "the constitution they have given themselves," and to which they are attached, provided they would elect to administer it men devoted to France, and ready to obey the intimations of her will. And because the *people* have not been thus obsequious, but have dared to make a different election, the French Government has expressed its "terrible" resentment; Mr. Barlow has assured us, in the passage already cited from his letter, that for this single act of the *people* of the United States, in exercising freely their right of election, the Directory passed a decree "which was meant to be little short of a declaration of war;" by which it "was determined to *fleece* the people of their property:" certainly in expectation that, by touching their feeling in that "nerve," they would be induced, *in order to save their property*, to submit implicitly to the Government of France. Failing in this attempt, the French Government made another, in the decree of the 18th of January, 1798, which though *general* in its *terms*, I have shown to have been levelled *directly* and *chiefly* at the commerce of the *United States*. And this at the time (as I have before remarked) when three envoys extraordinary were waiting, month after month, and most respectfully soliciting to be heard, and to enter on the discussion of all the subjects of difference between the two countries; and among these, on the French depredations on our commerce. Yet Mr. Talleyrand has the confidence to assert, and to Mr. Gerry too, one of those envoys, that the French Government "never refused and never will refuse to enter into discussion upon every proper subject." Does the minister mean that *those depredations* are not "a proper subject of discussion?" Yes, with respect to a vast proportion of them. Mr. Y., his private agent, explicitly told our envoys, that the condemnations of vessels for want of the *rôle d'équipage* were not to be questioned; "that being a point on which *Merlin* while minister of justice had written a treatise, and on which the Directory were *decided.*"

It is fit here to recollect another and a peremptory refusal of the French Government, "to enter into discussion" upon the subjects of difference between France and the United States.

General Pinckney, appointed the minister plenipotentiary of the United States to the French republic, went to Paris in the autumn of 1796. There was at first (as in the case of the envoys extraordinary in 1797) a show of receiving him: but soon the scene was changed; and he was not only refused a hearing, but after bearing a thousand indignities, ordered to leave France; but the predecessor of Mr. Talleyrand, Charles de la Croix, in a letter to Mr. Monroe, intended to be communicated to General Pinckney, declared, (being specially charged to do so by the Directory, and Mr. de la Croix repeated the declaration to General Pinckney's secretary) "that it will not acknowledge nor receive another minister plenipotentiary from the United States, until after the redress of the grievances demanded of the American Government, and which the French republic has a right to expect from it." To this resolution we have seen the Directory adhere; and we have also seen, in the demands it made to our envoys extraordinary, as the *indispensable preliminaries* to any negotiation, what it meant by a "redress of grievances," prior to the reception of a minister from America: it consisted in a *douceur* for the pocket of the directors and ministers: in the purchase at par of thirty-two millions of Dutch *securities*, then worth but half that sum; and in *loans* as immense and indefinite as their depredations on our commerce.

The same letter from the French minister De la Croix to Mr. Monroe, affords another proof of the aim and endeavors of the French Government to *separate* the *people* from the Government of the United States. In the sentence next following the above quoted passage, Mr. de la Croix says, "I pray you to be persuaded, citizen minister, that this determination having become necessary, allows to subsist between the French republic and the American *people* the affection founded upon former benefits and reciprocal interests."

If I were to allow myself to make any further reflections on the conduct of France towards the United States, it would be to illustrate the truth of Mr. Barlow's assertion, *that the French Government determined to fleece us.* If the French Government "listened (as Mr. Talleyrand says it does) to nothing but justice," and really desired a reconciliation, it would have proposed *to fix some measure of satisfaction* for the injuries it said it had received. Or, if too proud to propose to us, at least it would have prescribed to itself some limit to *reprisals*: or at any rate, it would not have spurned us from its presence, when we respectfully presented ourselves, sought a reconciliation, and offered to make a just satisfaction for every injury we had committed. And if, (as Mr. Talleyrand asserts) "the French Government has not ceased to offer the exact justice it demands," it would also have permitted us to state our claims. But it would have been so easy to ascertain all the damages we had done; and their amount would have been so small, even if we agreed to pay for all English, Spanish, and Dutch vessels brought by French cruisers into our ports, while all those nations were at war with France; a few of which the justice of the Federal courts, *in vindication of the sovereignty of the United States*, rescued from the hands of the French consuls, agents and privateers' men; and if to that amount we also added ten times the value of the miserable corvette Le Cassius, a vessel which had been unlawfully fitted out for war in the United States, but which has been the burthen of every note from Adet's in 1795 to De la Croix's and Talleyrand's in 1796 and 1798, the amount of the whole, it was known, would be so *small*, the French Government did not choose to have it *ascertained;* for then the injuries done by the French to the commerce of the United States must also have been examined and adjusted; and when adjusted, *payment* must have been made or stipulated; but in this, the French Government doubtless thought "it would find only a real disadvantage;" the amount of its own demands deducted from those of America would hardly seem to have diminished the latter.

Such a mutual adjustment would also have been accompanied with a settlement of all questions and disputes about the construction of treaties, and all other subjects of difference: but in this also, the French Government, upon its own system, "would have found a real disadvantage." For it would have vastly reduced the field for privateering in the European seas; and in the West Indies it would have been nearly annihilated: for there, for every vessel taken from the *enemies* of France, her cruisers have probably captured twenty belonging to the *United States*. But the French Government, by always abstaining from making specific demands of damages; by refusing to receive our ministers; by at length proposing to negotiate in a mode which it knew to be impracticable; with the person who had no powers, and who, therefore, constantly refused to negotiate; and thus wholly avoiding a negotiation; it has kept open the field for complaints of wrongs and injuries, in order, by leaving them undefined, to furnish pretences for unlimited depredations. In this way "it determined to *fleece* us." In this way it gratified its *avarice and revenge*—and it hoped also to satiate its *ambition*. After a long series of insults unresented, and a patient endurance of injuries, aggravated in their nature and unexampled in their extent, that Government expected our final submission to its will. Our resistance has excited its surprise; and as certainly increased its resentment. With some

soothing expressions, is heard the voice of wounded pride. Warmly professing its desire of reconciliation, it gives no evidence of its sincerity; but proofs in abundance demonstrate that it is not sincere. From standing erect, and in that commanding attitude requiring implicit obedience—cowering, it renounces some of its unfounded demands. But I hope we shall remember "that the tiger crouches before he leaps upon his prey."

TIMOTHY PICKERING.

5th CONGRESS.] **No. 150.** [2d SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, JANUARY 28, 1799.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

An edict of the Executive Directory of the French republic of the 29th of October, 1798, enclosed in a letter from our minister plenipotentiary in London of the 16th of November, is of so much importance, that it cannot be too soon communicated to you and to the public.

JOHN ADAMS.

January 28, 1799.

Extract of a letter from Rufus King, Esq. Minister Plenipotentiary of the United States at London, to the Secretary of State, dated

NOVEMBER 16, 1798.

"The annexed arrêt would appear extravagant and incredible, if it proceeded from any other authority; but mankind is so accustomed to the violence and injustice of France, that we almost cease to express our surprise and indignation at the new instances that she continues to display."

DIRECTOIRE EXECUTIF.

Arrêt du 8 *Brumaire, an* 7, *Octobre* 29, 1798.

Le Directoire Exécutif, sur le rapport du Ministre des Relations Extérieures, considerant que les escadres, armemens en courses, et *navires* de l'Angleterre et de la Russie, sont en partie équipés par des individus étrangers.

Considérant que cette violation est un abus manifeste du droit des gens, et que les Puissances de l'Europe n'ont pris aucun mésure pour le faire cesser, arrête,

ART. 1. Tout individu, natif ou originaire des pays amis, alliés de la république Française, ou neutres, porteur d'une commission donnée par les ennemis de la France, ou faisant partie des équipages des bâtimens *de guerre et autres* ennemis, sera, par ce seul fait, déclaré pirate, et traité comme tel. sans qu'ils puisse, dans aucun cas, alléguer qu'il y a été forcé par violence, ménaces, ou autrement.

2. Les Directoires Exécutifs des républiques Batave, Ligurienne, Cisalpine, et Romaine, seront instruits de cette mésure.

3. Les dispositions contenues en l'article premier seront notifiées aux Puissances neutres ou alliées de la république Française.

4. Le Ministre des Relations Extérieures est chargé de l'exécution du present arrêt, qui sera imprimé au bulletin des lois.

[TRANSLATION.]

The Executive Directory, upon the report of the Minister of Foreign Relations, considering that the fleets, privateers, and ships of England and Russia, are in part equipped by foreigners.

Considering that this violation is a manifest abuse of the rights of nations, and that the Powers of Europe have not taken any measures to prohibit it, decrees,

1st. Every individual, native (ou originaire) of friendly countries, allied to the French republic, or neutral, bearing a commission, granted by the enemies of France, or making part of the crews of ships of war and others, enemies, shall be by this single fact declared a pirate, and treated as such, without being permitted, in any case, to allege that he had been forced into such service by violence, threats, or otherwise.

2d. The Executive Directories of the Batavian, Ligurian, Cisalpine, and Roman republics, shall be instructed to this effect.

3d. The provisions contained in the 1st article shall be notified to those Powers which are neutral or allied to the French republic.

4th. The Minister of Exterior Relations is charged with the execution of the present arrêt, which shall be printed in the bulletin of the laws.

5th CONGRESS.] **No. 151.** [2d SESSION.

FRANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 15, 1799.

UNITED STATES, *February* 15, 1799.

Gentlemen of the Senate and of the House of Representatives:

In pursuance of the request in your resolve of yesterday, I lay before you such information as I have received touching a suspension of the arrêt of the French republic communicated to your House by my message of the 28th of January last. But if the execution of that arrêt be suspended, or even if it were repealed, it should be remembered that the arrêt of the Executive Directory of the 2d of March, 1797, remains in force; the third article of which subjects, explicitly and exclusively, American seamen to be treated as pirates, if found on board ships of the enemies of France.

JOHN ADAMS.

Extract of a letter from Rufus King, Esq. Minister Plenipotentiary, &c. to the Secretary of State.

LONDON, *November* 28, 1798.

Annexed I send you a copy of a note from Lord Grenville, respecting the French arrêt transmitted to you with my No. 9. A late French paper contains a second arrêt which postpones the execution of the first.

Lord Grenville to Mr. King.

The undersigned, His Majesty's Secretary of State for Foreign Affairs, has the honor of communicating to Mr. King, minister plenipotentary for the United States of America, for the information of his Government, that by a decree published officially at Paris, it appears to have been declared, in the name of the French Directory, that every person being a native of or originally belonging to neutral countries, or to such as are in amity and alliance with the French republic, who shall bear no commission under His Majesty, or who shall form a part of the crews of any British ships of war or other vessels, should, on the proof of that fact alone, he considered and treated as a pirate; and that it has been ordered that this resolution shall be notified to the neutral Powers and to those in alliance with France.

Even this decree, contrary as it is to the usages of every civilized nation, cannot excite any surprise, as proceeding from those in whose name it has been published. To the different Powers who are thus insulted, and whose innocent subjects are exposed to the most cruel treatment on the part of a Government professing friendship or alliance with them, His Majesty must leave it to adopt such measures as they will, without doubt, judge necessary, in the case of an outrage hitherto unexampled in the history of the world.

The King, however, feels that protection is also due from him to those who sail under his flag, either in His Majesty's ships of war or in other British vessels; His Majesty has therefore not hesitated to direct it to be signified to the commissary for French prisoners in Great Britain that the first instance of the execution of this decree shall be followed by the most rigorous retaliation against the French prisoners whom the fortune of war has already, or may hereafter place at the King's disposal.

It would certainly never be but with extreme reluctance that the King could yield to the painful necessity of exposing so many unfortunate individuals to the fatal but inevitable effects of this atrocious decree; but His Majesty will have at least the satisfaction of feeling that nothing has been omitted on his part to prevent its execution, and that the authors of it can alone be considered responsible for all its guilt and all its consequences.

GRENVILLE.

DOWNING STREET, *November* 27, 1798.

5th CONGRESS.] **No. 152.** [2d SESSION.

FRANCE.

COMMUNICATED TO THE SENATE, FEBRUARY 18, 1799.

FEBRUARY 18, 1799.

Gentlemen of the Senate:

I transmit to you a document which seems to be intended to be a compliance with a condition mentioned at the conclusion of my message to Congress, of the 21st of June last.

Always disposed and ready to embrace every plausible appearance of probability of preserving or restoring tranquillity, I nominate William Vans Murray, our minister resident at the Hague, to be minister plenipotentiary of the United States to the French republic.

If the Senate shall advise and consent to his appointment, effectual care shall be taken in his instructions that he shall not go to France without direct and unequivocal assurances from the French Government, signified by by their Minister of Foreign Relations, that he shall be received in character; shall enjoy the privileges attached to his character by the law of nations; and that a minister of equal rank, title, and powers, shall be appointed to treat with him, to discuss and conclude all controversies between the two republics by a new treaty.

JOHN ADAMS.

LIBERTY. EQUALITY.

The Minister of Exterior Relations to citizen Pichon, Secretary of Legation of the French republic near the Batavian republic.

PARIS, *the 7th Vendemiaire, of the 7th year of the French republic, one and indivisible.*

I have received successively, citizen, your letters of the 22d and 27th Fructidor, (8th and 13th of September.) They afford me more and more reason to be pleased with the measure you have adopted to detail to me your conversations with Mr. Murray. These conversations, at first merely friendly, have acquired consistency, by the sanction I have given to them by my letter of the 11th Fructidor. I do not regret that you have trusted to Mr. Murray's honor a copy of my letter. It was intended for you only, and contains nothing but what is conformable to the intentions of Government. I am thoroughly convinced that, should explanations take place with confidence between the two cabinets, irritation would cease; a crowd of misunderstandings would disappear; and the ties of friendship would be the more strongly united, as each party would discover the hand which sought to disunite them.

But I will not conceal from you that your letters of the 2d and 3d Vendemiaire, just received, surprise me much. What Mr. Murray is still dubious of has been very explicitly declared, even before the President's message to Congress, of the 3d Messidor (21st of June) last, was known in France. I had written it to Mr. Gerry, namely, on the 24th Messidor and 4th Thermidor; I did repeat it to him before he set out: a whole paragraph of my letter to you, of the 11th Fructidor, of which Mr. Murray has a copy, is devoted to develope still more the fixed determination of the French Government. According to these bases, you were right to assert that, whatever plenipotentiary the Government of the United States might send to France, to put an end to the existing differences between the two countries, would be undoubtedly received with the respect due to the representative of a free, independent, and powerful nation.

I cannot persuade myself, citizen, that the American Government need any further declarations from us to induce them, in order to renew the negotiations, to adopt such measures as would be suggested to them by their desire to bring the differences to a peaceable end. If misunderstandings on both sides have prevented former explanations from reaching that end, it is presumable that those misunderstandings being done away, nothing henceforth will bring obstacles to the reciprocal dispositions. The President's instructions to his envoys at Paris, which I have only known by the copy given you by Mr. Murray, and received by me the 21st Messidor, (9th of July) announce, if they contain the whole of the American Government's intentions, dispositions which could only have added to those which the Directory has always entertained; and, notwithstanding the posterior acts of that Government, notwithstanding the irritating and almost hostile measures they have adopted, the Directory has manifested its perseverance in the sentiments which are deposited both in my correspondence with Mr. Gerry, and in my letter to you of the 11th Fructidor, and which I have herein before repeated in the most explicit manner. Carry, therefore, citizen, to Mr. Murray those positive expressions, in order to convince him of our sincerity, and prevail upon him to transmit them to his Government.

I presume, citizen, that this letter will find you at the Hague; if not, I ask it may be sent back to you at Paris.

Salute and fraternity.

CH. MAU. TALLEYRAND.

5th CONGRESS.] **No. 153.** [2d SESSION.

FRANCE.

COMMUNICATED TO THE SENATE, FEBRUARY 25, 1799.

UNITED STATES, *February* 25, 1799.

Gentlemen of the Senate:

The proposition of a fresh negotiation with France, in consequence of advances made by the French Government, has excited so general an attention, and so much conversation, as to have given occasion to many manifestations of the public opinion, from which it appears to me that a new modification of the embassy will give more general satisfaction to the Legislature and to the nation, and perhaps better answer the purposes we have in view.

It is upon this supposition, and with this expectation, that I now nominate Oliver Elsworth, Esq., Chief Justice of the United States.

Patrick Henry, Esq., late Governor of Virginia, and William Vans Murray, Esq., our minister resident at the Hague, to be envoys extraordinary and ministers plenipotentiary to the French republic, with full powers to discuss and settle, by a treaty, all controversies between the United States and France.

It is not intended that the two former of these gentlemen shall embark for Europe until they shall have received from the Executive Directory assurances, signified by their Secretary of Foreign Relations, that they shall be received in character; that they shall enjoy all the prerogatives attached to that character by the law of nations; and that a minister or ministers of equal powers shall be appointed and commissioned to treat with them.

JOHN ADAMS.

6th CONGRESS.] **No. 154.** [1st SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, DECEMBER 5, 1799.

UNITED STATES, *December* 5, 1799.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

I transmit to Congress certain documents which have relation to the communications made on Tuesday, on the subject of the renewal of commerce with St. Domingo, and the mission to the French republic.

JOHN ADAMS.

Renewal of Commerce with St. Domingo.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, by an act of the Congress of the United States, passed the 9th day of February last, entitled "An act further to suspend the commercial intercouse between the United States and France, and the dependencies thereof," it is provided, That, at any time after the passing of this act, it shall be lawful for the President of the United States, if he shall deem it expedient and consistent with the interests of the United States, by his order, to remit and discontinue for the time being, the restraints and prohibitions by the said act imposed, either with respect to the French republic, or to any island, port, or place, belonging to the said republic, with which a commercial intercourse may safely be renewed; and also to revoke such order whenever, in his opinion, the interest of the United States shall require; and he is authorized to make proclamation thereof accordingly:

And, whereas, the arrangements which have been made at St. Domingo, for the safety of the commerce of the United States, and for the admission of American vessels into certain ports of that island, do, in my opinion, render it expedient, and for the interest of the United States, to renew a commercial intercourse with such ports:

Therefore, I, John Adams, President of the United States, by virtue of the powers vested in me by the above recited act, do hereby remit and discontinue the restraints and prohibitions therein contained, within the limits and under the regulations here following, to wit:

1. It shall be lawful for vessels which have departed or may depart from the United States, to enter the ports of Cape François and Port Republicain, formerly called Port-au Prince, in the said island of St. Domingo, on and after the 1st day of August next.

2. No vessel shall be cleared for any other port in St. Domingo than Cape François and Port Republicain.

3. It shall be lawful for vessels, which shall enter the said ports of Cape François and Port Republicain, after the thirty-first day of July next, to depart from thence to any port in said island between Monte Christi, on the north, and Petit Goave, on the west, provided it be done with the consent of the Government of St. Domingo, and pursuant to certificates or passports expressing such consent, signed by the consul general of the United States, or consul residing at the port of departure.

4. All vessels sailing in contravention of these regulations will be out of the protection of the United States, and be, moreover, liable to capture, seizure, and confiscation.

[L. S.] Given under my hand and the seal of the United States, at Philadelphia, the twenty-sixth day of June, in the year of our Lord 1799, and of the independence of the said States the twenty-third.

JOHN ADAMS.

By the President,

TIMOTHY PICKERING, *Secretary of State.*

MISSION TO FRANCE.

Letter from Patrick Henry, Esq. to the Secretary of State.

CHARLOTTE COUNTY, *Virginia, April* 16, 1799.

SIR:

Your favor of the 25th ultimo did not reach me till two days ago. I have been confined for several weeks by a severe indisposition, and am still so sick as to be scarcely able to write this.

My advanced age and increasing debility compel me to abandon every idea of serving my country, where the scene of operation is far distant, and her interests call for incessant and long continued exertion. Conscious as I am of my inability to discharge the duties of envoy, &c. to France, to which, by the commission you send me, I am called, I herewith return it.

I cannot, however, forbear expressing, on this occasion, the high sense I entertain of the honor done me by the President and Senate in the appointment; and I beg of you, sir, to present me to them in terms of the most dutiful regard, assuring them that this mark of their confidence in me, at a crisis so eventful, is a very agreeable and flattering proof of their consideration towards me, and that nothing short of absolute necessity could induce me to withhold my little aid from an administration whose abilities, patriotism, and virtue, deserve the gratitude and reverence of all their fellow-citizens.

With sentiments of very high regard, and unfeigned esteem, I am, sir, &c.

P. HENRY.

Copy of a letter from Mr. Talleyrand, as Minister of Exterior Relations, to Mr. Pichon, Secretary of Legation, Hague, dated

PARIS, 11*th Fructidor*, (*August* 28, 1798) 6*th year.*

I see with pleasure, citizen, that the intercourse of society has procured you some political conversations with Mr. Murray. I entertain an esteem for that minister. Like all the men at the head of the affairs of the United States, he has received the impressions which the British cabinet has known how to give against us. He thinks the measures of his Government just, and supports them; but he possesses reason, understanding, and a true attachment to his country: he is neither French nor English: he is ingenuously an American. I am not at all surprised that he has appeared to you to wish sincerely for the reconciliation of the two republics. I will, therefore, cheerfully answer the questions you put to me on different points, which appeared to you not to be well established in his mind.

I do not see between France and the United States any clashing of interests, any cause of jealousy. The Americans wish to be fishermen, sailors, manufacturers, and especially husbandmen. In all these points of view, their success is more at the expense of England than us. Why should we be uneasy about them? They aspire to the consolidation of their national existence, and it is to our purpose that they should succeed. In fact, we should have decided upon very superficial views to sustain their independence, if the matter was to separate them from England merely to leave them finally insulated among themselves, on an extensive seacoast, weak, rivalling, and impoverished by each other, and torn by foreign intrigues. We know that Great Britain would soon have put together, piece by piece, those scattered shreds, and we should have done nothing useful for ourselves, if so miserable a chance of it were not daily rendered more remote.

What, therefore, is the cause of the misunderstanding, which, if France did not manifest herself more wise, would henceforth induce a violent rupture between the two republics? Neither incompatible interests, nor projects of aggrandizement divide them. After all, distrust alone has done the whole. The Government of the United States has thought that France wanted to revolutionize it. France has thought that the Government of the United States wanted to throw itself into the arms of England. It does not require much skill to divine which is the cabinet interested in the two events producing each other, and which invisibly puts in motion all the expedients calculated to make them take effect. Let us open our eyes on both sides. I am disposed to admit that the conduct of the Government of the United States may be explained by other causes than those heretofore presumed. But let it on its part understand that the French Government, wounded as it may be, is too wise to entertain the views of disturbance which the other supposes. It concerns a republic, founded on the system of representation, to support and not to weaken similar establishments. The stability of this system abroad is a necessary example at home. France, in fine, has a double motive, as a nation and as a republic, not to expose to any hazard the present existence of the United States. Therefore, it never thought of making war against them, nor exciting civil commotions among them; and every contrary supposition is an insult to common sense.

These fundamental principles being established, it is natural to ask by what fatality a good understanding was not long since restored. It was because irritation being mingled with distrust, neither party yielded to real conciliatory inclinations. In the United States it was supposed that the French Government was temporizing, in order to strike the blow with greater certainty; whence resulted a crowd of measures more and more aggravating. In France it was supposed that the Government of the United States wished only the appearances of a negotiation, whence resulted a certain demand for pledges of good faith.

Let us substitute calmness for passion, confidence for suspicions, and we shall soon agree. I used my endeavors to enter upon a negotiation in this spirit with Mr. Gerry. My correspondence with him, until the day of his departure, is a curious monument of advances on my part, and of evasions on his. It is wrong to think that I confined myself to vague protestations. Among that series of official letters, which will doubtless be published at Phila-

delphia, I select one, of the 30th Prairial, wherein you will see that I make very positive propositions, without any mixture of preliminary conditions. This letter was followed by three notes upon the articles to be discussed, and I intended to complete the others in this manner, if Mr. Gerry had not refused to answer thereto.

When it became necessary to abandon the idea of treating with that envoy, who thought it important only to know how a negotiation might thereafter be resumed, I gave him the most solemn assurances concerning the reception that a new plenipotentiary would receive. It was far from my thoughts to insinuate that the President should send one from the United States, instead of investing with his powers some one who was in Europe; far less that the envoy should land directly in France, instead of announcing it in a neighboring country. I wished merely to say, that the Executive Directory was so decided for a reconciliation, that all tampering would be superfluous, that an act of confidence in it would excite its own. I should be very badly understood, if there should be found in my expressions a restriction on the nature of the choice which the President might make. I wished to encourage Mr. Gerry, by testimonies of regard, that his good intentions merited; although I could not dissemble that he wanted decision, at a moment when he might have easily adjusted every thing. It does not thence follow that I designated him. I will even avow that I think him too irresolute to be fit to hasten the conclusion of an affair of this kind. The advantages which I prized in him are common to all Americans who have not manifested a predilection for England. Can it be believed that a man who should profess a hatred or contempt of the French republic, or should manifest himself the advocate of royalty, can inspire the Directory with a favorable opinion of the dispositions of the Government of the United States? I should have disguised the truth, if I had left this matter ambiguous. It is not to wound the independence of that Government, to point out a sincere friend of peace the shoals he ought to avoid.

As to the mediation of the Batavian republic, and of Spain, I do not know that there is any serious question about it, and it appears to me absolutely useless. The United States might hesitate, in the present state of things, to refer themselves to their impartiality, and besides, I perceive no subject which may not be arranged directly.

I know that the distance which separates France and the United States opens a vast field for incidents, and there have been but too many of them. But the Executive Directory is unshaken in the conduct which may best obviate them. The excess even of provocations has deadened their effect. The Government of the United States surrounds itself with precautions against an imaginary attack. To stretch the hand to deluded friends, is what one republic owes to another, and I cannot doubt that the dignity of that attitude will convince the President of our pacific intentions.

The two Governments ought, above all, to be attentive to indirect attempts to alienate them still more. Their prudence will secure this object, and I shall cite but one example of it. You have told Mr. Murray the truth respecting Dr. Logan. But I perceive, that on all hands it is attempted to produce a belief in America, that we are negotiating with him. On the 7th of this month, a very insidious paragraph was inserted in the "Bien Informé." It is therein intimated that, guided by the citizen Thomas Paine, Dr. Logan has made application to the Executive Directory, in the character of a secret agent. The doctor has complained bitterly of it to me. He has no need of justifying himself concerning the matter, the falsity of which I know better than any body: but he assured me, that having once only met Thomas Paine, at the house of a third person, he found him so prejudiced against the United States, and so opinionative, with respect to an influence he neither possesses among them nor us, that he abstained from conversing any more with him. Moreover, to cut short all misunderstanding, I engaged Dr. Logan to postpone, till another time, the experiments he proposes to make on agriculture, and to return home. As to Mr. Hitchborn, of Massachusetts, I was even ignorant till now that he was in Europe. A single word will suffice for the rest.

We want nothing but justice on the part of the United States: we ask it: we offer it to their Government: it may depend upon the candor of the Executive Directory.

You will not doubt, citizen, that I approve of the communications which your zeal has caused you to seek with Mr. M. since I enabled you to resume them with official elucidations, &c.

CH. MAU. TALLEYRAND.

[This letter was received from Mr. Murray, without the French original.]

The Minister of Exterior Relations to Citizen Pichon, Secretary of Legation of the French republic near the Batavian republic.

PARIS, *the 7th Vendemiaire*, (*September* 28, 1798)
7th year of the French republic, one and indivisible.

I have received successively, citizen, your letters of the 22d and 27th Fructidor, (8th and 13th of September.) They give me more and more cause to be pleased with the measures you have adopted to detail to me your conversations with Mr. Murray: those conversations, at first merely friendly, have acquired a consistency, by my sanction, transmitted to you on the 11th Fructidor, (28th of August.) I do not regret that you have trusted to Mr. Murray's honor a copy of my letter. It was intended only for you; and it contains nothing but what is conformable to the Government's intention. I am fully convinced that should explanations once take place with confidence between the two cabinets, irritation would cease, a number of misunderstandings would disappear, and *the ties of friendship would be more strongly united, as both parties would be made sensible what hand had attempted to disunite them.* But I do not conceal from you that your letter of the 2d and 3d Vendemiaire, (23d and 24th of September,) this moment arrived, surprises me much. What Mr. Murray is still doubtful of has been very explicitly declared, before even the President's message to Congress, of the 3d Messidor, (21st of June,) was known in France. I had written it to Mr. Gerry, namely, on the 24th Messidor, (12th of July,) and 4th Thermidor, (July 22d.) I repeated it to him before he set off. A whole paragraph of my letter to you, of the 11th Fructidor, (28th of August,) of which Mr. Murray has a copy, is devoted to develop still more the fixed determination of the French Government. *According to these bases, you were right to assert that whatever plenipotentiary the Government of the United States might send to France, in order to terminate the existing differences between the two countries, he would be undoubtedly received with the respect due to the representative of a free, independent, and powerful nation.*

I cannot persuade myself, citizen, that the American Government need any further declaration from us, to take the resolution, in order to renew the negotiations; to adopt such measures, as would suggest their wish to bring the differences to a peaceable end. If misunderstandings on both sides have prevented former explanations reaching that end, it is presumable that these misunderstandings being done away, nothing henceforth will raise any obstacle to the reciprocal dispositions. The President's instructions to his envoys at Paris, which I have only been acquainted with, by the copy given to you by Mr. Murray, and by me received the 21st Messidor, (9th of July,) announce, if they contain the whole of the American Government's intentions, dispositions which can only add to those the Directory has always entertained: and notwithstanding the posterior acts of that Government, notwithstanding the irritating and almost hostile measures which they have adopted, the Directory has shown that it persisted in the dispositions consigned as well in my correspondence with Mr. Gerry, as in my letter to you of the 11th Fructidor, and which I have herein before repeated in the most explicit manner. Carry therefore, citizen, to Mr. Murray these positive expressions, to convince him of our sincerity, and request him to transmit them to his Government.

I presume, citizen, that this letter will find you at the Hague. If not, I ask it may be sent back to you at Paris.

Salute and fraternity.

CH. MAU. TALLEYRAND.

No. 22.

DEPARTMENT OF STATE, PHILADELPHIA, *March* 6, 1799.

SIR:

I enclose a commission constituting you, in conjunction with the Chief Justice Ellsworth and Patrick Henry, Esq. of Virginia, envoys extraordinary and ministers plenipotentiary to the French republic. By the President's direction I enclose, for your information, copies of his messages to the Senate of the 18th and 25th of March, by the latter of which you will see the motives inducing the nomination of a commission for the purpose of negotiating with France, instead of resting the business wholly with you. This will doubtless be agreeable by relieving you from the weight of a sole responsibility in an affair of such magnitude.

It is the President's desire that you, by letter to the French Minister of Foreign Relations, inform him "that Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and yourself, are appointed envoys extraordinary and ministers plenipotentiary of the United States to the French republic, with full powers to discuss and settle by a treaty all controversies between the United States and France:" But, "that the two former will not embark for Europe until they shall have received, from the Executive Directory, direct and unequivocal assurances, signified by their Secretary of Foreign Relations, that the envoys shall be received in character to an audience of the Directory, and that they shall enjoy all the prerogatives attached to that character by the law of nations, and that a minister or ministers of equal powers shall be appointed and commissioned to treat with them."

The answer you shall receive to your letter you will be pleased to transmit to this office.

You will also be pleased to understand it to be the President's opinion, that no more indirect and inofficial communications, written or verbal, should be held with any persons whatever, agents on behalf of France, on the subjects of difference between the United States and the French republic. If the French Government really desire a settlement of the existing differences, it must take the course above pointed out; unless the Executive Directory should prefer sending a minister plenipotentiary to the United States.

I have the honor to be, &c.

TIMOTHY PICKERING.

WILLIAM VANS MURRAY, Esq. *Minister of the United States, at the Hague.*

THE HAGUE, *May* 5, 1799.

CITIZEN MINISTER:

It is with the greatest pleasure that I hasten to fulfil the instructions, which I have just had the honor to receive from the Government of the United States of America, by informing you that the President has appointed Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and William Vans Murray, minister resident of the United States at the Hague, to be envoys extraordinary and ministers plenipotentiary of the United States to the French republic, with full powers to discuss and settle by a treaty, all controversies between the United States and France; but that the two former (Mr. Ellsworth and Mr. Henry) will not embark for Europe until they shall have received from the Executive Directory direct and unequivocal assurances, signified by their Minister of Foreign Relations, that the envoys shall be received in character to an audience of the Directory, and that they shall enjoy all the prerogatives attached to that character by the law of nations, and that a minister or ministers of equal powers shall be appointed and commissioned to treat with them.

I request you, citizen minister, to lay this subject before your Government, and, as the distance is so great and the obstacles so numerous in an Atlantic voyage, that you will favor me, as speedily as possible, with the answer which is to lead to such happy and important consequences. Accept, citizen minister, the assurances of my perfect and high esteem.

WM. V. MURRAY.

To the Citizen TALLEYRAND,
Minister of the Exterior Relations of the French republic, &c. &c. PARIS.

THE HAGUE, *May* 7, 1799.

DEAR SIR:

On the 4th instant, late in the evening, I had the honor to receive your No. 22, containing the commission of envoys.

On the fifth I addressed, precisely agreeably to your instructions, as I conceived, the enclosed letter to Mr. Talleyrand, the Minister of Exterior Relations. You will perceive, sir, that I did not think myself at liberty to go, not only not out of the commas, but beyond them; in one word alone I deviated, in the word "minister" instead of "secretary" of foreign relations. No direct nor indirect and inofficial communications written or verbal will be held by me with the French agents on American affairs.

I accept the appointment which it has pleased the President to clothe me with, under a grateful sense of the high honor conferred upon me, so unexpectedly, by this mark of his confidence. I may be allowed to say, that though I was deeply sensible of the honor conferred by the first nomination, and shall always, I hope, retain a most grateful recollection of it, yet, sir, the new modification of that nomination gave me great pleasure. Always conceiving, as I thought I did, that any negotiation with France would be full of anxieties and political perils to the envoys that should be employed by our Government, I had no wishes to be engaged in it, and no expectation that I should be: to have a share in it was by me unsought. You will excuse this declaration, because I was instrumental in certain preliminary steps relative to the advances of France, which produced the basis of the appointment.

I sent the original of the enclosed to Mr. Talleyrand by post, another (a copy) to Major Mountflorence to be handed to him, a third to a Mr. Griffith for Major M. in case the other failed, to be opened by Mr. G. if Major M. should have been out of Paris, and directed Mr. G. to follow the instructions which he would find in the letter to Major M. which were to deliver the enclosed to Mr. Talleyrand and take his letter, answer for me, and to send it to me.

As soon as I have the answer of the Directory, I shall have the honor of transmitting copies to you, sir, by different ways.

I am, with the greatest respect, &c.

WILLIAM V. MURRAY.

The Hon. TIMOTHY PICKERING, Esq.
Secretary of State of the United States of America.

The Minister of Exterior Relations to Mr. William Vans Murray, Minister Resident of the United States, at the Hague.

PARIS, 23*d Floreal*, (*May* 12, 1799) 7*th year of the French republic, one and indivisible.*

I augur too well, sir, from the eagerness you display in fulfilling the instructions of your Government, not to hasten to answer the letter I received from you dated the 15th of this month.

The Executive Directory being informed of the nomination of Mr. Oliver Ellsworth, of Mr. Patrick Henry, and of yourself, as envoys extraordinary and ministers plenipotentiary of the United States to the French republic, to discuss and terminate all differences which subsist between the two countries, sees, with pleasure, that its perseverance in pacific sentiments has kept open the way to an approaching reconciliation. It has a long time ago manifested its intentions with respect to this subject. Be pleased to transmit to your colleagues, and accept yourself, the frank

and explicit assurance that it will receive the envoys of the United States in the official character with which they are invested; that they shall enjoy all the prerogatives which are attached to it by the law of nations, and that one or more ministers shall be duly authorized to treat with them.

It was certainly unnecessary to suffer so many months to elapse for the mere confirmation of what I have already declared to Mr. Gerry, and which after his departure I caused to be declared to you at the Hague. I sincerely regret that your two colleagues await this answer at such a great distance. As to you, sir, whom it will reach in a few days, and who understand so well the value of time, when the restoration of harmony between two republics, which every thing invites to friendship, is in question, be assured, that as soon as you can take in hand the object of your mission, I shall have the honor immediately to send you passports.

Accept, sir, the assurances of my very sincere consideration.

CH. MAU. TALLEYRAND.

6th CONGRESS.] No. 155. [1st SESSION.

PRUSSIA.

COMMUNICATED TO THE SENATE, DECEMBER 6, 1799.

UNITED STATES, *December* 6, 1799.

Gentlemen of the Senate:

I lay before you, for your consideration, a treaty of amity and commerce between the United States and the King of Prussia, signed by their ministers on the 11th of July last.

JOHN ADAMS.

No. 2.

Traité d'amitié et de commerce entre sa Majesté le Roi de Prusse et les Etats Unis de l'Amérique.

Sa Majesté le Roi de Prusse, et les Etats Unis de l'Amérique, désirant d'entretenir sur un pied stable et permanent les liaisons de bonne intelligence, qui ont si heureusement subsisté jusqu'ici entre leurs Etats respectifs, et de renouveller pour cet effet le traité d'amitié et de commerce, qui a été conclu entre les deux Puissances a la Haye, le 10 Septembre, 1785, pour le terme de dix années, sa Majesté Prussienne a nommé et constitué ses plénipotentiaires, le sieur Charles Guillaume, Comte de Finckenstein, son ministre d'état, de guerre, et de cabinet, chevalier des ordres de l'aigle noir, et de l'aigle rouge, et commandeur de celui de St. Jean de Jérusalem; le sieur Philippe Charles, Baron d'Alvensleben, son ministre d'état, de guerre, et de cabinet, chevalier des ordres de l'aigle noir, et de l'aigle rouge, et de celui de St. Jean de Jérusalem; et le sieur Chretien Henri Curce, Comte de Haugwitz, son ministre d'etat, de guerre, et de cabinet, chevalier des ordres de l'aigle noir, et de l'aigle rouge; et le Président des Etats Unis a muni de leurs pleinpouvoirs Jean Quincy Adams, citoyen des Etats Unis, et leur ministre plénipotentiare à la cour de sa Majesté Prussienne; lesquels plénipotentiaires, après avoir échangé leurs pleinpouvoirs, trouvés en bonne et due forme, ont conclu, arreté, et signé les articles suivans:

ART. 1. Il y aura dans la suite, comme par le passé, une paix ferme, inviolable, et universelle, et une amitié sincere entre sa Majesté le Roi de Prusse, ses héritiers, successeurs, et sujets, d'une part, et les Etats Unis d'Amérique, et leurs citoyens, d'autre part, sans exception de personnes ou de lieux.

ART. 2. Les sujets de sa Majesté le Roi de Prusse pourront fréquenter toutes les côtes et les pays des Etats Unis de l'Amérique, y résider et trafiquer en toutes sortes de productions, manufactures, et marchandises, et n'y payeront d'autres ni de plus forts impôts, charges, ou droits, que ceux que les nations les plus favorisées sont, ou seront obligées de payer. Ils jouiront aussi dans la navigation et le commerce de tous les droits, priviléges, et exemptions dont jouit ou jouira la nation la plus favorisée; se soumettant, néanmoins, aux lois et usages établis, auxquels sont soumis les citoyens des Etats Unis et les nations les plus favorisées.

ART. 3. Pareillement, les citoyens des Etats Unis de l'Amérique pourront fréquenter toutes les côtes et tous les pays de sa Majesté le Roi de Prusse, y résider et trafiquer en toutes sortes de productions, manufactures, et marchandises, et ne payeront d'autres ni de plus forts impôts, charges, ou droits, dans les domaines de sa dite Majesté, que ceux que la nation la plus favorisée est, ou sera obligée de payer, et ils jouiront de tous les droits, priviléges, et exemptions dans la navigation et le commerce, dont jouit ou jouira la nation la plus favorisée; se soumettant, néanmoins, aux lois et usages établis, auxquels sont soumis les sujets de sa Majesté le Roi de Prusse, et les sujets et citoyens des nations les plus favorisées.

A treaty of amity and commerce between His Majesty the King of Prussia and the United States of America.

His Majesty the King of Prussia, and the United States of America, desiring to maintain, upon a stable and permanent footing, the connexions of good understanding, which have hitherto so happily subsisted between their respective States, and for this purpose to renew the treaty of amity and commerce, concluded between the two Powers, at the Hague, the 10th of September, 1785, for the term of ten years, His Prussian Majesty has nominated and constituted as his plenipotentiaries, the Count Charles William de Finckenstein, his minister of state, of war, and of the cabinet, knight of the orders of the black eagle, and of the red eagle, and commander of that of St. John of Jerusalem; the Baron Philip Charles d'Alvensleben, his minister of state, of war, and of the cabinet, knight of the orders of the black eagle, and of the red eagle, and of that of St. John of Jerusalem; and the Count Christian Henry Curt de Haugwitz, his minister of state, of war, and of the cabinet, knight of the orders of the black eagle, and of the red eagle; and the President of the United States has furnished, with their full powers, John Quincy Adams, a citizen of the United States, and their minister plenipotentiary at the court of His Prussian Majesty; which plenipotentiaries, after having exchanged their full powers, found in good and due form, have concluded, settled, and signed the following articles:

ART. 1. There shall be in future, as there has been hitherto, a firm, inviolable, and universal peace, and sincere friendship between His Majesty the King of Prussia, his heirs, successors, and subjects, on the one part, and the United States of America, and their citizens, on the other, without exception of persons or places.

ART. 2. The subjects of His Majesty the King of Prussia, may frequent all the coasts and countries of the United States of America, and reside and trade there in all sorts of produce, manufactures, and merchandise; and shall pay there no other or greater duties, charges, or fees whatsoever, than the most favored nations are, or shall be obliged to pay. They shall also enjoy, in navigation and commerce, all the rights, privileges, and exemptions which the most favored nation does or shall enjoy, submitting themselves, nevertheless, to the established laws and usages, to which are submitted the citizens of the United States and the most favored nations.

ART. 3. In like manner, the citizens of the United States of America may frequent all the coasts and countries of His Majesty the King of Prussia, and reside and trade there in all sorts of produce, manufactures, and merchandise, and shall pay, in the dominions of His said Majesty, no other or greater duties, charges, or fees, whatsoever, than the most favored nation is, or shall be, obliged to pay; and they shall enjoy all the rights, privileges, and exemptions in navigation and commerce, which the most favored nation does, or shall, enjoy; submitting themselves, nevertheless, to the established laws and usages to which are submitted the subjects of His Majesty the King of Prussia, and the subjects and citizens of the most favored nations.

Art. 4. En particulier, chacune des deux nations aura le droit d'importer ses propres productions, manufactures, et marchandises, à bord de ses propres bâtimens ou de tel autre, dans toutes les parties des domaines de l'autre, où il sera permis à tous les sujets et citoyens de l'autre nation de les achèter librement; comme aussi d'y charger les productions, manufactures, et marchandises de l'autre, que tous les dits sujets ou citoyens auront la liberté de leur vendre, en payant dans l'un et l'autre cas tels impôts, droits, et charges seulement, qui sont ou seront payés par la nation la plus favorisée. Cependant, sa Majesté le Roi de Prusse et les Etats Unis de l'Amérique, se reservent le droit, au cas que quelque nation restreigne le transport des marchandises aux vaisseaux de pays dont elles sont la production ou la manufacture, d'établir envers cette nation des réglemens reciproques, se reservant de plus le droit de prohiber dans leurs pays respectifs l'importation ou l'exportation de toute marchandise quelconque, dès que la raison d'état l'exige. En ce cas, les sujets ou citoyens d'une des parties contractantes ne pourront importer ni exporter les marchandises prohibées par l'autre. Mais si l'une des parties contractantes permet à quelque autre nation d'importer ou d'exporter ces mêmes marchandises, les citoyens ou sujets de l'autre partie contractante jouiront tout aussitôt d'une liberté pareille.

Art. 4. More especially, each party shall have a right to carry their own produce, manufactures, and merchandise, in their own or any other vessels, to any parts of the dominions of the other, where it shall be lawful for all the subjects and citizens of that other freely to purchase them; and thence to take the produce, manufactures, and merchandise of the other, which all the said citizens or subjects shall in like manner be free to sell them, paying in both cases such duties, charges, and fees only, as are or shall be paid by the most favored nation. Nevertheless, His Majesty the King of Prussia and the United States respectively reserve to themselves the right, where any nation restrains the transportation of merchandise to the vessels of the country of which it is the growth, or manufacture, to establish against such nations retaliating regulations; and also the right to prohibit, in their respective countries, the importation and exportation of all merchandise whatsoever, when reasons of state shall require it. In this case the subjects or citizens of either of the contracting parties shall not import nor export the merchandise prohibited by the other. But if one of the contracting parties permits any other nation to import or export the same merchandise, the citizens or subjects of the other shall immediately enjoy the same liberty.

Art. 5. Les marchands, commandans de vaisseaux, et autres sujets ou citoyens de chacune des deux nations, ne seront pas forcés, dans les ports ou dans la jurisdiction de l'autre, de décharger aucunes sortes des marchandises dans d'autres vaisseaux, ni de les recevoir à bord de leurs propres navires, ni d'attendre leur chargement plus longtemps qu'il ne leur plaira.

Art. 5. The merchants, commanders of vessels, or other subjects or citizens of either party, shall not, within the ports or jurisdiction of the other, be forced to unload any sort of merchandise into any other vessels, nor to receive them into their own, nor to wait for their being loaded longer than they please.

Art. 6. Pour éviter que les vaisseaux de l'une des deux parties contractantes ne soient inutilement molestés ou détenus dans les ports, ou sous la jurisdiction de l'autre, il a été convenu que la visite des marchandises, ordonnée par les loix, se fera avant qu'elles ne soient chargées sur le navire, et qu'ensuite elles ne seront plus assujettis à aucune visite. Et en général il ne se fera point de recherche à bord du vaisseau, à moins qu'on n'y ait chargé clandestinement et illégalement des marchandises prohibées. Dans ce cas, celui par l'ordre duquel elles ont été portées à bord, ou celui qui les y a portées sans ordre, sera soumis aux loix du pays où il se trouve, sans que le reste de l'équipage soit molesté, ni les autres marchandises, ou le vaisseau, saisis ou detenus par cette raison.

Art. 6. That the vessels of either party, loading within the ports or jurisdiction of the other, may not be uselessly harassed or detained, it is agreed, that all examinations of goods, required by the laws, shall be made before they are laden on board the vessel, and that there shall be no examination after; nor shall the vessel be searched at any time, unless articles shall have been laden therein clandestinely and illegally; in which case, the person by whose order they were carried on board, or who carried them without order, shall be liable to the laws of the land in which he is; but no other person shall be molested, nor shall any other goods, nor the vessel, be seized or detained for that cause.

Art. 7. Chacune des deux parties contractantes tâchera, par tous les moyens qui seront en son pouvoir, de protéger et de défendre tous les vaisseaux et autres effets appartenans aux citoyens ou sujets de l'autre, et se trouvant dans l'étendue de sa jurisdiction par mer ou par terre, et elle employera tous ses efforts pour recouvrer et faire restituer aux propriétaires légitimes les vaisseaux et effets, qui leur auront été enlevés dans l'étendue de sa dite jurisdiction.

Art. 7. Each party shall endeavor, by all the means in their power, to protect and defend all vessels and other effects belonging to the citizens or subjects of the other, which shall be within the extent of their jurisdiction, by sea or by land; and shall use all their efforts to recover, and cause to be restored to the right owners, their vessels and effects, which shall be taken from them within the extent of their said jurisdiction.

Art. 8. Les vaisseaux des sujets ou citoyens d'une des deux parties contractantes, arrivant sur une côte appartenante à l'autre, mais n'ayant pas dessein d'entrer au port, ou qui, en y entrant, ne voudroient pas décharger leurs cargaisons, ou rompre leur charge, auront la liberté de repartir et de poursuivre leur route sans empêchement, et sans être obligés de rendre compte de leur cargaison, ni de payer aucuns impôts, charges, ou droits quelconques, excepté ceux établis sur les vaisseaux une fois entrés dans le port, et destinés à l'entretien du port même, ou à d'autres établissemens, qui ont pour but la sûreté et la commodité des navigateurs; lesquels droits, charges, et impôts seront les mêmes, et se payeront sur le même pied qu'ils sont acquittés par les sujets ou citoyens de l'état où ils sont établis.

Art. 8. The vessels of the subjects or citizens of either party coming on any coast belonging to the other, but not willing to enter into port, or who, entering into port, are not willing to unload their cargoes or break bulk, shall have liberty to depart and to pursue their voyage, without molestation, and without being obliged to render account of their cargo, or to pay any duties, charges, or fees whatsoever, except those established for vessels entered into port, and appropriated to the maintenance of the port itself, or of other establishments, for the safety and convenience of navigators; which duties, charges, and fees, shall be the same, and shall be paid on the same footing as in the case of subjects or citizens of the country where they are established.

Art. 9. Au cas que quelque vaisseaux appartenant à l'une des deux parties contractantes auroit fait naufrage, échoué, ou souffert quelque autre dommage sur les côtes ou sous la domination de l'autre, les sujets ou citoyens respectifs recevront, tant pour eux que pour leurs vaisseaux et effets, la même assistance qui auroit été fournie aux habitans du pays où l'accident arrive; et ils payeront seulement les memes charges et droits auxquels les dits habitans auroient été assujettis en cas pareil. Et si la réparation du vaisseau exigeoit que la cargaison fût déchargée, en tout ou en partie, ils ne payeront aucun impôt, charge, ou droit, de ce qui sera rembarqué et emporté. L'ancien et barbare droit de naufrage sera entièrement aboli à l'égard des sujets ou citoyens des deux parties contractantes.

Art. 9. When any vessel of either party shall be wrecked, foundered, or otherwise damaged, on the coasts, or within the dominions of the other, their respective subjects, or citizens, shall receive, as well for themselves, as for their vessels and effects, the same assistance which would be due to the inhabitants of the country where the damage happens, and shall pay the same charges and dues only as the said inhabitants would be subject to pay in a like case: and if the operations of repair shall require that the whole or any part of their cargo be unladed, they shall pay no duties, charges, or fees, on the part which they shall relade and carry away. The ancient and barbarous right to wrecks of the sea shall be entirely abolished with respect to the subjects or citizens of the two contracting parties.

Art. 10. Les citoyens ou sujets de l'une des parties contractantes auront, dans les états de l'autre, la liberté de disposer de leurs biens personnels, soit par testament, donation, ou autrement; et leurs héritiers, étant sujets ou citoyens de l'autre partie contractante, succéderont à

Art. 10. The citizens or subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation, or otherwise; and their representatives, being subjects or citizens of the other party, shall succeed to their said personal

leurs biens, soit en vertu d'un testament, ou *ab intestato*, et ils pourront en prendre possession, soit en personne, soit par d'autres agissant en leur place, et en disposeront à leur volonté, en ne payant d'autres droits que ceux auxquels les habitants du pays où la succession est devenue vacante, sont assujettis en pareille occurrence. Et en cas d'absence des héritiers, on prendra provisoirement des biens qui leur sont échus, les memes soins qu'on auroit pris en pareille occasion des biens des natifs du pays, jusqu'à ce que le propriétaire légitime ait agrée des arrangemens pour recueillir l'héritage. S'il s'éleve des contestations entre différens prétendans ayant droit à la succession, elles seront décidées en dernier ressort selon les loix et par les juges du pays où la succession est vacante. Et si par la mort de quelque personne possédant des biens-fonds sur le territoire de l'une des parties contractantes, ces biens-fonds venoient à passer, selon les loix du pays, à un citoyen ou sujet de l'autre partie, celui-ci, si, par sa qualité d'étranger il est inhabile de les posséder, obtiendra un délai convenable pour les vendre et pour en retirer le provenu, sans obstacle, et exempt de tout droit de retenue, de la parte du Gouvernement des états respectifs. Mais cet article ne derogera en aucune maniere à la force des lois qui ont déjà été publiées ou qui le seront dans la suite, par Sa Majesté le Roi de Prusse, pour prévenir l'émigration de ses sujets.

goods, whether by testament, or *ab intestato*, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representative, such care shall be taken of the said goods, as would be taken of the goods of a native in like case, until the lawful owner may take measures for receiving them. And if question should arise among several claimants to which of them the said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would, by the laws of the land, descend on a citizen or subject of the other, were he not disqualified by alienage, such subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all rights of *detraction* on the part of the Government of the respective States. But this article shall not derogate in any manner from the force of the laws already published, or hereafter to be published, by His Majesty the King of Prussia, to prevent the emigration of his subjects.

Art. 11. Il sera accordé la plus parfaite liberté de conscience et de culte aux citoyens et sujets de chaque partie contractante dans les états de l'autre, et personne ne sera molesté à cet égard pour quelque cause que ce soit, si ce n'est pour insulte faite à la religion de l'autre. De plus, si des sujets et citoyens de l'une des parties contractantes venoient à mourir dans la jurisdiction de l'autre, leurs corps seront enterrés dans les endroits où l'on a la coutume de faire les enterremens, ou dans tel autre lieu décent et convenable, et ils seront protégés contre toute violence et trouble.

Art. 11. The most perfect freedom of conscience and of worship is granted to the citizens or subjects of either party, within the jurisdiction of the other, and no person shall be molested in that respect, for any cause other than an insult on the religion of others. Moreover, when the subjects or citizens of the one party shall die within the jurisdiction of the other, their bodies shall be buried in the usual burying grounds, or other decent and suitable places, and shall be protected from violation or disturbance.

Art. 12. L'éxpérience ayant demontré que le principe adopté dans l'article 12 du traité de 1785, selon lequel *les vaisseaux libres rendent aussi les marchandises libres*, n'a pas été suffisamment respecté dans les deux dernières guerres, et nommément dans celle qui dure encore, les deux parties contractantes se reservent de s'entendre après le retour de la paix générale, soit séparément entr' elles, soit conjointement avec d'autres Puissances cointeressés, pour concerter avec les grandes Puissances maritimes de l'Europe tels arrangements et tels principes permanens qui puissent servir à consolider la liberté et la sureté de la navigation et du commerce neutres dans les guerres futures. Et si, pendant cet intervalle, l'une des parties contractantes se trouve engagée dans une guerre à laquelle l'autre reste neutre, les vaisseaux de guerre et les armateurs de la Puissance belligérante se comporteront à l'égard de batimens marchands de la Puissance neutre, aussi favorablement que la raison de guerre pour lors existante pourra le permettre, en observant les principes et les regles du droit des gens généralement reconnus.

Art. 12. Experience having proved, that the principle adopted in the 12th article of the treaty of 1785, according to which *free ships make free goods*, has not been sufficiently respected during the two last wars, and especially in that which still continues, the two contracting parties propose, after the return of a general peace, to agree, either separately between themselves, or jointly with other Powers alike interested, to concert with the great maritime Powers of Europe such arrangements and such permanent principles as may serve to consolidate the liberty and the safety of the neutral navigation and commerce in future wars. And if, in the interval, either of the contracting parties should be engaged in war, to which the other should remain neutral, the ships of war and privateers of the belligerent Power shall conduct themselves towards the merchant vessels of the neutral Power as favorably as the course of the war then existing may permit, observing the principles and rules of the law of nations, generally acknowledged.

Art. 13. Dans le cas où l'une des parties contractantes se trouveroit en guerre avec une autre Puissance, il a été convenu, que pour prévenir les difficultés et les discussions qui surviennent ordinairement par rapport au marchandises de contrebande, telles que armes et munitions de toute espèce, aucun de ces articles chargés à bord des vaisseaux des sujets ou citoyens de l'une des parties, et destinés pour l'ennemi de l'autre, ne sera censé contrebande, au point d'impliquer confiscation ou condamnation, et d'entrainer la perte de la propriété des individus. Néanmoins, il sera permis d'arrêter ces sortes de vaisseaux et effets, et de les retenir pendant tout les temps que le preneur croira nécessaire, pour prévenir les inconveniens et les dommages qui pourraient en résulter autrement; mais dans ce cas, on accordera une compensation raisonnable pour les pertes qui auront été occasionnées par la saisie. Et il sera permis en outre aux preneurs d'employer à leur service, en tout ou en partie, les munitions militaires détenues, en payant aux propriétaires la pleine valeur, à déterminer sur le prix qui aura cours à l'endroit de leur destination; mais si dans le cas énoncé d'un vaisseau arreté pour des articles de contrebande, le maitre du navire consent à délivrer les marchandises suspectés, il aura la liberté de la faire, et le navire ne sera plus amené dans le port, ni détenu plus longtemps, mais aura toute liberté de poursuivre sa route.

Seront censés objets de contrebande, les canons, mortiers, armes à feu, pistolets, bombes, grenades, boulets, bales, fusils, pierres à feu, meches, poudre, salpetre, souffre, cuirasses, piques, epées, ceinturons, pôches à cartouches, selles et brides, au delà de la quantité nécessaire pour l'usage du vaisseau, et au delà de celle que doit avoir chaque homme servant sur le vaisseau, ou passager, et en général tout ce qui est compris sous la dénomination

Art. 13. And in the same case of one of the contracting parties being engaged in war with any other Power, to prevent all the difficulties and misunderstandings that usually arise respecting the merchandise of contraband, such as arms, ammunition, and military stores of every kind, no such articles carried in the vessels, or by the subjects or citizens of either party, to the enemies of the other, shall be deemed contraband, so as to induce confiscation or condemnation, and a loss of property to individuals. Nevertheless, it shall be lawful to stop such vessels and articles, and to detain them for such length of time as the captors may think necessary to prevent the inconvenience or damage that might ensue from their proceeding; paying, however, a reasonable compensation for the loss such arrest shall occasion to the proprietors: and it shall further be allowed to use, in the service of the captors, the whole or any part of the military stores so detained, paying the owners the full value of the same, to be ascertained by the current price at the place of its destination. But in the case supposed, of a vessel stopped for articles of contraband, if the master of the vessel stopped will deliver out the goods supposed to be of contraband nature, he shall be permitted to do it, and the vessel shall not in that case be carried into any port, nor further detained, but shall be allowed to proceed on her voyage.

All cannons, mortars, fire arms, pistols, bombs, grenades, bullets, balls, muskets, flints, matches, powder, saltpetre, sulphur, cuirasses, pikes, swords, belts, cartouch-boxes, saddles, and bridles, beyond the quantity necessary for the use of the ship, or beyond that which every man serving on board the vessel, or passenger, ought to have; and, in general, whatever is comprised under the denomination of arms and military stores, of

d'armes et de munitions de guerre, de quelque espèce qu'elles puissent être.

Art. 14. Pour assurer aux vaisseaux des deux parties contractantes l'avantages d'être promptement and sûrement reconnus en temps de guerre, on est convenu qu'ils devront être munis des lettres de mer et documens spécifiés ci-après:

1. D'un passeport exprimant le nom, le propriétaire, et le port du navire, ainsi que le nom et le domicile du maitre. Ces passeports, qui seront expediés en bonne et due forme, devront être renouvellés toutes les fois que le vaisseau retournera dans son port, et seront exhibés à chaque requisition, tant en pleine mer que dans le port. Mais si le navire se trouve sous le convoi d'un ou de plusieurs vaisseaux de guerre appartenants à la partie neutre, il suffira que l'officier commandant le convoi déclare que le navire est de son parti, moyennant quoi cette simple déclaration sera censée établir le fait, et dispensera les deux parties de toute visite ultérieure.

2. De la certe-parte; c'est à dire, du contrât passé pour le frêt de tout le navire, ou des connoissemens donnés pour la cargaison en général. Et

3. Du rôle d'équipage, contenant l'indication nominale et detaillée des personnes qui composent l'équipage du navire. Ces documens seront toujours expediés dans la forme etablie à l'endroit d'où le navire aura mis à la voile.

Comme leur production ne doit être exigée que dans le cas où l'une des parties contractantes seroit en guerre, et que leur exhibition ne doit avoir d'autre but que de prouver la neutralité des vaisseaux, de leurs équipages, et de leurs cargaisons, ils ne seront pas censés absolument nécessaires à bord des navires de la partie neutre, qui seront sortis de ses ports, avant, ou trois mois après, que le Gouvernement aura en connoissance de l'état de guerre où se trouve la partie belligérante. Pendant cet intervalle, le navire pourra, au défaut des documens ci-dessus spécifiés, prouver sa neutralité par tel autre témoignage que les tribunaux appellés a juger du cas trouveront suffisans.

Art. 15. Pour prévenir entièrement tout désordre et tout violence en pareil cas, il a été stipulé que lorsque les navires de la partie neutre, navigeant sans convoi, rencontreront quelque vaisseau de guerre, public ou particulier, de l'autre partie, le vaisseau de guerre n'enverra pas plus de deux ou trois hommes dans sa chaloupe à bord du navire neutre, pour examiner les passeports et documens. Et toutes les personnes appartenantes à quelque vaisseau de guerre public ou particulier qui molesteront ou insulteront en quelque manière que ce soit l'équipage, les vaisseaux, ou effets de l'autre partie, seront responsables en leurs personnes et en leurs biens, de tous dommages et intérêts, pour lesquels il sera donné caution suffisante par tous les commandans de vaisseaux armés en course, avant qu'ils reçoivent leurs commissions.

Art. 16. Dans les tems de guerre, et le cas de nécessité urgente, où l'une des parties contractantes se verroit obligée d'établir un embargo général, soit dans tous les ports de sa domination, soit dans certains ports particuliers, les vaisseaux de l'autre partie resteront assujettis à cette mésure, sur le même pied que le seront les navires des nations les plus avantagées, sans pouvoir reclamer l'exemption, qui avoit été stipulée en leur faveur dans l'article 16 de l'ancien traité de 1785. Mais, d'un autre côté, les propriétaires des vaisseaux, qui auront été retenus, soit pour quelque expédition militaire, soit pour tel autre usage que ce soit, obtiendront du Gouvernement qui les aura employés, une indemnité équitable, tant pour le frêt que pour les pertes occasionnées par le retard. De plus, et dans tous les cas de saisie, de détention, ou d'arrêt, soit pour dettes contractées, ou offenses commises par quelque citoyen ou sujet de l'une des parties contractantes, dans la jurisdiction de l'autre, on procédera uniquement par ordre et par autorité de la justice, et suivant les voyes ordinaires en pareil cas usitées.

Art. 17. S'il arrivoit que les bâtimens ou effets de la Puissance neutre fussent pris par l'ennemi de l'autre, ou par un pirate, et ensuite repris par la puissance en guerre, ils seront restitués au premier propriétaire, aux conditions qui seront stipulés, ci-après dans l'article vingt-un, pour les cas de reprise.

Art. 18. Lorsque les citoyens ou sujets de l'une des deux parties contractantes seront forcés par des tempêtes, ou par la poursuite des corsaires, ou vaisseaux ennemis, ou par quelque autre accident, a se réfugier avec leurs vaisseaux ou effets dans les havres, ou dans la jurisdiction de l'autre, ils seront reçus, protégés et traités avec humanité et honnêteté. Il leur sera permis de se pourvoir, à un prix raisonnable, de refraichissemens, de provisions, et de toutes choses nécessaires pour leur subsistance, santé, et commodité, et pour la réparation de leurs vaisseaux.

what description soever, shall be deemed objects of contraband.

Art. 14. To ensure to the vessels of the two contracting parties the advantage of being readily and certainly known in time of war, it is agreed that they shall be provided with the sea letters and documents hereafter specified.

1. A passport, expressing the name, the property, and the burthen of the vessel, as also the name and dwelling of the master, which passport shall be made out in good and due form, shall be renewed as often as the vessel shall return into port, and shall be exhibited whensoever required, as well in the open sea as in port. But if the vessel be under convoy of one or more vessels of war belonging to the neutral party, the simple declaration of the officer commanding the convoy that the said vessel belongs to the party of which he is, shall be considered as establishing the fact, and shall relieve both parties from the trouble of further examination.

2. A charter-party; that is to say, the contract passed for the freight of the whole vessel, or the bills of lading given for the cargo in detail.

3. The list of the ship's company; containing an indication by name, and in detail, of the persons composing the crew of the vessel. These documents shall always be authenticated, according to the forms established at the place from which the vessel shall have sailed.

As their production ought to be exacted only when one of the contracting parties shall be at war, and as their exhibition ought to have no other object than to prove the neutrality of the vessel, its cargo, and company, they shall not be deemed absolutely necessary on board such vessels belonging to the neutral party as shall have sailed from its ports before or within three months after the Government shall have been informed of the state of war in which the belligerent party shall be engaged. In the interval, in default of these specific documents, the neutrality of the vessel may be established by such other evidence as the tribunals authorized to judge of the case may deem sufficient.

Art. 15. And to prevent entirely all disorder and violence in such cases, it is stipulated, that, when the vessels of the neutral party, sailing without convoy, shall be met by any vessel of war, public or private, of the other party, such vessel of war shall not send more than two or three men in their boat on board the said neutral vessel, to examine her passports and documents. And all persons belonging to any vessel of war, public or private, who shall molest or insult in any manner whatever the people, vessels, or effects of the other party, shall be responsible in their persons and property for damages and interest; sufficient security for which shall be given by all commanders of private armed vessels before they are commissioned

Art. 16. In times of war, or in cases of urgent necessity, when either of the contracting parties shall be obliged to lay a general embargo, either in all its ports, or in certain particular places, the vessels of the other party shall be subject to this measure, upon the same footing as those of the most favored nations, but without having the right to claim the exemption in their favor stipulated in the 16th article of the former treaty of 1785. But, on the other hand, the proprietors of the vessels which shall have been detained, whether for some military expedition, or for what other use soever, shall obtain from the Government that shall have employed them an equitable indemnity, as well for the freight as for the loss occasioned by the delay. And furthermore, in all cases of seizure, detention, or arrest, for debts contracted, or offences committed by any citizen or subject of the one party, within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases.

Art. 17. If any vessel or effects of the neutral Power be taken by an enemy of the other, or by a pirate, and retaken by the Power at war, they shall be restored to the first proprietor, upon the conditions hereafter stipulated, in the twenty-first article, for cases of recapture.

Art. 18. If the citizens or subjects of either party, in danger from tempests, pirates, enemies, or other accident, shall take refuge, with their vessels or effects, within the harbors or jurisdiction of the other, they shall be received, protected, and treated with humanity and kindness, and shall be permitted to furnish themselves, at reasonable prices, with all refreshments, provisions, and other things necessary for their sustenance, health, and accommodation, and for the repair of their vessels.

Art. 19. Les vaisseaux de guerre, publics et particuliers, des deux parties contractantes, pourront conduire en toute liberté, partout où il leur plaira, les vaisseaux et effets qu'ils auront pris sur leurs ennemis, sans être obligés de payer aucunes impôts, charges, ou droits aux officiers de l'amirauté, des douanes, ou autres. Ces prises ne pourront être non plus ni arrêtées, ni visitées, ni soumises à des procédures légales, en entrant dans le port de l'autre partie, mais elles pourront en sortir librement, et être conduites en tout temps par le vaisseau preneur aux endroits portés par les commissions; dont l'officier commandant le dit vaisseau sera obligé de faire montre. Mais conformément aux traités subsistans entre les Etats Unis et le Grand Brétagne, tout vaisseau qui aura fait une prise sur des sujets de cette dernière puissance, ne sauroit obtenir un droit d'asile dans les ports des Etats Unis, et s'il est forcé d'y relâcher par des tempêtes ou quelque autre danger ou accident de mer, il sera obligé d'en repartir le plutôt possible.

Art. 20. Aucun citoyen ou sujet de l'une des deux parties contractantes n'acceptera d'une puissance avec laquelle l'autre pourroit être en guerre, ni commission, ni lettre de marque, pour armer en course contre cette dernière, sous peine d'être puni comme pirate. Et ni l'un ni l'autre des deux états ne louera, prêtera, ou donnera une partie de ses forces navales ou militaires à l'ennemi de l'autre, pour l'aider à agir offensivement ou défensivement contre l'état qui est en guerre.

Art. 21. S'il arrivoit que les deux parties contractantes fussent en mêmes tems en guerre contre un ennemi commun, on observera de part et d'autre les points suivans:

1. Lorsqu'un navire de l'une des deux nations sera repris par les vaisseaux de guerre ou armateurs de l'autre avant d'avoir été conduit dans un port ennemi ou neutre, il sera restitué avec sa cargaison au premier propriétaire, moyennant une rétribution d'un huitième de la valeur du navire et de la cargaison, si la reprise a été faite par un vaisseau de guerre, et d'un sixième, si elle a été faite par un armateur.

2. Dans ces cas, la restitution n'aura lieu qu'après les preuves faites de la propriété, sous caution de la quote-part qui en revient à ceux qui ont repris le navire.

3. Les vaisseaux de guerre, publics et particuliers, des deux parties contractantes, seront admis réciproquement avec leurs prises dans les ports respectifs, cependant ces prises ne pourront y être déchargées, ni vendues, qu'après que la légitimité de la prise aura été décidée suivante les loix et réglemens de l'état dont le preneur est sujet, mais par la justice du lieu où la prise aura été conduite.

4. Il sera libre à chacune des parties contractantes de faire tels réglemens qu'elles jugeront nécessaires, relativement à la conduite que devront tenir respectivement leurs vaisseaux de guerre publics et particuliers à l'égard des bâtimens qu'ils auront pris et amenés dans les ports des deux Puissances.

Art. 22. Lorsque les parties contractantes seront engagées en guerre contre un ennemi commun, ou qu'elles seront neutres toutes deux, les vaisseaux de guerre de l'une prendront, en toute occasion, sous leur protection, les navires de l'autre, qui font avec eux la même route, et ils defendront aussi longtemps qu'ils feront voile ensemble, contre toute force et violence, et de la même manière qu'ils protégeroient et défendroient les navires de leur propre nation.

Art. 23. S'il survient une guerre entre les parties contractantes, les marchands de l'un des deux états qui resideront dans l'autre, auront la permission d'y rester encore neuf mois, pour recueillir leurs dettes actives, et arranger leurs affaires, après quoi ils pourront partir en toute liberté, et emporter tous leurs biens, sans être molestés ni empêchés. Les femmes et les enfans, les gens de lettres de toutes les facultés, les cultivateurs, artisans, manufacturiers, et pêcheurs, qui ne sont point armés, et qui habitant des villes, villages, ou places non fortifiées, et en général tous ceux dont la vocation tend à la subsistance et à l'avantage commun du genre humain, auront la liberté de continuer leurs professions respectives, et ne seront point molestés en leur personnes, ni leurs maisons, ou leurs biens incendiés, ou autrement detruits, ni leurs champs ravagés par les armées de l'ennemi au pouvoir duquel ils pourroient tomber par les événemens de la guerre; mais si l'on se trouve dans la necessité de prendre quelque chose de leurs propriétés pour l'usage de l'armée ennemie, la valeur en sera payée à un prix raisonnable.

Art. 24. Afin d'adoucir le sort des prisonniers de guerre, et de ne les point exposer à être envoyés dans des climats éloignés et rigoureux, ou resserrés dans des habitations étroites et malsaines, les deux parties contractantes s'engagent solemnellement l'une envers l'autre, et à la face de l'univers, qu'elles n'adopteront aucun de ces usages; que les prisonniers qu'elles pourroient

Art. 19. The vessels of war, public and private, of both parties, shall carry freely, wheresoever they please, the vessels and effects taken from their enemies, without being obliged to pay any duties, charges, or fees, to officers of admiralty, of the customs, or any others; nor shall such prizes be arrested, searched, or put under legal process, when they come to and enter the ports of the other party, but may freely be carried out again at any time by their captors, to the places expressed in their commissions, which the commanding officer of such vessel shall be obliged to show. But, conformably to the treaties existing between the United States and Great Britain, no vessel that shall have made a prize upon British subjects shall have a right to shelter in the ports of the United States; but, if forced therein by tempests, or any other danger, or accident of the sea, they shall be obliged to depart as soon as possible.

Art. 20. No citizen or subject of either of the contracting parties shall take from any Power with which the other may be at war, any commission or letter of marque for arming any vessel to act as a privateer against the other, on pain of being punished as a pirate: nor shall either party hire, lend, or give any part of its naval or military force, to the enemy of the other, to aid them offensively or defensively against the other.

Art. 21. If the two contracting parties should be engaged in a war against a common enemy, the following points shall be observed between them:

1. If a vessel of one of the parties, taken by the enemy, shall, before being carried into a neutral or enemy's port, be retaken by a ship of war, or privateer of the other, it shall, with the cargo, be restored to the first owners, for a compensation of one-eighth part of the value of the said vessel and cargo, if the recapture be made by a public ship of war; and one-sixth part, if made by a privateer.

2. The restitution in such cases shall be after due proof of property, and surety given for the part to which the recaptors are entitled.

3. The vessels of war, public and private, of the two parties, shall reciprocally be admitted with their prizes into the respective ports of each; but the said prizes shall not be discharged or sold there, until their legality shall have been decided, according to the laws and regulations of the state to which the captor belongs, but by the judicatories of the place into which the prize shall have been conducted.

4. It shall be free to each party to make such regulations as they shall judge necessary for the conduct of their respective vessels of war, public and private, relative to the vessels which they shall take and carry into the ports of the two parties.

Art. 22. Where the contracting parties shall have a common enemy, or shall both be neutral, the vessels of war of each shall, upon all occasions, take under their protection the vessels of the other going the same course, and shall defend such vessels, as long as they hold the same course, against all force and violence, in the same manner as they ought to protect and defend vessels belonging to the party of which they are.

Art. 23. If war should arise between the two contracting parties, the merchants of either country then residing in the other, shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects, without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, artizans, manufacturers, and fishermen, unarmed, and inhabiting unfortified towns, villages, or places, and, in general, all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burnt, or otherwise destroyed, nor their fields wasted by the armed force of the enemy, into whose power, by the events of war, they may happen to fall; but if any thing is necessary to be taken from them for the use of such armed force, the same shall be paid for at a reasonable price.

Art. 24. And to prevent the destruction of prisoners of war, by sending them into distant and inclement countries, or by crowding them into close and noxious places, the two contracting parties solemnly pledge themselves to the world, and to each other, that they will not adopt any such practice: that neither will send the prisoners whom they may take from the other into the East Indies,

faire l'une sur l'autre ne seront transportés ni aux Indes Orientales, ni dans aucune contrée de l'Asie ou de l'Afrique, mais qu'on leur assignera en Europe ou en Amérique, dans les territoires respectifs des parties contractantes, un séjour situé dans un air sain; qu'ils ne seront point confinés dans des cachôts, ni dans des prisons, ni dans des vaisseaux de prison, qu'ils ne seront pas mis aux fers, ni garrotés, ni autrement privés de l'usage de leurs membres; que les officiers seront relâchés sur leur parole d'honneur, dans l'enceinte de certains districts qui leur seront fixés, et qu'on leur accordera des logemens commodes; que les simples soldats seront distribués dans des cantonnemens ouverts, assez vastes pour prendre l'air et l'exercice, et qu'ils seront logés dans des barraques aussi spacieuses et aussi commodes que le sont celles des troupes de la Puissance au pouvoir de laquelle se trouvent les prisonniers; que cette Puissance fera pourvoir journellement les officiers d'autant de rations composées des mêmes articles et de la même qualité, dont jouissent en nature, ou en équivalent, les officiers du même rang qui sont à son propre service; qu'elle fournira également à tous les autres prisonniers une ration pareille à celle qui est accordée au soldat de sa propre armée. Le montant de ces dépenses sera payé par l'autre Puissance, d'après une liquidation de compte à arrêter reciproquement pour l'entretien des prisonniers à la fin de la guerre; et ces comptes ne seront point confondus ou balancés avec d'autres comptes, ni la solde qui en est due, retenue comme compensation ou représailles, pour tel autre article ou telle autre prétention réelle ou supposée. Il sera permis à chacune des deux Puissances d'entretenir un commissaire de leur choix, dans chaque cantonnement des prisonniers qui sont au pouvoir de l'autre. Ces commissaires auront la liberté de visiter prisonniers aussi souvent qu'ils le desireront, ils pourront également recevoir et distribuer les douceurs que les parens ou amis des prisonniers leur feront parvenir; enfin, il leur sera libre encore de faire leurs rapports, par lettres ouvertes, à ceux qui les employent; mais si un officier manquoit à sa parole d'honneur, ou qu'un autre prisonnier sortit des limites qui auront été fixées à son cantonnement, un tel officier ou autre prisonnier sera frustré individuellement des avantages stipulés dans cet article pour sa relaxation sur parole d'honneur ou pour son cantonnement. Les deux Puissances contractantes ont declaré en outre, que, ni le prétexte que la guerre rompt les traités, ni tel autre motif quelconque, ne seront censé annuller ou suspendre cet article et le précédent: mais. qu'au contraire, le tems de la guerre est précisément celui pour lequel ils ont été stipulés, et durant lequel ils seront observés aussi saintement que les articles les plus universellement reconnus par le droit de la nature et des gens.

Art. 25. Les deux parties contractantes se sont accordé mutuellement la faculté de tenir dans leurs ports respectifs, des consuls, vice consuls, agens, et commissaires de leur choix, et dont ils y jouiront des mêmes priviléges et pouvoirs dont jouissent ceux des nations les plus favorisés. Mais dans le cas où tel ou autre de ces consuls veuille faire le commerce, il sera soumis au mêmes loix et usages auxquels sont soumis les particuliers de sa nation à l'endroit où il réside.

Art. 26. Lorsque l'une des deux parties contractantes accordera dans la suite quelque faveur particulière en fait de navigation ou de commerce à d'autres nations, elle deviendra aussitôt commune à l'autre partie contractante, et celle-ci jouira de cette faveur, gratuitement, si la concession est gratuite, ou en accordant la même compensation, si la concession est conditionnelle.

Art. 27. Sa Majesté le Roi de Prusse et les Etats Unis de l'Amérique sont convenus que le présent traité aura son plein effet pendant l'espace de dix années, à compter du jour de l'échange des ratifications; et que si l'expiration de ce terme arrivoit dans le cours d'une guerre entr'eux, les articles ci-dessus stipulés pour régler leur conduite en temps de guerre, conserveront toute leur force jusqu'à la conclusion du traité qui retablira la paix.

Le présent traité sera ratifié de part et d'autre, et les ratifications seront échangées, dans l'espace d'une année, à compter du jour de la signature; ou plutôt, si faire se peut.

En foi de quoi, les plénipotentiaires susnommés ont signé le présent traité, et y ont apposé le cachet de leurs armes.

Fait à Berlin, le onze Juillet, l'an mille sept cent quatre-vingt-dix-neuf.

[L. S.] JOHN QUINCY ADAMS.
[L. S.] CHARLES GUILLAUME,
Comte de Finckenstein.

[L. S.] PHILIPPE CHAS. D'ALVENSLEBEN.
[L. S.] CHRETIEN HENRI-CURCE,
Comte de Haugwitz.

or any other parts of Asia or Africa; but they shall be placed in some part of their dominions in Europe or America, in wholesome situations; that they shall not be confined in dungeons, prison ships, nor prisons, nor be put into irons, nor bound, nor otherwise restrained in the use of their limbs; that the officers shall be enlarged on their paroles within convenient districts, and have comfortable quarters, and the common men be disposed in cantonments open and extensive enough for air and exercise, and lodged in barracks as roomy and good as are provided by the party in whose power they are for their own troops; that the officers shall also be daily furnished by the party in whose power they are with as many rations, and of the same articles and quality, as are allowed by them, either in kind or by commutation, to officers of equal rank in their own army; and all others shall be daily furnished by them with such rations as they allow to a common soldier in their own service; the value whereof shall be paid by the other party on a mutual adjustment of accounts for the subsistence of prisoners at the close of the war; and the said accounts shall not be mingled with, or set off against any others, nor the balances due on them be withheld as a satisfaction or reprisal for any other article, or for any other cause, real or pretended, whatever; that each party shall be allowed to keep a commissary of prisoners, of their own appointment, with every separate cantonment, of prisoners in possession of the other, which commissary shall see the prisoners as often as he pleases, shall be allowed to receive and distribute whatever comforts may be sent to them by their friends, and shall be free to make his reports in open letters to those who employ him; but if any officer shall break his parole, or any other prisoner shall escape from the limits of his cantonment, after they shall have been designated to him, such individual officer, or other prisoner, shall forfeit so much of the benefit of this article as provides for his enlargement on parole or cantonment. And it is declared, that neither the pretence that war dissolves all treaties, nor any other whatever, shall be considered as annulling or suspending this and the next preceding article; but, on the contrary, that the state of war is precisely that for which they are provided, and during which they are to be as sacredly observed as the most acknowledged articles in the law of nature or nations.

Art. 25. The two contracting parties have granted to each other the liberty of having each, in the ports of the other, consuls, vice consuls, agents, and commissaries, of their own appointment, who shall enjoy the same privileges and powers as those of the most favored nations. But if any such consul shall exercise commerce, he shall be submitted to the same laws and usages to which the private individuals of their nation are submitted in the same place.

Art. 26. If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely, where it is freely granted to such other nation, or on yielding the same compensation, when the grant is conditional.

Art. 27. His Majesty the King of Prussia, and the United States of America, agree that this treaty shall be in force during the term of ten years from the exchange of the ratifications; and if the expiration of that term should happen during the course of a war between them, then the articles before provided for the regulation of their conduct during such a war shall continue in force until the conclusion of the treaty which shall restore peace.

This treaty shall be ratified on both sides, and the ratifications exchanged, within one year from the day of its signature, or sooner, if possible.

In testimony whereof, the plenipotentiaries before mentioned have hereto subscribed their names, and affixed their seals.

Done at Berlin, the eleventh of July, in the year one thousand seven hundred and ninety-nine.

[L. S.] JOHN QUINCY ADAMS,
[L. S.] CHARLES GUILLAUME,
Comte de Finckenstein.

[L. S.] PHILIPPE CHAS. D'ALVENSLEBEN,
[L. S.] CHRETIEN HENRI-CURCE,
Comte de Haugwitz.

[The following instructions and correspondence were communicated to the Senate, by the message of 17th February, 1799.]

Instructions from the Secretary of State to John Quincy Adams, Minister Plenipotentiary to Prussia.

DEPARTMENT OF STATE, *July* 15, 1797.

SIR:

By inspecting the treaty of amity and commerce, concluded in the year 1785, between the United States and the late Frederick the Second, King of Prussia, you will observe that it was to be in force during the term of ten years from the exchange of ratifications. This exchange took place about the month of September in the year 1786, and, of course, the treaty has expired.

You will receive herewith a commission containing full powers to renew this treaty in its present form, for another term of ten years, but with the following exceptions, if the same shall be assented to on the part of the King.

1. It will be expedient to omit that part of the sixteenth article which exempts the vessels of each party from embargo; and to render them liable to a *general embargo*. There is a like clause of exemption in our treaty with Sweden, which occasioned disgreeable comparisons and real inconveniences, when, by a general embargo in 1794, the vessels of all other nations, and of our own citizens, were detained in port.

2. The twenty-third article of our treaty with Prussia forbids the commissioning of privateers, to take or destroy the trading vessels, or to interrupt the commerce of the contracting parties, in case a war should arise between them. And, considering the abuses too often committed by privateers, and the spirit in which privateering is commenced and prosecuted, it has sometimes appeared desirable to abolish the practice altogether. But the policy of this principle, as it respects the United States, may well be doubted; we are weak, at present, in public vessels of war, and our actual revenues are not adequate to the equipping of powerful fleets; but we are strong in the number of our seamen, in private wealth, and in the uncommon enterprize of our citizens. Our chief means, therefore, of annoying and distressing a maritime enemy would be our privateers. For these reasons, you will propose, and endeavour to effect, an alteration in this 23d article; and to leave commerce, in case of a war between us and Prussia, to the attacks of privateers.

The principle that free ships make free goods, is also found in the treaty with Prussia (article 12.) It is a principle that the United States have adopted in all their treaties (except that with Great Britain) and which they sincerely desire might become universal: but treaties, formed for this object, they find to be of little or no avail; because the principle is not universally admitted among the maritime nations. It has not been regarded in respect to the United States, when it would operate to their benefit; and may be insisted on only when it will prove injurious to their interest. You will, therefore, propose to abandon it in the new treaty which you are empowered to renew and negotiate with Prussia.

On the like ground, you are to propose to admit of articles contraband of war; and, among them, to enumerate timber for ship building, tar, pitch, turpentine, and rosin, copper in sheets, sails, hemp, and cordage, and, generally, whatever may serve directly to the equipment of vessels, unwrought iron and fir-planks only excepted.

But, although these alterations appear desirable, yet if the state of things shall, in your judgment, render it expedient not to propose them, or, if proposed, not to insist on them, you will act accordingly. In another period of ten years, it will probably not occasion any material embarrassment between the United States and Prussia, to renew the treaty precisely in its present form. And, at this time, it is peculiarly interesting to us to conciliate the good will of that and other European nations.

Another, and the principal, design of the President, in this appointment, was to place, at Berlin, a minister of your abilities and knowledge in diplomatic affairs, from whom, in the existing situation of Europe, correct intelligence and information highly interesting to the United States might be derived; and who, by his vigilance and sagacity, might find and embrace opportunities to promote their security and welfare.

A third object will be, to renew the treaty of amity and commerce between the United States and Sweden; for which, also, full powers are herewith transmitted. By the Swedish minister at Berlin, or otherwise, you will make known to the court of Sweden that you are invested with such powers.

The ratifications of the Swedish treaty, it is supposed, were exchanged in the beginning of the year 1784; as, on the 9th of March of that year, Dr. Franklin wrote from Paris to the Secretary for Foreign Affairs that he had made the exchange. In like manner, Mr. Adams wrote from London, on the 27th of October, 1786, that he had been in Holland, and exchanged the ratifications of the Prussian treaty. No documents are found to show the day when the exchange took place.

For the reasons above assigned, in respect to the Prussian treaty, that with Sweden should be altered, in the 17th article, so as to subject the vessels of Sweden, as well as those of other nations, to the effects of a general embargo: enemies' property found on board them to capture and confiscation, as good prize; and ship timber and naval stores (as before enumerated) to be deemed contraband of war. The right of privateering is to remain as already fixed in the treaty with Sweden.

I have the honor to be, &c.

TIMOTHY PICKERING, *Secretary of State.*

From the Secretary of State to John Quincy Adams.

DEPARTMENT OF STATE, *July* 17, 1797.

SIR:

In the instructions, dated the 15th instant, relative to your renewing our treaties with Prussia and Sweden, you see expressed the earnest wishes of the United States that the principle *that free ships should make free goods* should become universal. This principle is peculiarly interesting to us, because our naval concerns are mercantile, and not warlike: and you will readily perceive that the abandonment of that principle was suggested by the measures of the belligerent powers, during the present war, in which we have found that neither its obligations by the pretended modern law of nations, nor the solemn stipulations of treaties, secured its observation: on the contrary, it has been made the sport of events. Under such circumstances, it appeared to the President desirable to avoid renewing an obligation which would probably be enforced when our interest should require its dissolution; and be contemned when we could derive some advantage from its observance.

But it is possible that, in the pending negotiations for peace, this principle of *free ships making free goods* may be adopted by all the great maritime Powers; in which case, the United States will be among the first of the other Powers to accede to it, and to observe it as a universal rule.

In like manner, if the rigid rule of the law of nations, respecting contraband, should be relaxed, and ship timber and naval stores be declared free, we shall eagerly embrace this liberal rule.

The issue of the negotiations for peace, which we suppose to be now pending, will probably be known to you, before it will be necessary to finish the renewal of the treaties between us and Prussia and Sweden: and you will conform our stipulations with those two Powers, on the points above mentioned, to the result of those negotiations.

But if the negotiations for peace should be broken up, and the war continue, and more especially if, as you have conjectured, the United States should be forced to become a party in it, then it would be extremely impolitic to confine the enterprises and exertions of our armed vessels within narrower limits than the law of nations prescribes. If, for instance, France should proceed from her predatory attacks on our commerce to open war, the mischievous consequences of any other limitations will be apparent. All her commerce would be sheltered under neutral flags; while ours would remain exposed, as at present, to the havoc of her numerous cruisers.

These remarks, added to your instructions, will possess you fully of the principles by which the President desires you may be influenced, in renewing the treaties with Prussia and Sweden.

I am, sir, with perfect esteem, &c.

TIMOTHY PICKERING.

From the Secretary of State to John Quincy Adams.

DEPARTMENT OF STATE, *Philadelphia, March 17th*, 1798.

SIR:

As the war continues, and as it now seems scarcely possible for the United States to avoid becoming a party in it, you will doubtless be determined, by your instructions of the 15th and 17th July last, in renewing our treaties with Prussia and Sweden, and to reject the article in each which stipulates that *free ships shall make free goods.* With this prospect before us, no considerations occur which should induce its admission. But the reasons suggested in those instructions are now strongly enforced, by the law of the French republic before cited,* if, as Mr. Fenwick supposes, though general in its expressions, it is really and exclusively intended to operate against the Americans. In this case, a renewal of that stipulation is positively to be refused. The Swedish and Prussian commerce will then be only on the footing of the commerce of Denmark, with whom we have no treaty; and if we must be involved in the war, it will be desirable that the commerce of those three Powers, in relation to the United States, should rest on one and the same principle. But if this iniquitous French law exists (and we have no room to doubt it) will all the Northern Powers submit to it? We hope not. We hope that the inordinate ambition of France, and avowed design to subjugate all Europe (of which she already calls herself "the great nation" and "the conqueror,") will excite the resistance of all the Powers whom her arms have not reached, and rouse anew those whom the course of events have induced to submit. At present, Britain appears to be the only bulwark against the universal domination of France, by sea as well as by land. It is plain that those Powers who have avoided becoming parties in the present war, and have congratulated themselves on their superior policy and good fortune, will finally have no reason to rejoice: they were only reserved for future plunder and oppression. This is now strikingly verified in respect to the United States. Her exactions are as unexpected as her victories have been unexampled. Instead of stipulating for even *future* compensation for the many millions of which she has authorized her cruisers to rob us, she demands immediate contributions to the enormous amount of her depredations; making them the measure, not of rendering justice, but of increasing her oppression! A full knowledge of her treatment of our envoys, and of the propositions made to them, would confound her partisans among us, convince our citizens in general of the impossibility of preserving their property and independence but by resistance, and produce general unanimity in the measures requisite for that end: or, if I am mistaken in this opinion, we are already under the yoke of foreign domination.

I have the honor to be, &c.

TIMOTHY PICKERING.

CORRESPONDENCE.

List of Letters and Extracts from Letters of John Quincy Adams to the Secretary of State, relative to his negotiation of the Treaty with Prussia.

No. 108. Extract, October 31, 1797.
No. 121. Extracts, May 17, 1798.
No. 122. Extracts, May 25, 1798.
No. 128. Extract, July 16, 1798, in which is enclosed a note from J. Q. Adams to the Prussian ministers, dated Berlin, July 11, 1798.
No. 136. Extracts, October 1, 1798, in which is enclosed a note to the Prussian ministers, dated September 25, 1798.
No. 138. Original letter, October 30, 1798, in which is enclosed a note from Mr. Adams to the ministers of the King of Prussia.
No. 141. Original letter, December 31, 1798, in which are enclosed two notes, one from the Prussian ministers to Mr. Adams, dated November 29, 1798; the other from Mr. Adams to the Prussian minister, dated December 24, 1798.
No. 144. Original letter, April 4, 1798, enclosing a note from the Prussian ministers, dated February 19, 1799, to Mr. Adams, with a copy of their full powers, and Mr. Adams's answer to them, dated March 16, 1799.
No. 147. Extract, May 10, 1799, enclosing a note from the Prussian ministers, dated April 30, 1799, and the answer of Mr. Adams to them, dated May 4, 1799.
No. 150. Original letter, July 13, 1799, with the treaty perfected.

No. 108.

Extract of a letter from John Quincy Adams, Minister, &c. to Berlin, to the Secretary of State, dated

OCTOBER 31*st*, 1797.

"A few days after I had the honor of writing to you last from London, I received a duplicate of your instructions, dated July 15th, together with a copy of those bearing date the 17th. I shall pay all the attention to them which their importance requires, and the circumstances will admit. It is, however, to my mind very questionable whether it will be expedient to propose the alterations suggested in your letters, except that relative to the embargo. The principle of making free ships protect enemy's property has always been cherished by the maritime Powers who have not had large navies, though stipulations to that effect have been in all wars more or less violated. In the present war, indeed, they have been less respected than usual, because Great Britain has held more uncontrolled the command of the sea, and has been less disposed than ever to concede the principle; and because France has disclaimed most of the received and established ideas upon the laws of nations, and considered herself as liberated from all the obligations towards other States which interfered with her present objects, or the interests of the moment. Yet even during this war, several decrees of the French Convention, passed at times when the force of solemn national engagements was felt, have recognized the promise in the treaty of 1778; and at times it has been in a great degree observed. France is still attached to the principles of the armed neutrality, and yet more attached to the idea of compelling Great Britain to assent to them. Indeed, every naval State is interested in the maintenance of liberal maxims in maritime affairs, against the domineering policy of Britain. Every instance, therefore, in which these principles are abandoned by neutral powers, which favor the rights of neutrality, is to be regretted, as furnishing argument, or at least example, to support the British doctrines. These observations apply with more weight with regard to the Swedish treaty than to the other, as I believe Sweden is peculiarly attached to the liberal system, and entertains hopes that it may finally prevail by the concurrence of all the maritime Powers, excepting only Britain."

* The following is the law referred to:

[TRANSLATION.]

1. The character of a vessel, as neuter or enemy, is determined by her cargo. Therefore, all vessels laden with merchandise which has come from England, or her colonies, shall be declared good prize, whoever may be the owner.

2. Every vessel which, in the course of her voyage, shall have entered an English port, shall not enter the ports of the French republic, except in case of distress; and when that cause shall have ceased, she shall immediately depart.

No. 121.

Extract of a letter from John Quincy Adams to the Secretary of State, dated

BERLIN, *May* 17, 1798.

"I deem it highly inexpedient to propose any alteration in the principle agreed upon in our present treaty neutralizing enemy's property on board of neutral vessels. It is indeed true that this stipulation has not, in the course of the present war, been observed by France. But she has uniformly professed her attachment to the principle, and attributed her violation of it to the example and previous practice of her enemy. There is certainly a great inconvenience, when two maritime States are at war, for a neutral nation to be bound by one principle to one of the parties, and by its opposite to the other; and in such cases it is never to be expected that an engagement favorable to the rights of neutrality will be scrupulously observed by either of the warring States. It appears to me, therefore, that the stipulation ought properly to be made contingent, and the contracting parties to a commercial treaty should agree that, in all cases when one of the parties should be at war, and the other neutral, the bottom should cover the property, *provided the enemy of the warring Power* admitted the same principle, and practised upon it in their Courts of Admiralty; but, if not, that the rigorous rule of the ordinary law of nations should be observed.

"In truth, I am fully convinced that there is only one Power in Europe averse to the general establishment of the principle favorable to neutrality; a Power which does not even disguise the pretension of domineering upon the ocean, and whose naval force is almost equal to that of all the world besides. It must be admitted, that, so long as she rejects the liberal principle, every agreement of other nations, between themselves, admitting it, excepting contingently, as above stated, must, if it have any operation, operate altogether in her favor, and to her advantage; for while it gives her the benefit of a safe and protected neutral conveyance of her goods, it refuses the same to her enemy."

No. 122.

Extracts from a letter of John Quincy Adams to the Secretary of State, dated

BERLIN, *May* 25, 1798.

"I shall be guided by your instructions relative to the stipulations upon the subject of neutral commerce, though I have very recently written that, in my own opinion, the proposal of an alteration would be inexpedient. The reasons for my opinion are given in my last letter. Sweden and Prussia are both strongly attached to the principle of making the ship protect the cargo. They have more than once contended that such is the rule even by the ordinary laws of nations. A Danish author of some reputation, in a treatise upon the commerce of neutrals in time of war, lays it down as a rule, and argues formally, that, by the law of nature, free ships make free goods. Lampredi, a recent Florentine author, upon the same topic, has discussed the question at length, and contends that, by the natural law in this case, there is a collision of two rights equally valid; that the belligerent has a right to detain, but the neutral an equal right to refuse to be detained. This reduces the thing to a mere question of force, in which, the belligerent, being ready armed, naturally enjoys the best advantage. I confess the reasoning of Lampredi has, in my mind, great weight, and he appears to have stated the question in its true light."

"I intend to propose a conditional article, putting the principle upon a footing of reciprocity, and agreeing that the principle, with regard to bottom and cargo, shall depend upon the principle guiding the admiralty courts of the enemy. This will at once discover our own inclination and attachment to the liberal rule, and yet not make us the victims of our adherence to it, while violated by our adversaries. Whether the other party will, in either instance, accede to this, I cannot undertake to say; but you may be assured that, after your last instructions, I shall not accede to the renewal of the articles under their form in the previous treaties."

No. 128.

To their Excellencies the Ministers of State and of the Cabinet of the King.

The subscriber, minister plenipotentiary of the United States of America, upon his arrival at Berlin, had the honor to deliver to their excellencies a copy of the full power with which he is charged, on the part of the United States, to renew the treaty of amity and commerce between His Majesty and the United States, with such alterations as may be agreeable to both parties mutually.

He has now that of communicating to their excellencies the alterations which he is ordered to propose, on the part of his Government, and to add some observations upon the motives which gave occasion to those propositions.

The twelfth article of the former treaty declares, that, in case either of the high contracting parties should be at war with another Power, enemy's property, on board of the neutral vessel, shall not be subject to be made prize. It is proposed to substitute, instead of this rule, that of the ordinary law of nations, which subjects to seizure enemy's property on board of neutral vessels.

The Government of the United States is not unaware, that the principle which communicates to the cargo, the character of the vessel would be conformable to the interests of the United States, as they are persuaded it would be to those of Prussia, and all the Powers preserving neutrality in maritime wars, if it could be universally acknowledged and respected by the belligerent Powers. But it is known that the Powers most frequently engaged in naval wars do not recognize, or do not respect, the principle. The United States have had, during the present war, the experience that, even the most formal treaty did not suffice to secure to them the advantage of this principle; but, on the contrary, only contributed to accumulate the losses of their citizens, by encouraging them to load their vessels with merchandise declared free; which they have, notwithstanding, seen taken and confiscated, as if no engagement had promised them all security.

At the present moment neither of the Powers at war admits the freedom of enemy's property on board of neutral vessels. If, in the course of events, either of the contracting parties should be involved in war with one or the other of those Powers, she would be obliged to behold her enemy possess the advantage of a free conveyance for her goods, without possessing the advantage herself, or to violate her own engagements, by treating the neutral party as the enemy should treat her.

It is for the same reason proposed, instead of the thirteenth article of the former treaty, to admit a list of contraband of war, and to comprise in it ship-timber, tar, pitch, turpentine and rosin, copper, (in sheets) sails, hemp, cordage, and generally every thing serving for the equipment of vessels, unwrought iron and fir planks excepted. These two changes indicate several additional articles, naturally proceeding from them: as, for instance, a designation of the papers which shall be necessary to ascertain the neutrality of vessels and their cargo; and, likewise, the restrictions proper to prevent the armed vessels of the belligerent Power from abusing the privilege of arresting neutral vessels, and seizing the enemy's property found on board.

By the sixteenth article of the former treaty, the vessels of the subjects or citizens of each of the high contracting parties, in the ports of the other, are declared exempt from all embargo. It is proposed, in the treaty, to subject them to every general embargo, which the respective Governments may judge necessary. This proposal is founded upon the necessity under which both Governments are supposed alike liable to find themselves, of imposing, from time to time, a general embargo upon all the vessels either in all its ports, or in certain particular ports; exceptions, then, might defeat the advantages which might be expected from this measure, and may, besides, give occasion to comparisons, which one would wish to avoid, on the part of other nations, whose vessels would be detained with those belonging to the nation itself where the embargo should be laid.

The nineteenth article will require some alteration. By the present engagements of the United States, no vessel that shall have made either English or French prizes can obtain an asylum in the ports or harbors of the United States.

A modification of the twentieth article may declare that it shall not be understood to invalidate the guaranty of the French possessions in America, stipulated by the United States in their treaty of alliance with France, bearing date 6th February, 1778.

It is proposed to omit the last clauses of the twenty-third article, which declare, that, in case of war between the high contracting parties, the merchant and trading vessels shall not be subject to capture. This stipulation, being of little importance as to the high contracting parties, between whom no probability of war, no opposing interests which might lead to it, appear to exist; it is, therefore, in regard of other nations, who may require similar conditions when they might import very different consequences, that this engagement is desired to be omitted.

The twenty-fifth article of the former treaty grants mutually the faculty of keeping consuls and vice consuls, agents, and commissaries, in the respective ports: it adds, that their functions shall be determined by a particular agreement, when either of the parties shall appoint to such office. It would, perhaps, be well to stipulate that they shall enjoy the same privileges and powers as those of the most favored nations.

The duration of the new treaty may, like that of the old one, be limited to ten years, reckoning from the day of exchanging the ratifications, with the same faculty of renewing it again at the expiration of that period.

In submitting these observations and propositions to their excellencies, the subscriber requests them to accept the assurance of his respect and high consideration.

JOHN Q. ADAMS.

BERLIN, *July* 11, 1798.*

No. 128.

Extracts of a letter from John Quincy Adams, Esq. dated Berlin, 16th July, 1798, to the Secretary of State.

"On the 11th I delivered to Count Finckenstein, first minister in the Department of Foreign Affairs, a memorial of which I herewith enclose a translation. I would send, at the same time, a copy of the original French, but I do not think it would be prudent to send it unciphered, and I have no French cipher with you: I presume you will not judge it material. I hope you will find it exactly conformable to your instructions and intentions. The proposal for abandoning the principle of making free ships cover enemy's property, I have repeatedly informed you will not be acceptable: still less will that of a large list of contraband, especially comprehending many of the most material articles of Prussian exports. I have said, however, all that occurred to me as calculated to show that these would be but equitable alterations. If these proposals should be accepted, I have mentioned the necessity of some additional articles designating the papers that shall be deemed necessary to prove the neutrality of vessels and their cargoes, and to abuses by the armed vessels of the warring Power. The former treaty mentions the necessity of passports, but leaves their forms unsettled."

"I proposed an alteration of the nineteenth article, which appeared to me necessary to render it conformable to the twenty-fifth article of our treaty with Great Britain; and a modification of the twentieth, which might otherwise be liable to a collision with the guaranty in our treaty with France; although this treaty has, in numberless instances, been violated by the French Government, as it has not been declared by our Government formally dissolved, but as they have, on the contrary, invariably respected it, I thought the stipulation deserved attention."

"The twenty-fifth article referred to a future arrangement at the time when consuls should be named. As this nomination had taken place, and no arrangement was made, an alteration of the article became necessary. I found, in our treaty with Spain, a precedent for what I proposed; and I believe it is what on our part is conceded alike to all foreign consuls by law."

No. 136.

Extracts of a letter from John Quincy Adams, Esq. to the Secretary of State, dated Berlin, 1st October, 1798.

"I have the honor to enclose herewith a copy of a note from the Department of Foreign Affairs here, in answer to mine of 11th July, with the proposals for the renewal of the treaty, which has heretofore been forwarded to you."

"The objections to the changes which, conformably to your instructions, I proposed, are those which I have constantly expected, and repeatedly announced."

"I shall reply to this note as soon as possible; but if you do not think it advisable to renew the stipulation for making the bottom cover the property, and for excepting at least ship timber from the list of contraband, I have no sort of expectation that either treaty will be renewed. At present, I consider myself as expressly forbidden from acceding to their proposal for renewing the twelfth article as it is, and have no idea that they will consent to leave it out."

[Referred to in Mr. Adams's despatch of October 1, 1798.]

BERLIN, *le 25ème Septembre*, 1798.

Nous avons pris en mûre délibération la note officielle que Monsieur Adams, ministre plénipotentiaire des Etats Unis de l'Amérique, nous a remise, en date du 11ème Juillet, de l'année courante, et après avoir discuté les objets qu'elle renferme, avec les départemens dont ils ressortissent, nous sommes présentement à même de répondre en détail à son contenu.

Le Roi n'a pu qu'être sensible au désir que lui témoignent les Etats Unis, de cultiver avec lui les relations d'amitié et de bonne intelligence, qui ont subsisté jusqu'ici entre la Prusse et leur république; et sa Majesté est très disposée à renouveller, pour cet effet, le traité de commerce, conclu à la Haye, le 10eme Septembre, 1785, en y apportant les changemens et les modifications, que les circonstances actuelles et les intérêts respectifs des deux Puissances contractantes peuvent rendre nécessaires.

Nous avons examiné, sous ce point de vue, les propositions que Monsieur le ministre plénipotentiaire vient de nous faire, et nous aurons l'honneur de lui communiquer les observations qu'elles ont amenées.

Le premier changement, dont il est question dans sa note, doit porter sur l'article XII de l'ancien traité, où il est dit, "*que dans le cas, où l'une des parties contractantes serait en guerre avec une autre Puissance, les vaisseaux de la partie neutre pourront naviguer en toute sûreté dans les ports et sur les côtes des Puissances belligérantes, les vaisseaux libres rendant les marchandises libres.*"

A cette règle les Etats Unis voudroient substituer celle: *que toute propriété ennemie à bord des vaisseaux neutres doit rester sujette à saisie, et que toute propriété neutre à bord des vaisseaux ennemis doit rester libre.*

On ne sauroit disconvenir que l'ancien principe de la liberté des navigations neutres a été bien peu respecté dans les deux dernières guerres, et nommément dans celle qui dure encore; mais il n'en est pas moins vrai qu'il a servi jusqu'ici de base et de boussole au commerce de toutes les nations neutres, qu'il a été suivi et soutenu en conséquence, et qu'il l'est encore. Si l'on s'avisoit de l'abandonner, et de le renverser subitement au milieu de la guerre actuelle, il en resulteroit:

1. Une confusion inévitable dans toutes les spéculations du commerce des nations neutres, et ce seroit porter le coup-de-grace à toutes les réclamations et procédures que les sujets des Puissances neutres poursuivent encore en si grand nombre, soit en Angleterre, soit en France, pour des prises illégales:

2. On tomberoit en contradiction avec les Puissances du nord, qui protégent encore à l'heure qu'il est l'ancien principe par des convois armés:

3. Il ny auroit rien à gagner en établissant, dans le moment présent, le principe *que les propriétés neutres doivent rester libres à bord des vaisseaux ennemis.* Les Puissances belligérantes l'admettroient tout aussi peu que le précédent; et ce seroit une raison, de plus, pour leurs tribunaux de légitimer les prises qui ont été faites en contravention de l'ancienne règle:

4. Enfin, et supposé pour un instant que les grandes Puissances maritimes de l'Europe voulussent reconnoître dans la suite le principe substitué par les Etats Unis, il ne ferait qu'augmenter et multiplier les embarras dans les

* This note was enclosed in despatch, (No. 128) dated July 16, 1798, which it should have *followed*.

procédures contre les armateurs; car tandis qu'autrefois la qualification du vaisseau décidoit en même temps de celle de la cargaison, il faudroit à l'avenir distinguer l'une de l'autre, et en faire séparément les preuves. Toutes ces difficultés réunies nous empêchent de souscrire au changement proposé par Monsieur Adams, et nous lui donnons à considérer, s'il ne conviendroit point à l'intérêt réciproque des deux hautes parties contractantes, et à ceux de leurs sujets commerçans, de laisser subsister provisoirement l'article XII, tel qu'il est, en conformité du système qu'elles ont soutenu jusqu'ici, et d'ajouter la stipulation éventuelle, "que l'expérience ayant malheureusement demontré, dans le cours de la guerre actuelle, que l'ancien principe de la libre navigation neutre n'a pas été suffisamment respecté par les Puissances belligérantes, les deux hautes parties contractantes se reservent de s'entendre, après le retour de la paix générale, soit séparément entr'elles, soit conjointement avec les autres Puissances co-interessées, pour concerter avec les grandes Puissances maritimes de l'Europe tel arrangement, qui puisse servir à établir sur des règles fixes et permanentes la liberté et la sûreté de la navigation neutre dans les guerres futures." Monsieur Adams propose ensuite de faire entrer dans l'article XIII, une liste spécifique des objets qui seront censés de contrebande en temps de guerre, et d'y comprendre le *bois de construction, le goudron, la poix, la térebenthine, et la résine, le cuivre en feuille, les voiles, le chanvre, les cordages, et généralement tout ce qui sert à l'équipement des vaisseaux, excepté le fer brut et les planches de sapin.*

S'il doit être question de spécifier en détail, dans le nouveau traité, les articles de contrebande, nous sommes obligés de nous en tenir à ceux qui ont été réputés et adoptés comme tels dans la convention maritime conclue entre la Prusse et la Russie, le 8ème Mai, 1781, à l'instar du traité de commerce et de navigation arrêté entre la Russie et la Grande Bretagne, le 20ème Juin, 1766. L'article XI de ce dernier traité déclare contrebande, "*Les canons, mortiers, armes à feu, pistolets, bombes, grenades, boulets, bales, fusils, pierres à feu, meches, poudre, salpêtre, souffre, cuirasses, piques, épées, ceinturons, poches à cartouches, selles et brides, au delà de celle que doit avoir chaque homme servant sur le vaisseau, et passager, &c.*

C'est cette liste qui a fait la base de nos réglemens de commerce maritime; nous l'avons toujours suivie, soit dans les guerres précédentes, soit dans la guerre actuelle, et elle nous paroit épuiser tous les articles qui appartiennent de fait à la contrebande proprement dite. Si elle pouvoit être susceptible d'une nouvelle extension, nous n'y comprendrions jamais du moins le bois de construction, qui est une des principales productions du royaume de Prusse, et qui a toujours été regardé comme un objet de libre commerce dans toutes les guerres maritimes.

D'un autre côté, nous convenons volontiers avec Monsieur Adams, qu'il sera utile et nécessaire de désigner, avec précision, dans l'article XIV, les papiers et documens dont chaque propriétaire de navire doit être muni, pour constater la neutralité du vaisseau et de la cargaison. Il lui faut selon les usages reçus dans nos tribunaux maritimes.

1. *Le document de la construction du navire;* (*beil-brief*, building letter) ou, à son défaut, *le contrat d'achat;* l'un ou l'autre, en original, ou en copie vidimée:

2. *Le passeport de mer;* qui, dans les états du Roi est ordinairement expédié pour le terme d'un an, par les dicastères provinciaux préposés aux affaires du commerce maritime. Il pourroit être statué en outre, que les passeports doivent être renouvellés chaque fois que le vaisseau retournera dans le port d'où il est parti:

3. Le rôle d'équipage:

4. La certe-partie, c'est à dire, le contrat passé en bloc pour le fret de tout le navire, ou, à son défaut, les connoissemens donnés pour la cargaison en détail. Le changement proposé pour l'article XVI porte sur la suppression de la clause, qui, dans le cas d'un embargo général, établissoit l'exemption en faveur des vaisseaux appartenans aux sujets ou citoyens de chacune des deux parties contractantes. Si l'intérêt des Etats Unis et des considérations particulières exigent en effet une pareille modification, le Roi y accedera de son côté. Seulement il sera juste d'ajouter la stipulation, que dans ces sortes de cas, les navires de l'une et de l'autre nation seront traités à l'égal de ceux des nations les plus favorisées, et qu'on leur accordera une indemnité équitable tant pour le fret que pour les pertes occasionnées par le retard.

Rien n'empêchera non plus d'agréer les changemens indiqués par les articles XIX et XX, et de les adapter aux relations actuellement subsistantes entre les Etats Unis et la France. On pourroit exprimer aussi pour plus de clarté et de sûreté dans l'article XIX. que parmi les prises qui seront conduites dans les ports ou havres des Etats Unis, il ne doit se trouver ni vaisseau ni cargaison neutres, et bien moins encore des propriétés Prussiennes. L'article XXIII, qui mettoit les navires marchands à l'abri de toute capture, a été dicté, sans doute, par les vues d'humanité et de bienfaisance les plus pures, et ce n'est pas sans regrets qu'on l'efface; mais cette douce théorie etant si difficile à mettre en pratique, il ne reste qu'à y rénoncer du moment, surtout que l'intérêt politique des Etats Unis en peut être affecté.

Nous acquiesçons à l'addition de l'article XXV, que les consuls des deux Puissances jouiront des mêmes privileges et pouvoirs que ceux des nations les plus favorisées; et nous adopterons de nouveau pour la durée du traité à conclure un terme de dix années, à compter du jour de l'échange des ratifications, sauf à le renouveller encore à l'expiration.

Nous croyons avoir repondu en plein, par la présente note, à toutes les ouvertures que Monsieur Adams a été chargé de nous faire, et nous lui laissons le soin de transmettre aux Etats Unis les contre-propositions et observations que nous lui addressons de nôtre côté. Il nous trouvera prêt ensuite à reprendre le fil de la negotiation, et à y mettre la dernière main avec lui aussitôt qu'il le désirera.

FINCKENSTEIN.
ALVENSLEBEN.
HAUGWITZ.

A Monsieur ADAMS, *Ministre Plenipotentiaire des Etats Unis de l'Amérique à la Cour du Roi.*

[TRANSLATION.]

Messrs. Finckenstein, Alvansleven, and Haugwitz, to Mr. Adams.

BERLIN, *25th September*, 1798.

We have considered with great attention the official note which Mr. Adams, minister plenipotentiary of the United States of America, has transmitted to us the 11th of July of the present year; and, after having discussed the objects of that note with the departments to which they relate, we now reply to it in detail.

The King could not but receive with due sensibility the desire manifested by the United States to cultivate with him the relations of friendship and good will, which have, until this time, subsisted between Prussia and the American republic, and His Majesty is therefore well disposed to renew the treaty of commerce concluded at the Hague, the 10th of September, 1785; and to adopt in it the changes and modifications which the actual circumstances and the respective interests of the two contracting Powers may render necessary.

With this view, we have examined the propositions just made by the minister plenipotentiary of the United States, and we have thehonor to communicate the observations to which they have given rise.

The first alteration proposed in his note relates to the 12th article of the ancient treaty, where it is said, "*that, in case one or the other of the contracting parties shall be at war with any other Power, the vessels of the neutral Power may navigate in perfect safety in the ports and upon the coasts of the belligerent Powers; free ships making the merchandise free.*"

For this rule, the United States desire to substitute the following: "That all the property of enemies on board neutral vessels ought to be subject to seizure; and that neutral property on board enemies vessels should remain free."

It cannot be denied that the ancient principle of the freedom of neutral navigation has been little regarded in the two last wars, and especially in that now carried on; but it is not the less true, that it served until the present

time as a foundation and guide to the commerce of all neutral nations; and that, in consequence, it has been, and still is, followed and maintained. If, in the midst of the war now waging, its sudden abandonment and destruction should be advised, the following results might be expected:

1. Inevitable confusion would arise in all the commercial speculations of neutral nations, and the finishing blow would be given to the remonstrances and proceedings which are still urged, in numerous instances, both in England and France, for illegal captures.

2. We should directly oppose the northern Powers, who maintain, to this very time, the ancient principle of armed convoys.

3. Nothing would be gained by establishing, at the present period, the principle that *neutral property on board enemies' vessels should be free*. Neutral Powers would admit this principle with as much reluctance as the belligerent; and this would constitute an additional reason to authorize the judicial condemnation of the prizes made in contravention of the ancient rule.

4. Finally, supposing for an instant that the great maritime Powers of Europe should wish to acknowledge hereafter the principle substituted by the United States, it would only multiply the embarrassments in the proceedings against the privateers; for while, formerly, the character of the vessel decided at the same time that of the cargo, it would be necessary, in future, to distinguish the one from the other, and provide separately the proofs of each.

All these difficulties combined prevent us from acceding to the alteration proposed by Mr. Adams; and we submit to his consideration, whether it would not suit the reciprocal interests of the two high contracting parties, as well as the interests of their commercial citizens and subjects, to suffer the twelfth article to remain provisionally as it is, in conformity with the system which they have maintained to the present time; and to add the eventual stipulation, "that, experience having unfortunately shown, in the course of the existing war, that the ancient principle of free neutral navigation has not been sufficiently respected by the belligerent Powers, the two high contracting parties, upon the return of a general peace, reserve the right of deciding definitively on this subject, either separately between themselves, or conjointly with other interested Powers, in order to concert, with the great maritime Powers of Europe such arrangements as might serve to establish, in subsequent wars, upon fixed and permanent rules, the liberty and safety of neutral navigation." Mr. Adams proposes, also, to insert, in the thirteenth article, a specific list of the objects which shall be considered contraband in time of war, and to comprehend in it "*ship timber, tar, pitch, turpentine, and rosin, copper in sheets, sails, hemp, cordage, and generally all that serves to the equipment of vessels, unwrought iron and fir planks excepted.*"

If an attempt should be made to specify, in the new treaty, the articles of contraband, we are obliged to adhere to those which have been considered and adopted as such in the maritime convention concluded with Prussia and Russia, the 8th of May, 1781, after the example of the treaty of commerce and navigation formed between Russia and Great Britain, the 20th of June, 1766. The eleventh article of this last mentioned treaty declares contraband, "*cannon, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, fusils, flints, matches, saltpetre, sulphur, hauberks, pikes, swords, sword belts, cartridge boxes, saddles and bridles, or whatever each man, serving on board a vessel, should be furnished,*" &c.

This list has been the foundation of those rules of maritime commerce which we have always followed, as well in former wars as in the war now carried on; and it appears to us to embrace all the articles which appertain in reality to contraband property, so called. If this list is susceptible of additional extension at all, we can never consent to its comprehending *ship timber*, one of the principal productions of the kingdom of Prussia, and always regarded, in all maritime wars, as an object of unrestricted commerce.

On the other hand, we willingly agree with Mr. Adams, that it will be useful and necessary to designate with precision, in the fourteenth article, the papers and documents with which the master of every vessel should be furnished, in order to establish the neutrality of the vessel and cargo. This should be done according to the usages admitted in our maritime tribunals.

1. *The document, showing the construction of the vessel*, (building letter) or, in its absence, the *contract of purchase*. The original, or a certificate copy of either the one or the other.

2. *The sea-letter*, which, within the dominions of the King, is generally issued, for the term of one year, by the provincial officers appointed to inspect the affairs of the maritime commerce. It may be ordered, also, that the sea-letter ought to be renewed every time the vessel shall return to the port from whence she sailed.

3. The register of the crew.

4. The charter-party, or the contract, passed in bulk, for the freight of every vessel; or, where this is deficient, the proof in detail of what the cargo contains.

The change proposed in the fourteenth article is predicated on the suppression of the clause which, in case of a general embargo, would establish an exemption in favor of vessels belonging to the subjects or citizens of each of the two contracting parties. If the interests of the United States, and particular considerations, require, in reality, a similar modification, the King will, on his part, accede to it. It will be just, however, to add a stipulation that, in these cases, the ships of the two nations, respectively, shall be treated equally with those of the most favored nation; and that an equitable indemnity should be granted to them as well for the freight as for the losses occasioned by detention.

Nor do we perceive any objection to the alterations proposed by articles XIX and XX, in order to adapt them to the relations subsisting between France and the United States. It may be declared, also, in article XIX, for the greater clearness and safety, that, among the prizes that may be carried into the ports and harbors of the United States, no neutral vessel or cargo shall be found among them, and still less when the property of Prussian subjects. The twenty-third article, which protected the merchant vessels from every species of capture, has, no doubt, been dictated solely by considerations of humanity and benevolence, and it will not be expunged without regret; but, inasmuch as this pleasing theory can with difficulty be enforced, it only remains to renounce it, whenever it can be done consistently with the political interests of the United States.

We acquiesce in the proposed addition to the twenty-fifth article, by which the consuls of the two Powers, respectively, shall enjoy the same rights and privileges with those of the most favored nation; and we adopt again, for the duration of the treaty, the term of ten years, reckoning from the exchange of ratifications, and providing for its renewal at the expiration of that time.

We believe that, in the present note, we have replied fully to all the propositions which Mr. Adams has been charged to make; and we leave to him the care of transmitting to the United States the counter propositions and observations herein contained. We shall be ready, at any time thereafter, to resume the negotiation, and also to conclude the treaty whenever he may desire it.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

To Mr. ADAMS, *Minister Plenipotentiary of the United States.*

No. 138.

BERLIN, *October* 30, 1798.

SIR:

I have the honor to enclose a copy of the note which I this day delivered to Count Finckenstein, in reply to the answer of the cabinet ministry to my former note of 11th July. Before I delivered it, I had two conferences with Count Haugwitz, concerning the subject matter of it. He professed himself highly satisfied with the within note, and assured me that there would not be the least objection made to expediting the business, without waiting for further instructions to me from America. The proposal, to say nothing in the treaty relative to the property of enemies on board of neutral vessels appeared to have his assent altogether. I hope the answer to this note will not be delayed quite so long as that of the last; but as to what its tenor will be, I beg leave to refer you to my former

letters, (No. 136, and those preceding it,) relative to this business. I have had no reason to alter my opinions therein expressed.

I have the honor to be, very respectfully, sir, your very humble and obedient servant.

JOHN Q. ADAMS.

The SECRETARY OF STATE.

[Enclosed in despatch 138, Oct. 30, 1798.]

BERLIN, *le* 29 *Octobre*, 1798.

Le soussigné, ministre plénipotentiaire des Etats Unis d'Amérique, croit devoir soumettre à la considération de leurs excellences les observations suivantes au sujet des objections que présente la reponse de leurs excellences à la note qu'il eut l'honneur de leur remettre, en date du 11ème Juillet de l'année courante, à quelques unes des propositions de changemens à faire en renouvellant le traité d'amitié et de commerce entre S. M. et les Etats Unis que contenoit cette note.

Le principe sur lequel on s'est fondé en proposant le changement rélatif à la sûreté des propriétés ennemies à bord des batimens neutres, est, que par le droit ordinaire des gens, en tems de guerre maritime, les propriétés ennemies à bord des vaisseaux neutres sont sujettes à capture, et les propriétés neutres à bord des vaisseaux ennemis libres. Que cette règle ne peut être changée que par un consentement général de toutes les Puissances maritimes, ou par des traités particuliers, dont les engagemens ne peuvent s'étendre qu'aux parties contractantes. Que le principe contraire, dont l'établissement devoit être un des principaux objets de la neutralité armée, pendant la guerre Americaine n'avoit pas été réconnu universellement, même à cette époque, et n'a pendant la guerre actuelle été maintenue par aucune des Puissances qui accéderent dans le tems à ce système. Que la Prusse même, tant qu'elle a été partie belligérante dans sa derniere guerre, ne l'admettoit pas; et qu'au moment actuel l'ancien principe du droit des gens subsiste dans toute sa force entre toutes les Puissances, excepté dans les cas où la règle contraire est stipulée par les engagemens d'un traité positif.

En proposant donc de reconnoitre la liberté des propriétés neutres à bord des vaisseaux ennemis, et de reconnoitre comme sujettes à capture les propriétés ennemies à bord des vaisseaux neutres, on n'a voulu que confirmer par le traité les principes qui existent au moment même, independamment de tout traité; on a voulu, non faire, mais éviter un changement à l'ordre actuel des choses.

Loin de vouloir prescrire sur ce point aux Puissances belligérantes, on n'a pas supposé qu'un accord entre la Prusse et les Etats Unis pût en aucune manière servir de règle à d'autres Puissances n'ayant pas de part au traité pour légitimer des prises; et comme l'effet de cette convention, même entre les hautes parties contractantes, ne sauroit regarder que l'avenir sans être retroactif, on s'est bien moins imaginé que les réclamations et procédures des sujets des Puissances neutres, soit en Angleterre soit en France, pour des prises illégales, en pussent etre de manière quelconque affectées.

On a tout aussi peu crû tomber en contradiction avec les Puissances du nord, qui ne peuvent être liées par un traité auquel elles ne seroient pas parties contractantes; d'ailleurs cette contradiction ne sauroit régarder la Russie puisque loin de soutenir le principe que le pavillon doit protéger les propriétés: elle s'est engagée, par sa convention avec la Grande Bretagne, en date du 25ème Mars, 1793, à employer tous ses efforts pour l'empêcher pendant la guerre actuelle.

La Suède et le Danemarc, par leur convention du 27ème Mars, 1794, s'engagent réciproquement, et vis-à-vis de l'Europe entière, de ne vouloir prétendre, dans les cas qui ne sont point exprimés dans les traités, à aucun avantage qui ne soit fondé dans le droit des gens universel, "*reconnu et respecté jusqu'à présent par toutes les Puissances, et par tous les Souverains de l'Europe.*" On ne conçoit pas qu'il soit possible de comprendre sous cette description le principe que les propriétés doivent suivre le sort du pavillon sous lequel ils voguent; et l'on pourroit ajouter qu'une expérience constante a demontré l'insuffisance des convois armés pour proteger ce principe, puisqu'on les voit régulièrement suivre sans résistance leurs convois dans les ports des Puissances belligérantes pour y être jugés d'après les principes établis dans leurs tribunaux, qui sont entièrement contraires a celui de neutraliser la cargaison par le navire.

D'après l'usage dans les tribunaux de toutes les Puissances maritimes, les preuves du caractère de la cargaison doivent être distinctes de celles qui concernent le navire: dans les traités mêmes qui adoptent le principe de couvrir les propriétés par le pavillon, il est ordinaire de stipuler pour des papiers qui désignent la cargaison, afin de prouver qu'il n'y a pas de contrebande. La certe-partie ou les connoissemens sont parmi les papiers que leurs excellences citent comme requis dans les tribunaux maritimes Prussiens, et qu'elles proposent de désigner comme nécessaires dans le nouveau traité. Il semble, donc, que l'adoption du principe en question n'exigeroit pas un papier de plus, et par conséquence n'ajouteroit rien aux embarras des procédures contre les armateurs; ou tout au plus, si peu de chose qu'on peut le regarder comme un foible inconvénient, en comparaison des pertes et des souffrances que causent la reconnoissance d'un principe abandonné déjà par presque toutes les Puissances maritimes, et qu'aucune d'elles ne soutient efficacement d'un principe auquel celle des hautes parties contractantes qui seroit en guerre se trouveroit liée par un engagement désavantageux, tandis que son ennemi ne le respecteroit pas, et celle qui seroit neutre n'y présenteroit à ses sujects ou citoyens l'appât d'un commerce libre que pour le voir interrompre, intercepter, et détruire.

Mais comme la façon de penser de ce Gouvernement paroit en quelque sorte différer de celle du Gouvernement des Etats Unis au sujet du principe prescrit par le droit des gens, et comme plusieurs inconvéniens paroissent à leurs excellences pouvoir résulter de la substitution d'un principe contraire à celui que contenoit l'ancien traité, le soussigné a l'honneur de leur proposer d'omettre entièrement cette partie de l'article, et de ne rien stipuler sur ce point, ce qui le laissera absolument dans la situation où il se trouve maintenant, sans engager l'une ou l'autre des hautes parties contractantes à une stipulation quelconque à cet égard. Et comme l'établissement d'un principe stable et permanent, avec l'espoir de le voir soutenu et respecté dans les guerres futures, est un objet important au commerce en général, et à celui des hautes parties contractantes en particulier, le soussigné consentera volontiers à une stipulation eventuelle pareille à celle que leurs excellences proposent; mais qui, sans impliquer de part ou d'autre l'admission d'un principe contesté, en remettra la décision à l'époque qui suivra la paix générale, soit par un accord ultérieur entre les hautes parties contractantes, soit par un concert avec les autres Puissances interressées. Et les Etats Unis seront toujours disposés à adopter les principes les plus étendus qu'on puisse désirer en faveur de la liberté du commerce neutre en tems de guerre, du moment où l'on pourra se flatter de les voir adopter et reconnoitre d'une manière qui puisse en assurer l'éxécution.

Quant à la liste de contrebande, le soussigné se persuade que son Gouvernement n'a voulu spécifier les articles cités dans sa dernière note, que parcequ'il les considéroit comme également compris dans la classe des articles de contrebande par le droit des gens, independamment des traités; cependant, comme le bois de construction forme un objet si important au commerce Prussien, en consentant à l'omettre de la liste proposée, il ne doute pas que ce témoignage d'une disposition à se conformer aux désirs du Gouvernement de S. M. ne soit entièrement approuvé de celui des Etats Unis.

Par les loix et l'usage des Etats Unis, leurs navires doivent être pourvus de papiers et documens correspondants à ceux designés par leurs excellences comme requis dans les tribunaux maritimes Prussiens, tels que le passeport de mer, la certe-partie, ou les connoissemens, et au lieu du *beil-brief*, un certificat *d'enrégistrement* signé par un officier public, et qui constate la propriété du navire, ainsi que le tems et lieu de sa construction. Aucun des traités de commerce auxquels les Etats Unis sont parties, jusqu'ici, n'a exigé le rôle d'équipage. Une partie importante des réclamations que les citoyens des Etats Unis poursuivent en France contre les armateurs François sont pour des navires avec leurs cargaisons saisis pour ne pas avoir eu de rôle d'équipage que le traité n'éxigeoit pas. S'il etoit possible que des tribunaux étrangers pussent prendre une convention expresse entre la Prusse et les Etats Unis, pour prétexte de leurs décisions sur des prises faites antérieurement, et dont un autre traité prescrivoit le jugement, ce seroit une raison pour hésiter à admettre le rôle d'équipage parmi les papiers à spécifier dans le traité qu'on propose. Cependant, il n'y aura nulle difficulté sur ce point; mais, pour éviter la multiplication des papiers, il présente à la considération de leurs excellences, s'il ne suffiroit pas de désigner outre la certe-partie ou les connoissemens, et le rôle d'équipage, le passeport de mer, en y ajoutant que le nom, la propriété, et le port du navire, avec le nom et la

demeure du capitaine y seroient contenus, sans en même tems réquérir le *document de la construction* qui paroit ne pouvoir servir qu'à la répétition des mêmes preuves.

La condition que dans les cas d'embargo les navires des hautes parties contractantes seront traités à l'égal des nations les plus favorisées, (à l'exception de celles qui par un engagement réciproque sont exemptés de tout embargo,) et recevront une indemnité équitable pour le fret et les pertes occasionnées par le rétard, est en elle-même trop juste pour pouvoir souffrir de difficulté.

Une stipulation réciproque, de ne pas admettre dans les ports d'une des hautes parties contractantes des prises faites sur l'autre, trouvera la même facilité, en autant qu'elle est compatible avec les engagemens antérieurs des Etats Unis, qui par plusieurs traités sont convenus avec d'autres Puissances pour l'admission réciproque des prises dans les ports l'une de l'autre.

En soumettant ce qu'il vient de dire au jugement de leurs excellences, le soussigné ne peut se dispenser de leur témoigner sa réconnoissance, et la satisfaction qu'il est assuré que son Gouvernement éprouvera, pour la facilité, avec laquelle elles se sont pretées aux autres changemens qu'il etoit chargé de proposer. Les Etats Unis y verront une preuve non équivoque de la bienveillance et de l'amitié de S. M. qui ne peuvent que leur être très précieuse. Si les observations et les propositions présentes ont le bonheur de trouver l'assentiment de leurs excellences, il espère qu'elles voudront bien poursuivre cet objet, et mettre la dernière main à l'ouvrage, sans attendre le rétour d'une correspondence aussi éloignée que celle des Etats Unis. Sans vouloir précipiter leur décision, ou manifester d'impatience sur un sujet important aux yeux de son Gouvernement, il a déjà du regretter les délais nécessaires causés par les évènemens au cour de la négociation dont il a l'honneur d'être chargé. Il croit donc devoir à son Gouvernement et à sa patrie de solliciter le consentement de leurs excellences à ne permettre à la terminaison de cette affaire aucun rétard ultérieur qui ne soit necessité par des considérations urgentes et indispensables.

JOHN Q. ADAMS.

A leurs excellences les MINISTRES D'ETAT, &c.

[TRANSLATION.]

From Mr. Adams to Messrs. Finckenstein, Alvensleben, and Haugwitz.

BERLIN, *October* 29, 1798.

The undersigned, minister plenipotentiary of the United States of America, considers it his duty to submit to the consideration of their excellencies, the following observations on the subject of the objections presented, in the reply of their excellencies to the note which he had the honor to transmit to them, dated the 11th of July of the present year, proposing certain alterations in the treaty about to be renewed between His Majesty the King of Prussia and the United States.

The principle, on which is founded the proposed change respecting the security of enemy's property on board of neutral vessels, is, that, by the law of nations, in times of maritime war, the property of enemies on board of neutral vessels is subject to capture, and that the property of neutrals on board of enemies' vessels is free: that this rule cannot be changed, except by the general consent of all the maritime Powers, or by separate treaties, the stipulations of which cannot extend beyond the contracting parties: that the opposite principle, the establishment of which ought to be one of the principal objects of the armed neutrality, was not universally acknowledged even during the period of the American war; and, during the existing war, has not been maintained by any of those Powers which, at that time, acceded to this system: that Prussia, herself, while one of the belligerents in the last war, did not admit it; and that, to the present moment, the ancient principle of the law of nations subsists in all its force among all the Powers, except in the case where the opposite rule is stipulated by the engagements of positive treaty.

In proposing, then, to acknowledge the freedom of neutral property on board the vessels of enemies, and to acknowledge as subject to capture the property of enemies on board neutral vessels, it is only desired to confirm, by treaty, the principles which exist, even at the present moment, independently of all treaties: it is intended, not to make a change in the existing state of things, but to avoid one.

Far from wishing to prescribe on this point to the belligerent Powers, it is not supposed that an agreement between Prussia and the United States could, in any manner, serve as a rule for other Powers, not being parties to the treaty, in order to legalize prizes; and, as the effect of this convention, even between the high contracting parties, could only extend to the future, without being retroactive, it is still less imagined that the reclamations and proceedings of the subjects of neutral Powers, whether in England or in France, would be at all regarded.

Nor has the idea ever occurred that this measure could come in conflict with the Powers of the North, who could not be bound by a treaty to which they would not be the contracting parties: besides, this opposition could not extend to Russia, since, far from sustaining the principle that the flag ought to protect the property, she has engaged, by her convention with Great Britain, dated the 25th of March, 1793, to employ all her efforts to prevent its being carried into effect during the existing war.

Sweden and Denmark reciprocally engaged, in the view of all Europe, by their convention dated the 27th of March, 1794, to lay no claim, in cases not provided for in treaties, to any advantage which shall not be supported by the universal law of nations, "*recognized* and respected to the present time, by all the Powers and all the sovereigns of Europe." It is not conceived possible to comprehend, under this description, the principle that the property should follow the destiny of the flag under which it sails; and, it may be added, that constant experience has demonstrated the insufficiency of the protection afforded by armed convoys to this principle, since we have seen them follow their convoys regularly, without resistance, into the ports of the belligerent Powers, there to be adjudged according to principles established in their tribunals entirely opposed to the one which makes the vessel neutralize the cargo.

According to the settled usage of the tribunals of all the maritime Powers, the proofs of the character of the cargo ought to be distinct from those which concern the vessel. Even in the treaties which adopt the principle that the flag protects the property, it is common to stipulate for papers which designate the cargo, for the purpose of proving that it is not contraband. The charter-party, or the bill of lading, is among the papers required by the Prussian maritime tribunals, and which it is proposed to designate as necessary in the new treaty. It seems, then, that the adoption of the principle in question would not exact a single additional paper, and, consequently, would add nothing to the embarrassment of the proceedings against the armed vessels; or, at least, so little as to be considered a slight inconvenience in comparison with the losses and sufferings occasioned by the recognition of a principle which has been abandoned by all the maritime Powers, and which not one of them has effectually maintained; of a principle by which the high contracting party who might be at war would be disadvantageously bound, whilst her enemy would disregard it altogether, and the neutral would present to her citizens or subjects the allurement of a free commerce, only to see it interrupted, intercepted, and destroyed.

But, as the opinions entertained by this Government appear to differ from those of the Government of the United States on the subject of the principles prescribed by the law of nations, and, as it appears to their excellencies that many inconveniences may result from the substitution of a principle opposed to the one contained in the ancient treaty, the undersigned has the honor to propose to omit entirely this part of the article, and on this point to enter into no engagement whatever: this will leave it in the state in which it formerly stood, without requiring of either of the high contracting parties any stipulation on the subject. And as the establishment of a stable and permanent principle, with the hope of seeing it respected and maintained in future wars, is an object important to commerce in general, and especially to that of the high contracting parties, the undersigned will readily consent to an eventual stipulation similar to that which their excellencies propose, which, without implying, on the one part or the other, the admission of a contested principle, will defer a decision upon the subject to the period which will follow a general peace, either by an agreement between the high contracting parties, or in concert with the Powers who are interested in its adjustment. At the same time, the United States will be always disposed to adopt the most extended principles which can be desired in favor of the freedom of neutral commerce in time of war, from the moment that they can flatter themselves with seeing it adopted and recognized in a manner to ensure its execution.

As to the list of contraband, the undersigned is persuaded that his Government has only been desirous to specify the articles enumerated in his last note, because they have been considered as comprised in the class of contraband articles by the laws of nations, independently of treaties. But, inasmuch as ship timber constitutes an object so important to the commerce of Prussia, he is persuaded that in consenting to exclude it from the proposed list, and thus furnishing the evidence of a desire to conform to the wishes of His Majesty's Government, he will not fail to receive the entire approval of his own.

By the laws and usage of the United States, their vessels ought to be provided with the papers and documents designated by their excellencies as required by the maritime tribunals of Prussia, such as the sea-letter, the charter-party, or the bill of lading; and, instead of the *beil-brief*, a certificate of the registration, signed by a public officer, and which proves the ownership of the vessel, as well as the time of her construction. Not one of the commercial treaties which have been formed by the United States, to the present time, requires the muster roll. A great proportion of the remonstrances now made in France, by citizens of the United States, against the depredations of French privateers, are founded on the seizure of their vessels, with their cargoes, for not having been furnished with the muster roll, a document not required by the treaty with France. If it were possible that foreign tribunals could avail themselves of a convention between Prussia and the United States only, as the pretext of their decisions upon prizes previously made, and concerning which another treaty prescribed the rule, some reason would exist for hesitation in admitting the muster roll among the papers which it is proposed to specify in the treaty. No difficulty, however, will arise on this point. But, in order to avoid the multiplication of papers, he submits to the consideration of their excellencies, whether it will not suffice to designate, in addition to the charter-party, or the bill of lading, and the muster-roll, the sea-letter, adding to it the name, the ownership, and the port of the vessel, with the name and residence of the captain, without at the same time requiring the "document of construction," which could only serve to repeat the same proofs.

The condition, that, in the event of an embargo, the ships of the high contracting parties shall receive the same treatment with those of the most favored nation, (with the exception of those exempted by a reciprocal engagement from all embargoes,) and shall receive an equitable indemnity on account of the freight, and for the losses occasioned by detention, is in itself too just to occasion any difficulty.

A reciprocal stipulation not to admit in the ports of one of the high contracting parties the prizes taken from the other, will be equally acquiesced in, as far as is compatible with the prior engagements of the United States, who, by several treaties, have agreed with other Powers for the reciprocal admission of prizes in the ports of each other.

In submitting these observations to the judgment of their excellencies, the undersigned cannot refrain from tendering his own acknowledgments, as well as the satisfaction which he has no doubt will be felt by his Government, for the readiness with which they have acceded to the other alterations it became his duty to propose. The United States will see in this an unequivocal proof of the good will and friendship of His Majesty, which they cannot estimate too highly. If the present observations and propositions shall have the good fortune to receive the assent of their excellencies, he hopes that they will be willing to pursue this object, and to put their last hand to the work, without waiting the return of a correspondence so remote as that with the United States. Without wishing to hasten their decision, or to manifest impatience upon a subject which appears to his Government important, he has to regret the delays which have already been caused by events in the course of the negotiation with which he has the honor to be charged. He considers it, therefore, a duty which he owes to his Government and country, to solicit the consent of their excellencies to permit no further delay to the termination of this business, which may not be required by urgent and indispensable considerations.

JOHN Q. ADAMS.

To their excellencies the MINISTERS OF STATE, *&c.*

No. 141.

BERLIN, *December* 31, 1799.

SIR:

I have now the honor to enclose copies of the answer of the cabinet ministry to my note of 29th October, concerning the renewal of the commercial treaty between the United States and Prussia, and of my reply, which I presented to Count Finckenstein on the 25th instant. During the interval from the time when I received the answer, I had repeated conversations with Count Haugwitz upon the subject, and the substance of my reply was founded upon the result of those conversations.

You will observe, by these papers, how tenaciously this Government adheres to the principle of making neutral bottoms cover enemy's property in time of war, and to the very limited list of contraband contained in the treaty of 1766 between Russia and Great Britain. At the time when Frederic II. acceded to the armed neutrality, having no commercial treaty with any of the then belligerent Powers, he adopted this list as that which was most favorable to the neutral interests, and it has ever since been considered here as the criterion of contraband. After having given up, in my last note, the article of timber for ship building, I should most probably have abandoned the other naval stores in the present, had not your letter of September 24, expressed so much indifference whether the treaty should be renewed at all. I shall yet abandon them if this Government should persist in rejecting them.

Upon the other point, the stipulation proposed instead of the twelfth article of the old treaty, expressly holds out the question concerning neutral bottoms and goods as a contested point, and it is preceded by a labored argument to prove that, by the present law of nations, the principle of the old treaty is prescribed. But, in conformity to your instructions, I did not think myself authorized even to admit, by any implication, that the principle prescribed by the law of nations can be a subject of controversy, and hence, in objecting to the words which present it as such, it was necessary to answer the arguments in maintenance of the position.

I have, in my reply, offered two alternatives for avoiding, in the new treaty, any mention of the point; and, if a positive inference could be drawn from what Count Haugwitz assured me was his opinion, I might conclude that one or the other of them might be accepted. I shall not be surprised, however, if the difficulty in this case should still recur; for I judge, from what has hitherto passed, that they are apprehensive an alteration of the express agreement in the treaty of 1785 might be construed into an abandonment of the principle, unless the substituted article should contain some expression which should evidently reserve it; and it is perfectly clear that they are extremely averse to abandon the principle. Their own convention with Great Britain, in 1793, is, to be sure, an argument against them, so strong in itself, that I have not thought it necessary to dwell much upon it, and therefore barely alluded to it in my second note. You will see how they explain it in the enclosed answer, and consider it as compatible with the system which, at other times, Prussia has maintained, and now again wishes to support.

In the discussion concerning the papers to be specified for the purpose of ascertaining the neutrality of merchant vessels and their cargoes, in time of war, as I had not the benefit of your instructions, I was obliged to proceed upon such principles as occurred to my mind as best calculated to answer the object proposed by those papers. The sea-letter, the muster-roll, and the invoices appeared indispensable in a treaty which does not adopt the principle of allowing the bottom to protect both persons and goods; but the other paper, for which they so strenuously contend, seemed to me unnecessary, as tending to prove nothing but what the sea-letter alone suffices to show, and as binding the parties to certain forms of documents which their internal commercial regulations might require to be altered. In my last conversation with Count Haugwitz, he concurred with me fully in the opinion; and I hope, therefore, that the additional paper will not be insisted upon. I have felt more embarrassment upon this subject, because I have not with me the latest laws of the United States prescribing the papers with which vessels of the United States must be provided.

The case of the Wilmington packet, upon which so many fruitless applications were made to the Government in Holland for indemnity, suggested to me the idea of allowing time, after the breaking out of war, for the neutral nation to furnish its vessels with the proper papers.

Since receiving your letter of the 24th September, I have felt much less anxious about the speedy conclusion of the treaty than I was before. In one of my last conversations with Count Haugwitz, I told him that, if the Prussian

Government had the smallest scruple or hesitation about the renewal of the treaty, on account of the situation of our affairs with France, I knew enough of the sentiments of my Government to assure him that they were by no means desirous that Prussia should take any step at which she should feel the smallest reluctance, and, if she thought it most expedient, would postpone the conclusion of the treaty until a time which should be perfectly suitable to both parties. He said he was very glad I had given him an opportunity to assure me, in the most positive and unequivocal manner, that the situation of our affairs with France had never entered into the consideration of His Majesty's Government, in regard to the renewal of the treaty, and that it certainly never would. That the friendly sentiments of the King towards the United States rested upon grounds which could not be affected by the changes in the political views of other European Powers, and that the transactions between the American and French Governments were of a nature which could not induce any impartial and honest third party to favor the latter. He then expressed [himself] with great bitterness and severity concerning the conduct of the French Government in general, and especially upon its present treatment of the King of Sardinia.

Since beginning this letter, I have received your favor of 7th November, No. 11, with duplicates of the Nos. 6, 7, 8, 9, and 10; a copy of your letter to Mr. Gerry, of 25th June; of your despatch to Mr. King of 17th September, 1796; and extracts of his letters of 13th April, and 3d June, 1797.

I have the honor to be, very respectfully, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The Secretary of State.

BERLIN, *le 29ème Octobre*,* 1798.

Nous avons reçu la note ultérieure que Monsieur Adams, ministre plénipotentiaire des Etats Unis de l'Amérique, nous a fait l'honneur de nous remettre, en date du 29ème Octobre, et nous nous empressons d'y repliquer pour lui prouver combien nous desirons, de nôtre côté, d'apporter toute la célérité et toutes les facilités imaginables, à la négociation que nous sommes appellés à traiter avec lui.

Quelles que soient à cet égard les dispositions réciproques de Monsieur Adams, il paroit cependant qu'il a eu de la peine à reconnoitre la force des raisons qui nous empêche d'agréer les changemens proposés relativement à l'article XII, du traité de 1785. Il nous objecte que, par le droit ordinaire des gens, les propriétés neutres à bord des vaisseaux ennemis sont libres en temps de guerre. Cette règle, il est vrai, a été suivi autrefois par la plupart des Puissances de l'Europe, et elle se trouve établie dans plusieurs traités du quinzième et du quatorzième siècle; mais il est connu aussi qu'elle a été abandonnée du dépuis les inconvéniens qui en sont resultés, ayant déterminé les nations maritimes et commerçantes à s'en départir. Dès l'année 1646, les deux traités conclus par les états généraux des Provinces Unies avec la France et avec l'Angleterre, ont stipulé, "que les vaisseaux amis et neutres rendroient aussi leurs cargaisons libres;" et ce principe une fois posé, il a été reproduit et conservé dans presque tous les traités conclus dépuis cette époque entre les nations commerçantes de l'Europe. La convention arrêtée entre la Russie et l'Angleterre, en 1798, que Monsieur Adams cite dans sa note, est exclusivement dirigée contre la France, et n'est ainsi qu'une exception à la règle; et s'il est vrai, en général, que dans les commencemens de la guerre actuelle les Puissances coalisées ont crû devoir s'écarter du principe reçu, cette deviation momentanée ne peut et ne doit être attribuée qu'à des circonstances tout-à-fait particulières, et il n'en est pas moins décidé que la Prusse n'a eu qu'un seul et même système permanent relativement au commerce et à la navigation neutres. Il est fondé sur la maxime énoncée dans l'article XII, de son ancien traité avec les Etats Unis de l'Amérique, et cette règle s'accorde mieux que toute autre avec les convénances des nations commerçantes; elle abrège les formalités des preuves à fournir sur la propriété des differentes cargaisons d'une même navire; elle met la navigation à l'abri de visites importunes; elle coupe court, en un mot, à des abus, et à des entraves de toute espèce.

Nous avons d'ailleurs la conviction, que dans la guerre actuelle, où le commerce et la navigation des neutres sont assujettis à tant de procédés purement arbitraires, le principe proposé par Monsieur Adams ne seroit pas plus respecté que le précédent; plusieurs exemples récens ayant démontré que même *les vaisseaux neutres uniquement chargés des marchandises neutres* sont exposés à la saisie et à la confiscation, sous toutes sortes de pretextes frivoles.

Mais il seroit inutile de pousser la discussion plus loin, Monsieur Adams étant convenu avec nous, qu'au lieu de hazarder une nouvelle stipulation éventuelle et incertaine, il vaut mieux la laisser en suspense jusqu'à l'époque de la paix générale, et de s'occuper alors sérieusement des moyens d'assurer la liberté du commerce neutre sur une base solide dans les guerres futures. Il n'y aura donc autre chose à faire, pour le moment, que de supprimer provisoirement l'article XII de l'ancien traité, et d'y substituer la stipulation suivante, à laquelle nous supposons que Monsieur Adams ne trouvera rien à rédire:

"L'éxpérience ayant démontré que le principe adopté dans l'article XII du traité de 1785, selon lequel les vaisseaux libres rendent aussi les marchandises libres, n'a pas été suffisamment respecté dans les deux dernières guerres, et nommément dans celle qui dure encore, et les dispositions contradictoires des principales Puissances belligérantes ne permettant point dans le moment présent de résoudre d'une manière satisfaisante la question litigieuse, les deux hautes parties contractantes se reservent de s'entendre après le retour de la paix générale, soit séparément entr'elles, soit conjointement avec d'autres Puissances cointéressées, pour concerter avec les grandes Puissances maritimes de l'Europe tels arrangemens et tels principes permanens, qui puissent servir à consolider la liberté et la sûreté de la navigation et du commerce neutres dans les guerres futures."

Monsieur Adams s'étant rendu, dans sa dernière note, aux raisons qui empêchent le Gouvernement Prussien de comprendre le bois de construction dans la classe des articles de contrebande, nous lui proposons l'alternative, ou de conserver l'article XIII de l'ancien traité tel qu'il est, ou d'y insérer nommément la liste des effets de contrebande qui est tirée de l'article XI du traité de commerce et de navigation conclu entre la Russie et la Grande Bretagne, le 20ème Juin, 1766. Si cette précaution paroit nécessaire, il suffira d'ajouter à la fin de l'article XIII du nouveau traité le passage suivant:

"Seront censés objets de contrebande, les canons, mortiers, armes à feu, pistolets, bombes, grenades, boulets, bales, fusils, pierres à feu, mèches, poudre, salpêtre, souffre, cuirasses, piques, épées, ceinturons, poches à cartouches, selles et brides, au delà de la quantité nécessaire pour l'usage du vaisseau, et au delà de celle que doit avoir chaque homme servant sur le vaisseau, ou passager, et en général tout ce qui est compris sous la dénomination d'armes, de provisions et de munitions de guerre, de quelque espèce qu'elles puissent être."

Nous ne demandons pas mieux que de simplifier les formalités et les preuves qu'on exige des propriétaires des navires, pour constater la neutralité du vaisseau et de la cargaison; mais nous sommes cependant obligés de consulter, à cet égard, les règles établies par nos ordonnances, et les usages reçus dans nos tribunaux maritimes. Le document de construction (appellé *beil-brief*) étant précisement celui qui met en évidence la qualité neutre du navire, il nous paroit impossible de le rayer de la liste des papiers de mer dont les navigateurs Prussiens doivent être munis. Mais ce document n'etant pas usité sous la même forme dans le Gouvernement de la république Américaine, rien n'empêcheroit, à nôtre avis, d'y substituer pour ses navigateurs le certificat d'enrégistrement, qui en est l'équivalent, et d'exprimer cette différence dans le nouveau traité.

En revanche, nous consentirons volontiers à les dispenser du rôle d'équipage, que la constitution de leur pays ne paroit pas admettre, mais il n'en sera pas moins conservé au nombre des documens que nos lois prescrivent aux navigateurs Prussiens; et cette distinction sera également énoncées dans le nouveau traité.

Nous sommes complettement d'accord avec Monsieur Adams sur les autres modifications qu'il a proposées relativement aux articles XVI, XIX, XX, XXIII, et XXV, et comme nous présumons qu'il ne fera aucune difficulté d'accéder aux observations équitables, que nous venons de lui rappeller dans la présente note, nous n'attendons que son dernier mot pour nous occuper de la redaction d'un projet formel du nouveau traité, et de terminer ensuite le plutôt possible une négociation, dont l'heureuse et prompte issue nous intéresse autant que lui.

FINCKENSTEIN.
ALVENSLEBEN.
HAUGWITZ.

* It should be Novembre.

[TRANSLATION.]

BERLIN, *29th October*,* 1798.

The Prussian Ministers to Mr. Adams.

We have received the last note which Mr. Adams, minister plenipotentiary of the United States of America, has done us the honor to transmit, dated the 29th of October; and we hasten to reply to it, in order to show how greatly it is desired, on our part, to expedite the negotiation with which we are now entrusted, by every means in our power.

Whatever may be the reciprocal dispositions of Mr. Adams, in this respect, it appears, nevertheless, that he finds some difficulty in acknowledging the force of the reasons which have prevented us from agreeing to the proposed alterations relating to the twelfth article of the treaty of 1785. He objects that, by the ordinary law of nations, the property of neutrals, on board the vessels of enemies in times of war, is free. This rule, it is true, has heretofore been followed by most of the Powers of Europe, and it is to be found in many treaties which have been concluded during the fifteenth and fourteenth centuries; but it is also known that it has been since abandoned: the inconveniences to which it was liable having determined the maritime and commercial nations to depart from it. In the year 1646, the two treaties concluded by the States General of the United Provinces with France and England, have stipulated "that the vessels of friends and neutrals shall render their cargoes free:" and this principle, thus laid down, has been re-affirmed and preserved in almost all the treaties concluded since that epoch among the commercial nations of Europe. The convention formed between Russia and England, in the year 1798, which Mr. Adams cites in his note, is directed against France exclusively, and is, therefore, only an exception to the rule; and, if it be true that, in the beginning of the present war, the combined Powers have thought proper to depart from the received principle, this momentary deviation can only be attributed to particular circumstances; and it is not, on that account, the less true, that Prussia has had but one permanent system in relation to commerce and neutral navigation. It is founded on the maxim declared in the twelfth article of her ancient treaty with the United States of America; and this rule is better adapted than any other to the convenience of commercial nations: it has restricted the formalities of the required proofs concerning the ownership of the different cargoes of the same vessel; it protects navigation against vexatious searches; and, in a word, arrests the abuses and shackles of every kind to which it is exposed.

We are, moreover, convinced that, in the existing war, in which the commerce and navigation of neutrals are subjected to so many interruptions, purely arbitrary, the principle proposed by Mr. Adams would not be more respected than the former; many examples having occurred which show that even *neutral vessels laden only with neutral merchandise* are liable to be seized and confiscated under all sorts of pretexts, however frivolous.

But it would be useless to extend this discussion; Mr. Adams being convinced, with us, that, instead of hazarding a new stipulation, both eventual and uncertain, it would be better to leave it in suspense until the epoch of a general peace; and then to consider with earnestness the means of ensuring the freedom of neutral commerce, and placing it, in future wars, upon a solid basis. Nothing, therefore, remains to be done at present except to suppress, provisionally, the twelfth article of the ancient treaty, and to substitute the following stipulation, to which we suppose that no objection can be made:

"Experience having shown that the principle adopted in the twelfth article of the treaty of 1785, according to which free ships make the merchandise free, has not been sufficiently respected during the two last wars, and especially in that which is now carried on; and the contradictory dispositions of the principal belligerent Powers not permitting, at the present time, a satisfactory adjustment of the litigated question; the two high contracting parties reserve to themselves the right, after the restoration of a general peace, to resume this subject, either separately between themselves, or conjointly with other Powers whom it also concerns, in order to concert with the great maritime Powers of Europe such arrangements and such permanent principles as may serve to confirm, in future wars, the freedom and safety of neutral navigation and commerce."

Mr. Adams having, in his last note, replied to the reasons which prevent the Prussian Government from including ship timber in the class of contraband articles, we propose to him the alternative either to retain the thirteenth article of the ancient treaty as it is, or to insert in it, specifically, the list of contraband articles extracted from the eleventh article of the treaty of commerce and navigation concluded between Russia and Great Britain, the 20th of June, 1766. If the precaution shall appear necessary, it will suffice to add to the end of the thirteenth article of the new treaty the following passage:

"Shall be considered objects of contraband, cannon, mortars, fire-arms, pistols, bombs, grenades, bullets, balls, fuzils, flints, matches, powder, saltpetre, sulphur, cuirasses, pikes, swords, sword-belts, cartouch-boxes, saddles and bridles, beyond the quantity which may be necessary for the use of the vessel, and beyond that which each man serving on board the vessel, or each passenger, ought to possess; and, in general, all that can be comprised under the denominations of arms, provisions, and munitions of war, of whatever kind they may be."

We only desire to simplify the formalities and the proofs which are required of the owners of vessels, in order to verify the neutrality of the vessel and of the cargo; in this respect, however, we are obliged to consult the rules established by our laws, and the usages received in our maritime tribunals. The document of construction (called *beil-brief*, being precisely the one which proves the neutral quality of the ship, it appears impossible to erase it from the list of papers with which the Prussian navigators should be provided. But as this document is not used in the same form in the American republic, nothing, in our opinion, would prevent the substitution, by American navigators, of the certificate of registry, which is the equivalent for it, and set forth this difference in the new treaty.

In return, we willingly consent to dispense with the muster-roll, which, it appears, the constitution of the United States does not allow; but it will be preserved, notwithstanding, among the number of documents prescribed by our laws to the Prussian navigators, and this difference will be also declared in the new treaty.

We entirely concur with Mr. Adams in the other modifications proposed by him, respecting the articles XVI, XIX, XX, XXIII, and XXV; and as we presume that he will readily accede to the equitable observations submitted to his consideration in the present note, we shall expect his assent, in order to reduce the new treaty into proper form, and close, as soon as possible, a negotiation, the prompt and happy termination of which is alike desired by us and him.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

BERLIN, *24th December*, 1799.

Le soussigné, ministre plénipotentiaire des Etats Unis d'Amérique, a vu avec plaisir, par la rèponse de leurs excellences à la dernière note qu'il eut l'honneur de leur remettre, que presque tous les points sur lesquels une explication etoit nécessaire au sujet du renouvellement du traité d'amitié et de commerce entre Sa Majesté et les Etats Unis se trouvent applanis; et il espère qu'à l'égard de ceux sur lesquels il reste encore à s'entendre, nulle difficulté ne s'élévera assez sérieuse pour rétarder la conclusion de la negociation à la satisfaction entière des deux Gouvernemens.

Il n'hésiteroit pas de souscrire à la stipulation proposée par leurs excellences, au lieu de l'article XII de l'ancien traité, si on en pouvoit omettre les mots suivants: "Et les dispositions contradictoires des Puissances belligérantes ne permettant point dans le moment présent de résoudre d'une manière satisfaisante la question litigieuse."

* It should be November.

Les Puissances belligérantes pourroient peut-être trouver dans ces expressions une espèce de sanction à leurs dispositions, qui ne s'accorderoit pas avec les intentions des hautes parties contractantes; et d'ailleurs, le soussigné desireroit omettre entièrement la mention d'un point sur lequel la manière de voir des deux Gouvernemens diffère, plutôt que de l'annoncer formellement comme une question litigieuse.

Pour justifier l'opinion de son Gouvernement au sujet du principe en question, il croit devoir observer qu'elle n'est pas fondée sur des traités du quatorzième ou du quinzième siècle. Il considère le principe du droit des gens comme absolument distinct des engagemens stipulés par des traités particuliers. Ceux-ci ne peuvent établir aucun principe fixe sur ce point; et parceque telles stipulations ne peuvent lier que ceux qui les contractent, et envers ceux qui les contractent; et parceque dans les dix-septième et dix-huitième, comme dans les quatorzième et quinzième siècles, differens traités ont adoptés differentes règles pour ce cas, selon la convenance et l'accord des parties contractantes.

En exceptant, donc, tous les engagemens positifs stipulés dans les traités, on peut douter si, antérieurement à la guerre Américaine, il se trouve un seul exemple d'une Puissance maritime belligérante qui ait adopté le principe de laisser couvrir les propriétés ennemies par le pavillon neutre. Car, sans parler de l'Angleterre, dont le système à cet égard est connu, la France, par l'ordonnance de 1744, rénouvellant sur ce point les dispositions de celle de 1681, déclare les propriétés ennemies à bord des navires neutres sujettes à la saisie et à la confiscation. Elle excepte de cette règle les navires du Danemarc et des Provinces Unies, conformément aux traités alors existans entre ces Puissances et la France. Cette ordonnance a continué d'avoir son effet dans les tribunaux de France jusqu'à l'époque de l'ordonnance du 26ème Juillet, 1778. Par le premier article de cette dernière, la liberté des propriétés ennemies à bord des navires est admise, comme une faveur aux neutres, mais non comme un principe du droit des gens, puisqu'on y reserve le pouvoir de la retirer au bout de six mois, si la Puissance ennemie n'accorderoit pas le réciproque. L'Espagne, par les ordonnances du 1er Juillet, 1779, et du 13ème Mars, 1780, ordonnoit également la saisie et la confiscation des propriétés ennemies trouvées sur des bâtimens neutres.

On ajoutera seulement, qu'un publiciste célèbre, sujet Prussien, qui dans la dernière moitié du siècle présent écrivoit un ouvrage fort estimé sur le droit de sgens, Vattel, y dit expressément, (livre 3, §115,) que "quand on trouve sur un vaisseau neutre des effets appartenans à l'ennemi, on s'en saisit par le droit de la guerre." Il ne cite aucun exemple où le principe contraire ait été pratiqué ou reclamé.

Cependant, lorsque le système de la neutralité armée fût annoncé, les Etats Unis, quoique Puissance belligérante, se sont empressés d'en adopter les principes; et pendant tout le tems qu'ils ont été engagés en guerre après cette époque, ils s'y sont scrupuleusement conformés. Mais à la première occasion où ils auroient pû comme Puissance neutre jouir des avantages attachés à ce système, ils s'en sont vus privés de toutes parts, non seulement par les Puissances qui n'avoient jamais accédé à ces principes, mais aussi par les fondateurs mêmes du système. Les dispositions des Puissances coalisées sur ces points etoient, il est vrai, dirigées seulement contre la France, mais leur opération ne s'étendoit pas moins sur tous les neutres, et particulièrement sur les Etats Unis. Quelque particulières que fussent les circonstances de la guerre, les droits de la neutralité n'en pouvoient être affectés; les Etats Unis ont regrettés l'abandon des principes favorables aux intérêts de la neutralité, mais ils ont senti ne pouvoir pas l'empecher, et ils ont été persuadés que l'équité ne pouvoit exiger d'eux d'être victimes à la fois de la règle et de l'exception, d'être liés comme partie belligérante à des loix, dont on leur refuse les avantages comme Puissance neutre.

Le Gouvernement des Etats Unis, cependant, a voulu prouver qu'il ne desire jamais s'écarter du principe adopté dans le traité de 1785; que dans les occasions où il ne sauroit y adhérer sans faire injustice à la nation dont les intérêts lui sont confiés. En conséquence de ses instructions, le soussigné a l'honneur de proposer, en adoptant, au lieu de l'article XII la stipulation contenüe dans la note de leurs excellences, (avec omission des mots deja cités,) d'y ajouter une clause à cet effet:

"Et si, pendant cet intervalle, l'une des hautes parties contractantes se trouve engagée dans une guerre à laquelle l'autre reste neutre, la Puissance belligérante respectera toute propriété ennemie chargée à bord des bâtimens de la partie neutre; pourvu que la Puissance ennemie reconnoisse le même principe à l'égard de tout bâtiment neutre, et que les décisions de ses tribunaux maritimes y soient conformés."

Si cette proposition n'a pas le bonheur d'être agrée par leurs excellences, le soussigné prend la liberté d'en faire une autre: c'est d'adopter à peu près la formule du traité de 1766, entre la Russie et la Grand Bretagne, et de dire que "quant à la recherche des bâtimens marchands en tems de guerre, les vaisseaux de guerre et les armateurs de la Puissance belligérante se comporteront aussi favorablement que la raison de guerre pour lors existante pourra le permettre, en observant, le plus qu'il sera possible, les principes et les règles du droit des gens généralement reconnus."

Il cite ce traité entre la Russie et la Grand Bretagne, parceque leurs excellences proposent de la prendre pour règle en définissant la contrebande, et parceque cet article est rénouvellé par le traité de commerce conclu entre ces deux mêmes Puissances, le 10ème (21) Février, 1797.

Le soussigné s' étoit flatté, d'après la réponse de leurs excellences à sa première note, que le bois de construction seroit le seul article parmi ceux qu'il y avoit specifié qu'elles auroient difficulté à admettre dans la liste de contrebande. En adoptant la proposition de conserver les dispositions à l'égard de la contrebande contenues dans l'article XIII de l'ancien traité, il espère encore qu'elles consentiront à ajouter les articles cités dans sa première note, à l'exception des bois de construction, à la liste du traité de 1766, entre la Russie et la Grande Bretagne. Cet arrangement lui paroit devoir être facilité, par le renouvellement de la stipulation que la contrebande même ne sera pas sujette à confiscation.

Il seroit aussi peut-être à propos d'omettre le terme de *provisions*, qui paroit être synonyme à celui de munitions de guerre, et qui pourroit être interpreté dans un sens plus étendu que l'intention des hautes parties contractantes ne comporte.

Pour ce qui regarde les papiers à spécifier pour prouver la neutralité des vaisseaux et de leurs cargaisons, le soussigné a l'honneur d'observer, qu'en désignant certains documens, que les vaisseaux armés d'une des hautes parties contractantes seroient en droit d'exiger en tems de guerre des navires marchands de l'autre, les Gouvernemens respectifs n'entendent pas limiter le pouvoir réciproque d'ordonner, pour le réglement intérieur de leur commerce, tel ou tel autre document ou papier qu'ils pourroient trouver à propos de préscrire à leurs sujets ou citoyens. Que, par conséquent, le Gouvernement de Sa Majesté pourroit toujours exiger de ses sujets commerçans d'avoir le *beil-brief* à bord de leurs bâtimens, comme le Gouvernement des Etats Unis pourroit toujours préscrire à leurs navigateurs d'être pourvus du certificat d'enrégistrement, quand même ces papiers ne seroient pas désignés dans le traité. Mais, de part et d'autre, la nature de ce document paroit être plutôt de prouver la propriété du navire, entre l'individu et son Gouvernement, que de prouver sa neutralité à des officiers ou tribunaux étrangers. C'est le document propre, sur le crédit duquel le Gouvernement se fonde en accordant sa protection aux bâtimens qui en sont pourvus; mais, à l'égard des étrangers, cela devient un papier superflu, lorsque le passeport de mer, muni de la signature des officiers publics, donne encore plus d'authenticité à tout ce qu'il peut attester.

Lorsqu'un vaisseau armé d'une Puissance belligérante et un bâtiment marchand d'une Puissance neutre se rencontrent en mer, il se trouve naturellement trois objets dont le dernier doit prouver au premier la neutralité,—le navire, sa cargaison, et sa compagnie. Chacun de ses objets a son propre document. Le passeport de mer est celui qui concerne particulièrement le navire; et lorsque celui-ci se trouve en règle, il semble peu nécessaire de donner le droit d'en exiger d'autres, dont le seul effet seroit de confirmer ce que lui seul doit suffisamment prouver.

Le soussigné a pris la liberté de faire ces observations, parcequ'il a cru que l'intérêt des deux hautes parties contractantes se trouveroit également consulté en ne pas stipulant dans un traité pour des documens qui semblent plutôt du ressort de l'administration intérieure, et que chacun des Gouvernemens voudroit vraisemblablement conserver à sa disposition pour pouvoir les continuer ou les changer comme il le trouveroit bon. On pourroit même ajouter à l'article où il seroit question des papiers une clause à cet effet. Cependant, si leurs excellences continuent à le trouver nécessaire, le soussigné n'hesitera pas à spécifier le *beil-brief* pour les navires Prussiens, et le certificat d'enrégistrement pour ceux des Etats Unis, parmi les papiers à désigner dans le traité.

Il admettra de même le rôle d'équipage pour les navires des deux nations. Ce papier n'est pas exclu par la constitution des Etats Unis. Aucuns de leurs traités précédens, il est vrai, ne l'a exigé, mais l'usage de l'avoir s'est récemment établi, en conséquence des inconvéniens qu'on a souffert en ne l'ayant pas, et le Gouvernement ne fera pas de difficulté à le nommer expressément dans le nouveau traité; ce qui préviendra la possibilité de tout mal-entendu à cet égard.

Comme tous ces papiers ne doivent être stipulés que pour les cas où l'une des hautes parties contractantes seroit en guerre, et que leur seul objet est de prouver la neutralité de navires et leurs chargemens de l'autre, il seroit bon de donner un délai (de trois mois, par exemple,) après la declaration de guerre, ou la notification de l'état d'hostilité; avant l'expiration duquel, ces documens ne seroient pas censés absolument nécessaires. La justice d'un pareil arrangement devient évident, en considérant qu'il faudra toujours un certain tems pour fournir aux bâtimens de la partie neutre des papiers, dont l'usage cessera naturellement en tems de paix.

Le soussigné, de plus, a l'honneur de faire savoir à leurs excellences, que depuis la date de la prèmiere note qu'il eut l'honneur de leur remettre, il a reçu la connoissance officielle d'une loi des Etats Unis, approuvée par le Président le septième du mois de Juillet dernier; par laquelle tous les traités entre les Etats Unis et la France sont déclarés n'être plus obligatoires sur le Gouvernement et les citoyens des Etats Unis. Les motifs sur lesquels cette loi est fondée sont énoncés dans son préambule: "Parceque les engagemens de ces traités avoient été maintefois violés de la part du Gouvernement François; parceque les justes réclamations des Etats Unis pour la réparation de ces injures avoient été rejettées, et leurs efforts pour négocier un arrangement amical de tous les différens entre les deux nations repoussés avec indignité; et parceque sous l'autorité du Gouvernement François il continueroit de se poursuivre un système de violence prédatoire, contraire aux dits traités ainsi qu'aux droits d'une nation libre et independante." En conséquence de cette loi, il ne sera pas nécessaire de stipuler de la part des Etats Unis, dans le nouveau traité, ces exceptions en faveur de la France proposées dans la première note du soussigné, ni de renouveller celle qui se trouve dans l'article 19 du traité de 1785.

Le soussigné finit en observant qu'il n'attend que le moment qui conviendra à leurs excellences, soit pour recevoir le projet formel du traité qu'elles feront rédiger, soit pour leur en présenter un, selon qu'elles le trouveront à propos.

JOHN Q. ADAMS.

A leurs excellences, les MINISTRES d'ETAT, &c.

[TRANSLATION.]

Mr. Adams to the Prussian Ministers.

BERLIN, 24*th December*, 1798.

The undersigned, minister plenipotentiary of the United States of America, has seen, with pleasure, in the reply of their excellencies, in their last note, that almost all the points relating to the renewal of the treaty of commerce between His Majesty and the United States, which required discussion, are adjusted; and that, with regard to those upon which some further explanation is still necessary, no difficulty will arise sufficiently serious to retard the conclusion of the negotiation to the entire satisfaction of the two Governments.

He would not hesitate to subscribe to the stipulation proposed by their excellencies, as a substitute for the 12th article of the ancient treaty, if he could omit the following words: "And the opposing dispositions of the belligerent Powers not permitting the satisfactory adjustment, at the present moment, of the contested question." It is possible that the belligerent Powers may find in these expressions a kind of sanction to their dispositions, which would not accord with the intentions of the high contracting parties; and besides, the undersigned would desire to omit entirely an allusion to a point, of which it is the desire of the two Governments to defer the consideration, rather than to announce it, formally, as a contested question.

In order to justify the opinion of his Government, on the subject of the principle in question, he believes it his duty to observe that it is not founded on the treaties of the fourteenth and fifteenth centuries. He considers the principle of the law of nations as absolutely distinct from the engagements stipulated by particular treaties. These cannot establish a fixed principle on this point; because such stipulations bind only the parties by whom they are made, and the persons on whom they operate; and because, too, in the seventeenth and eighteenth centuries, as well as in the fourteenth and fifteenth, different treaties have adopted different rules for each particular case, according to the convenience and agreement of the contracting parties.

Rejecting, therefore, all positive engagements stipulated in treaties, it may be well doubted whether, antecedently to the American war, a single example can be found of a maritime belligerent Power who has adopted the principle that enemy's property is protected by a neutral flag. For, without speaking of England, whose system in this respect is known, France, by the ordinance of 1744, renewing the provisions of that of 1781, declares enemies' property on board neutral vessels subject to seizure and confiscation. It excepts from this rule the ships of Denmark and the United Provinces, conformably to the treaties then existing between these Powers and France. This ordinance has continued to have its effect, in the tribunals of France, to the epoch of the ordinance of the 26th July, 1778. By the first article of this last, the freedom of enemies' property on board of neutral ships is yielded to neutrals as a favor, but not as a principle of the laws of nations, since the power is reserved to withdraw it at the expiration of six months, if a reciprocal stipulation should not be conceded by the enemy. Spain, by the ordinances of the 1st of July, 1779, and 13th of March, 1780, ordered, in like manner, the seizure and confiscation of enemies' property found in neutral vessels.

It will only be added, that a celebrated publicist, a Prussian subject, who, in the latter part of the present century, wrote a highly esteemed work upon the law of nations, Vattel, says expressly, (book 3, section 115), that "when effects belonging to an enemy are found on board a neutral vessel, they may be seized by the laws of war." He cites no example where the opposite principle has been practised or insisted on.

When the system of armed neutrality, however, was announced, the United States, although a belligerent Power, hastened to adopt its principles; and during the period succeeding this epoch in which they were engaged in war, they scrupulously conformed to them. But, on the first occasion, when, as a neutral Power, they might have enjoyed the advantages attached to this system, they saw themselves deprived of these advantages, not only by the Powers who had never acceded to these principles, but also by even the founders of the system. The intentions of the combined Powers, it is true, were exclusively directed against France, but the operation of their measures did not extend the less to all neutrals, and especially to the United States. However peculiar may have been the circumstances of the war, the rights of neutrality could not be thereby affected. The United States have regretted the abandonment of principles favorable to the interests of neutrality, but they have perceived their inability to prevent it; and they are persuaded that equity cannot require of them to be the victims, at the same time, both of the rule and of the exception; to be bound, as a belligerent party, by laws, of the advantages of which, as a neutral power, they are wholly deprived.

It is the wish, however, of the Government of the United States, to prove that it has no desire to depart from the principles adopted by the treaty of 1785, except upon occasions when an adherence to those principles would be an act of injustice to the nation whose interests are confided to it. In consequence of the instruction he has received, the undersigned has the honor to propose, in adopting, (with the omission of the words already cited,) the stipulation contained in the note of their excellencies, as a substitute for the twelfth article, the insertion of a clause to the following effect:

"And if, during this interval, one of the high contracting parties shall be engaged in a war to which the other is neutral, the belligerent Power will respect all the property of enemies laden on board the vessels of the neutral party, provided that the belligerent Power shall acknowledge the same principle with regard to every neutral vessel, and that the decision of his maritime tribunals shall conform to it."

If this proposition has not the good fortune to be accepted by their excellencies, the undersigned takes the liberty to make another: it is to adopt nearly the formula of the treaty of 1766, between Russia and Great Britain, and to say that, "as to the search of merchant vessels, *in time of war*, the vessels of war and the private armed vessels of the belligerent Power will conduct themselves as favorably as the objects of the then existing war will permit; observing, as much as possible, the principles and rules of the laws of nations, as generally recognized."

He cites this treaty between Russia and Great Britain, because their excellencies propose to take it as authority in defining the articles of contraband, and because this article is renewed by the treaty of commerce concluded between the same two Powers the 10th (21st) February, 1797.

The undersigned had flattered himself, after their excellencies' reply to his first note, that ship timber would be the only article of those which he had specified which they would have any difficulty in admitting in the list of contraband. In adopting the proposition to preserve the principles, with regard to contraband, contained in the 13th article of the ancient treaty, he still hopes that they will consent to add the articles cited in his first note, with the exception of ship timber, to the list contained in the treaty of 1766, between Russia and Great Britain. He had supposed that the stipulation that even contraband articles should not be subject to confiscation would have the tendency to facilitate this arrangement.

It would also, perhaps, be proper to omit the term *provisions*, which appears synonimous with that of munitions of war, and which is susceptible of being interpreted in a broader sense than that intended by the high contracting parties.

As to what regards the papers to be produced, in order to prove the neutrality of the vessels and their cargoes, the undersigned has the honor to observe, that, in designating certain documents, which the armed vessels of one of the high contracting parties should have the right to demand in time of war of the merchant vessels of the other, the respective Governments do not intend to restrict the reciprocal power of ordering, for the municipal regulation of their commerce, whatever document or paper they may think proper to prescribe to their citizens or subjects; that, consequently, the Government of His Majesty may, at all times, require his commercial subjects to have the *beil-brief* on board their vessels; and, in like manner, the Government of the United States may order their seamen to be provided with a certificate of registry, although neither of these papers may be prescribed by the treaty. But, on the part of both, the nature of this document appears to be rather to prove the ownership of the vessel, on a question concerning the individual and his Government than the neutrality of the vessel, before the officers or tribunals of a foreign Power. It is the very document, on the credit of which the Government relies in granting its protection to the vessels which may be provided with it; but, as it regards foreigners, it becomes a superfluous document, when the sea-letter, supported by the signature of public officers, gives still greater authenticity to all that it can attest.

When the armed vessel of a belligerent Power and the merchant vessel of a neutral Power meet together at sea, three objects are presented, to which the first will naturally look in order to ascertain the neutrality of the second—the vessel, the cargo, and the crew. Each of these objects has its own document. The sea-letter is that which particularly concerns the vessel; and, when that is found perfectly regular, it seems unnecessary to confer the right to exact others; the only effect of which would be to confirm what that alone ought sufficiently to prove.

The undersigned has taken the liberty to make these observations, because he has thought that the interests of the two high contracting parties would be equally consulted by not stipulating in a treaty for documents which seem more properly to appertain to the interior administration, and which each Government would probably desire to continue or to change, as its own policy might dictate, without embarrassment or control. A clause to that effect may even be added to this article, where a question may arise respecting the papers. However, if their excellencies shall continue to think it necessary, the undersigned will not hesitate to specify the *beil-brief* for the Prussian vessels, and the certificate of registry for those of the United States, among the papers designated in the treaty.

He will also admit the muster-roll for the vessels of the two nations. This paper is not excluded by the constitution of the United States. It is true, that it is not required by any of their former treaties; but the usage of having it is recently established, in consequence of the inconveniences which have been felt from not possessing it; and the Government will find no difficulty in expressly naming it in the new treaty, so as to prevent the possibility of any misunderstanding on this subject.

As all these papers ought to be stipulated only for the case when one of the high contracting parties shall be at war, and as their sole object is to prove the neutrality of the vessels and their cargoes, it would seem proper to give a delay (of three months, for example,) after the declaration of war, or notification of hostilities, before the expiration of which, these documents shall not be considered absolutely necessary. The justice of a similar arrangement will be evident, when it is considered that some time must be requisite to furnish the vessels of the neutral party with papers, the use of which will naturally cease in time of peace.

The undersigned has also the honor to apprise their excellencies that, subsequently to the last note he has had the honor to transmit to them, he has received official information of a law of the United States, approved by the President of the United States, the 7th of last July, by which all the treaties between the United States and France are declared to be no longer obligatory upon the Government and citizens of the United States. The reasons upon which this law is founded are declared in the preamble: "Because the engagements contained in these treaties have been manifestly violated on the part of the Government of France; because the just demand of the United States, for the reparation of these injuries have been rejected, and their efforts to negotiate an amicable arrangement, upon all the differences existing between the two nations, rejected with indignity; and because, under the authority of the Government of France, a system of predatory violence has been continued, opposed alike to the aforesaid treaties, and to the rights of a free and independent nation." In consequence of this law, it will not be necessary to stipulate, on the part of the United States, in the new treaty, the exceptions in favor of France, proposed in the first note of the undersigned; nor to renew that which is contained in the 19th article of the treaty of 1785.

The undersigned concludes, by observing, that he only awaits the time which will be convenient to their excellencies, either to receive the formal project of a treaty which they shall have prepared, or to present one himself, as shall be most acceptable to them.

JOHN Q. ADAMS.

To their Excellencies, the MINISTERS OF STATE, &c.

No. 144.

SIR: BERLIN, *4th April*, 1799.

Since I had the honor of writing to you last, I have received from the department of Foreign Affairs here a note, with a copy of the full powers given by the King to the three ministers at the head of that department, to renew the treaty of commerce between the two Powers, and they sent me, at the same time, the project of a treaty, in the French language. I have replied, by a note containing my observations upon such parts of the projected plan as appeared to me to require them, and have returned the plan, with such alterations noted in the margin as I thought would be necessary or proper, and with a copy of the same plan, as varied by the marginal alterations, in our own language, for the consideration of the cabinet. I enclose herewith copies of these papers, excepting of the projects for a treaty, which I shall reserve until we shall have agreed upon the tenor of the instrument; and, in the notes themselves, you will see in what respects they differ from the former treaty.

It is more than a fortnight since I delivered to Count Finckenstein my reply, with the two projects; and Count Haugwitz had before had them a fortnight in his possession. He told me that there would be few objections, perhaps none at all, to the alterations I proposed; and I do not apprehend that any further essential difficulty will occur to impede an agreement and the conclusion of the treaty.

I did not think it expedient to insist any further upon comprising naval stores among the articles of contraband, because they had given up the point of making free ships free goods; and, as it was evidently with reluctance on their part, I considered myself fully authorized by your instructions to show a disposition to comply with their wishes

in the other particular. These articles have, indeed, never been allowed by this country to be contraband, and even Great Britain has generally considered them as free, so far as Prussia was concerned. In the general Prussian code of laws, they are expressly named as *not* contraband, and they could not have been admitted under the opposite denomination, without repealing a law which has reference to all other nations as well as to the United States.

The alteration in the twenty-first article I agreed, without hesitation, to adopt, as it appeared much more equitable than the former arrangement, and as the salvage allowed to ships of war is the same which the British Courts of Admiralty have allowed in cases of recapture of American vessels from French cruizers, though without any stipulation upon the subject by treaty. And I have not understood that any complaint has been made against this disposition.

I have the honor to be, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

The SECRETARY OF STATE.

BERLIN, *le* 19 *Février*, 1799.

La note que Monsieur Adams, ministre plénipotentiaire des Etats Unis de l'Amérique, nous a fait l'honneur de nous adresser, en date du 24 Decembre dernier, nous approche du dénouement de la négociation interessante dont nous nous sommes occupés avec lui pendant son séjour à Berlin, et nous nous voyons en état présentement de lui communiquer ci-joint le projet du nouveau traité, sur lequel il ne reste plus qu'un petit nombre d'observations à faire.

Nous lui avions proposé, dans nôtre office du 29 Novembre, de laisser tomber entièrement la discussion qui s'est élévée au sujet de l'article XII, ayant pour objet la navigation neutre; et c'est le parti que nous prendrons encore aujourd'hui en adoptant, tout uniment, la stipulation qui doit être substituée à l'ancienne. Nous y avons rayé, selon le désir de Monsieur Adams, le passage où il etoit question *des dispositions contradictoires des Puissances actuellement belligérantes*, et en suivant l'analogie du traité conclû en 1766 entre la Russie et la Grande Bretagne, nous avons ajouté la clause supplétoire qui est rélative à la visite des bâtimens marchands en tems de guerre; moyennant quoi cet article se trouve parfaitement en règle.

Il n'en est pas de même du XIII, qui se rapporte aux objets de contrebande. Nous avons déclaré à Monsieur Adams, dès nôtre première note du 25 Septembre, 1798: "Que s'il devoit être nécessaire de les spécifier en détail dans le nouveau traité, *nous serions obligés de nous en tenir à ceux qui ont été réputés et adoptés comme tels dans la convention maritime conclüe entre la Prusse et la Russie le* 8 *Mai*, 1781, *à l'instar du traité de commerce et de navigation arrêté entre la Russie et la Grande Bretagne le* 20 *Juin*, 1766."

D'après ce principe, nous nous sommes refusés à placer sur la liste des articles de contrebande *le bois de construction*, et nous avons décliné aussi tacitement les autres exceptions que Monsieur Adams nous avoit proposées. Ce sont autant de productions du sol ou de l'industrie Prussienne, qui ont toujours passé comme *marchandises licites* dans toutes les guerres, et que nous ne sommes pas les maîtres de prohiber. Monsieur Adams voudra donc bien conserver, à nôtre exemple, l'ancienne liste, qui a servi de règle jusqu'ici à toutes les Puissances maritimes. Nous y avons omis le mot *provisions*, qui lui a paru sujet à inconvénient.

Pour témoigner à ce ministre combien nous sommes disposés d'entrer dans ses vues, et d'abréger autant que possible les formalités superflues, nous consentons à supprimer celle du *document de construction*, et nous l'avons conséquemment passé sous silence dans l'article XIV; de sorte que les vaisseaux neutres n'auront besoin en tems de guerre d'autres papiers de mer que du *passeport*, du *rôle d'équipage*, et de la *certe-partie*. On a accordé en sus aux navigateurs, suivant la proposition de Monsieur Adams, un délai de trois mois après la déclaration de guerre, pour leur laisser le tems de se munir de ses documens.

Enfin, nous avons rayé aussi, dans les articles XIX et XX, les exceptions en faveur de la France, qui ont été révoquées par la loi des Etats Unis du 7 Juillet dernier.

Après avoir deféré ainsi, en tout ce qui dépendoit de nous, aux propositions de Monsieur Adams, et aux vœux de ses commettans, il nous reste à fixer son attention sur un article de l'ancien traité, qui n'a pas encore été rélévé dans le cours de nôtre negociation, et qui exige, cependant de toute nécessité, une reforme. Il s'agit du XXI, dans lequel on a établi, en 1785, des primes exorbitantes aux dépens des navires marchands, qui en tems de guerre pourroient être repris sur l'ennemi par les vaisseaux de guerre, ou armateurs de l'une et de l'autre nation. La rémunération promise aux *armateurs* a été fixée au *tiers* de la valeur du bâtiment et de la cargaison, lorsque le navire n'aura pas été au pouvoir de l'ennemi au delà de vingt-quatre heures, et le propriétaire devoit être condamné à perdre *le tout* lorsque le vaisseau seroit repris plus tard qu'après vingt-quatre heures.

Quand aux *vaisseaux de guerre*, on leur adjugeoit, dans le premier de ces cas, un *trentième* de la valeur, et dans le second cas un *dixième*. C'etoit là le taux usité à l'époque où l'ancien traité fut conclu, mais du depuis le nouveau code de loix qui a été introduit dans la monarchie Prussienne à statué sur cette matière: (partie I, titre 9, § 208—210.)

"Que si un armateur ou vaisseau de guerre Prussien reprend un navire ou des marchandises appartenans à des sujets du Roi, ou à ceux d'une Puissance amie ou neutre, le preneur ne doit conserver son butin que dans le cas où le navire aura déjà été conduit *avant la reprise* dans un port ennemi ou neutre. Mais si la reprise a lieu avant que le navire ou la cargaison ayant été conduit dans un port ennemi ou neutre, ils seront restitués au premier propriétaire moyennant une rétribution. Celle-ci est fixée au tiers de la valeur pour les armateurs, et elle sera determinée pour les vaisseaux de guerre dans chaque cas particulier par les tribunaux maritimes."

Ce réglement, qui a été sanctionné encore par une ordonnance royale publiée en date du 24 Septembre 1798, adoucit à plusieurs égards les stipulations du traité de 1785, et abolit surtout le délai si court et si injuste des vingt-quatre heures, qui suffisoit autrefois pour décider, au préjudice du propriétaire légitime, le sort d'un vaisseau tombé au pouvoir de l'ennemi.

Cependant, peu après que cette loi avoit été émanée dans les états du Roi, la cour de Madrid invita Sa Majesté, au mois de Novembre dernier, "d'observer à l'avenir réciproquement entre les deux Puissances l'usage établi par les ordonnances maritimes de l'Espagne, portant, que tout bâtiment national, ami ou neutre, repris sur l'ennemi, sera restitué au propriétaire moyennant une rémunération du *huitième* de la valeur pour les vaisseaux de guerre, et du *sixième* pour les simples armateurs."

Le Roi s'est empressé d'adopter le principe d'humanité et de modération dont Sa Majesté Catolique lui a proposé l'exemple, et les deux cours sont convenues de s'y conformer dans la suite de part et d'autre.

Il est à présumer que les Etats Unis de l'Amérique, qui, dans leur premier traité avec la Prusse, ont manifesté d'une manière si éclatante l'intention généreuse de soustraire autant que possible la navigation et le commerce aux influences de la guerre, ne voudront pas rester en arrière dans l'occasion présente; et nous croyons pouvoir en appeller avec confiance à leur ministre. Il sentira de lui-même qu'il ne nous seroit point permis aujourd'hui d'agréer des stipulations qui portassent atteinte au dispositif du code actuel de nos loix, et qu'ainsi dans tous les cas nous serions obligés de réduire l'article XXI du traité de 1785 aux premières modifications ci-dessus énoncées. Mais nous nous en remettons au choix de Monsieur Adams, s'il veut les admettre sur le même pied dans le nouveau traité à conclure, ou s'il préfère de leur substituer les conditions plus modiques encore, qui dérivent des ordonnances maritimes de l'Espagne? Nous ferons à cet égard ce qui sera de sa convenance, et nous n'attendons que sa réponse pour suppléer l'article qui est resté en blanc.

Dès lors aussi, et dans la supposition que nous sommes maintenant d'accord avec lui sur toutes les autres stipulations de nôtre projet, nous ferons expédier l'instrument du traité en double, et nous ne manquerons pas de lui indiquer en suite le jour où nous pourrons nous réunir pour procéder à la signature et à l'échange des pleinpouvoirs. En attendant, nous avons l'honneur de lui communiquer ci-joint la copie de celui dont nous nous trouvons munis.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

A MONSIEUR ADAMS, *Ministre Plénipotentiaire des Etats Unis de l'Amérique.*

The Prussian Ministers to Mr. Adams.

[TRANSLATION.]

BERLIN, 19*th February*, 1799.

The note, dated the 24th December last, which Mr. Adams, minister plenipotentiary of the United States, has done us the honor to transmit, brings us to the close of the interesting negotiation with which we have been occupied with him during his residence at Berlin; and we now find ourselves prepared to communicate the subjoined *projet* of a new treaty, upon which it will be necessary to make a few observations.

We had proposed to him, in our note of the 29th November, to omit entirely the discussion which has arisen on the subject of the twelfth article, relating to neutral navigation; and we are now governed by the same desire in adopting, without variation, the stipulation which ought to be substituted for the one contained in the ancient treaty. Agreeably to the desire expressed by Mr. Adams, we have expunged the passage which refers to "*the contradictory dispositions of the present belligerent Powers;*" and, following the analogy of the treaty concluded in 1766 between Russia and Great Britain, we have added an additional clause, which relates to the search of merchant vessels in time of war; by means of which this article will be found perfectly regular.

It is different with the thirteenth article, which concerns objects of contraband. We have declared to Mr. Adams, in our first note of the 25th of September, 1798, "that, if it should be necessary to specify them in detail in the new treaty, we shall be obliged to restrict them to those which have been stipulated and adopted as such in the maritime convention concluded between Prussia and Russia, the 8th of May, 1781, after the example of the treaty of commerce and navigation concluded between Russia and Great Britain, the 20th of June, 1766."

According to this principle, we have declined to place ship timber on the list of articles of contraband; and we have also tacitly omitted the other exceptions which Mr. Adams has proposed to us. These are, also, the productions of the soil, or of the industry of Prussia, which have been considered in every war as lawful merchandise, and which we have no power to prohibit. Mr. Adams will, therefore, be willing, after our example, to adhere to the ancient list, which has, to the present time, served as a rule for all the maritime Powers. We have in this article omitted the word *provisions*, which seemed to him liable to objections.

To manifest to this minister how much we are disposed to enter into his views, as well as to abridge superfluous formalities, we consent to suppress the document showing the building of the vessel, and we have, therefore, passed it over in silence in the 14th article; so that, in time of war, neutral vessels will have occasion for no other papers, except the sea-letter, muster-roll, and charter-party. Agreeably to the proposition of Mr. Adams, a delay of three months, after a declaration of war, is granted to the respective navigators to provide themselves with the required documents.

Finally, we have expunged from the nineteenth and twentieth articles the exceptions in favor of France, which have been revoked by the law of the United States of the 7th of last July.

After having thus yielded to the propositions of Mr. Adams, and to the views of his Government, all that depended upon us, it remains for us to invite his attention to an article of the ancient treaty, which has not yet been noticed in the course of the negotiation, and which seems, nevertheless, to require revision. We refer to the twenty-first article, which has established, in 1785, exorbitant insurances at the expense of the merchant vessels, which, in time of war, may be retaken from the enemy by vessels of war, or private armed vessels of either nation. The promised remuneration to the private armed vessels has been fixed at one-third of the value of the vessel and cargo, when the vessel shall not have been in the power of the enemy more than twenty-four hours, and the owner would be condemned to lose the whole should the vessel be retaken after twenty-four hours.

As to vessels of war, a thirtieth of the value is adjudged to them, in the first case, and a tenth in the second. At the time the ancient treaty was concluded, these were the customary rates; but a new code of laws, subsequently introduced into the Prussian monarchy, has adopted on this subject the following regulation: Title 9, § 208–210.

"That if a Prussian privateer, or vessel of war, should retake a ship or merchandise belonging to the subjects of the King, or to those of a friendly or neutral Power, the captor ought not to retain his booty, except where the vessel shall have been carried, before the re-capture, into a neutral or enemy's port. But if the re-capture has taken place before the vessel, or cargo, shall have been carried into an enemy's or neutral port, they shall be restored to the first owner, upon a recompense being made; this recompense, in the case of private armed vessels, is fixed at one-third of the value; and, where vessels of war are concerned, it shall be determined, in each particular case, by the maritime tribunals."

This regulation, which has been sanctioned by a royal ordinance, published and dated the 24th September, 1798, has, in many respects, moderated the stipulations of the treaty of 1785, and especially has abolished the short and unjust delay of twenty-four hours, which formerly, to the injury of the legitimate owner, sufficed to determine the fate of a vessel captured by the enemy.

A short time, however, after this law had been introduced into the dominions of the King, the court of Madrid invited his majesty, last November, "to observe, reciprocally, in future, between the two Powers, the usage established by the maritime ordinances of Spain, declaring, that every national vessel, friend or neutral, captured from the enemy, shall be restored to the owner, for a remuneration of *one-eighth* of the value, in the case of a vessel of war, and *one-sixth* to privateers only."

The King hastened to adopt the principle of humanity, thus proposed for his imitation by His Catholic Majesty; and the two courts have, accordingly, agreed to conform to it.

It is to be presumed that the United States of America, who, in their first treaty with Prussia, have so clearly manifested the generous intention to withdraw, as much as possible, navigation and commerce from the effects of war, will not, on this occasion, evince a disposition less liberal than others; and we therefore believe that we can appeal with confidence to their minister. He will himself perceive that we could not be at liberty to agree to stipulations which would impair the sanctions of an existing law, and that, therefore, in any event, we shall be obliged to conform the tweny-first article to the first modifications herein announced. We would submit it to his option, whether in the treaty to be concluded he will adopt these modifications, or prefer, as a substitute, the still more moderate regulations derived from the maritime ordinances of Spain. In this respect, we will do whatever he may think proper to suggest; and we only expect his reply, to supply the article which remains in blank.

As soon as this shall be done, supposing that we are now agreed on all the other stipulations of our *projet*, we will cause two draughts of the treaty to be prepared, and will not fail to inform him of the day when we may assemble, for the purpose of proceeding to the signature and to the exchange of the full powers. In anticipation of which, we have the honor to communicate herewith a copy of that with which we are provided.

FINCKENSTEIN,
ALVENSLEBEN,
HAUGWITZ.

To MR. ADAMS, *Minister Plenipotentiary of the United States of America.*

Plein Pouvoir pour les Ministres d'Etat et de Cabinet, Comte de Finckenstein, Baron d'Alvensleben, et Comte de Haugwitz, ayant pour objet le renouvellement du traité de commerce et d'amitié avec les Etats Unis de l'Amérique.

Nous, FREDERIC GUILLAUME III, par la grace de Dieu, Roi de Prusse, &c. savoir faisons à quiconque appartient:

Les Etats Unis de l'Amérique, nous ayant proposé de renouveller le traité de commerce et d'amitié que notre auguste prédécesseur, le Roi Frederic II. de glorieuse mémoire a conclu avec eux, le 10ème Septembre, 1785, et notre intention étant pareillement de raffermir sur une base solide les liaisons de commerce et de bonne intelligence qui ont si heureusement subsisté jusqu'ici entre la Prusse et la république Americaine, nous avons nommé, commis, et député, nommons, commettons, et députons nos ministres plénipotentiaires:

Le Sieur Charles Guillaume, Comte de Finckenstein, nôtre ministre d'état, de guerre, et de cabinet, chevalier des ordres de l'aigle noir et de l'aigle rouge, et commandeur de celui de St. Jean de Jérusalem:

Le Sieur Philippe Charles, Baron d'Alvensleben, nôtre ministre d'état, de guerre, et de cabinet, chevalier des ordres de l'aigle noir et de l'aigle rouge, et de celui de St. Jean de Jérusalem:

Et le Sieur Chrétien Henri Curce, Comte de Haugwitz, nôtre ministre d'état, de guerre, et de cabinet, chevalier des ordres de l'aigle noir et de l'aigle rouge:

Pour négocier avec le Sieur Jean Quincy Adams, ministre plénipotentiaire des Etats Unis de l'Amérique auprès de nôtre cour, le traité de commerce et d'amitié qui doit être substitué à la place de l'ancien. Leur donnons plein et absolu pouvoir par les présentes, tant conjointement que séparément, de conférer et délibérer sur les objets qui y sont rélatifs, d'arreter les stipulations que le changement des circonstances a rendu nécessaires, et de signer ensuite le nouveau traité, et telles autres conventions, déclarations, ou actes quelconques, qu'ils jugeront convénables pour consommer leur négociation. Promettant, en foi et parole de Roi, d'avoir pour agréable, tenir ferme et stable à toujours, accomplir et éxécuter ponctuellement tout ce que nos dits ministres auront stipulé, conclu, et signé en vertu du présent pleinpouvoir, sans jamais y contrevenir, ni permettre qu'il y soit contrevenu pour quelque cause et sous quelque prétexte que ce puisse être; comme aussi d'en faire expédier nos lettres de ratifications en bonne forme, et de les faire délivrer pour être échangées dans le tems dont il sera convenu.

En foi de quoi, nous avons signé les présentes, et y avons fait apposer nôtre sceau royal.

Donné à Berlin, le dix de Décembre, l'an de grace mil sept cent quatre-vingt-dix-huit, et de nôtre regne le sécond.

FREDERIC GUILLAUME. [L. S.]

[TRANSLATION.]

Full powers to the Ministers of State and of the cabinet, Count of Finckenstein, Baron of Alvensleben, and Count of Haugwitz, having for its object the renewal of the treaty of commerce and friendship with the United States of America.

We, FREDERICK WILLIAM the Third, by the grace of God, King of Prussia, make known to whomsoever it may concern:

The United States of America having proposed to us the renewal of the treaty of commerce and friendship which our august predecessor, King Frederick the Second of glorious memory, concluded with them the 10th September, 1785; and it being equally our intention to establish on a solid basis the ties of commerce and good intelligence which, to the present time, have so happily subsisted between Prussia and the American republic: we have nominated, constituted, and deputed, and do nominate, constitute, and depute our ministers plenipotentiary—

Charles William, Count of Finckenstein, our minister of state, of war, and of the cabinet; knight of the orders of the black and red eagle, and commander of that of St. John of Jerusalem;

Philip Charles, Baron of Alvensleben, our minister of state, of war, and of the cabinet; knight of the orders of the black and red eagle, and of that of St. John of Jerusalem;

And Christian Henri-Curce, Count of Haugwitz, our minister of state, of war, and of the cabinet, knight of the orders of the black and red eagle:

To negotiate with John Quincy Adams, minister plenipotentiary of the United States of America near our court, the treaty of commerce and friendship which ought to be substituted for the former; giving them, by these presents, jointly and separately, full and absolute power to confer and deliberate on the objects relating thereto, to conclude the stipulations which a change of circumstances has rendered necessary, and thereafter to sign a new treaty, and such other conventions, declarations, or acts, as they may judge suitable, in order to consummate their negotiation: promising, upon the faith and word of a King, to consider as right, to hold firm and stable, forever, and to accomplish and execute punctually all that our said ministers shall have stipulated, concluded, and signed, in virtue of the present full powers, without either contravening it, or permitting its contravention by others, from any cause, or on any pretext whatsoever; as also to cause our letters of ratification, in proper form, to be issued and delivered, in order to be exchanged within the time which may be agreed upon.

In faith of which, we have signed these presents, and have caused our royal seal to be affixed thereto.

Given at Berlin the 10th of December, in the year of our Lord 1798, and of our reign the second.

FREDERICK WILLIAM. [L. S.]

BERLIN, *le* 16 *Mars*, 1799.

Le ministre plénipotentiaire des Etats Unis de l'Amérique a reçu la note de leurs excellences, en date du 19ème Février, accompagnée de la copie de leur pleinpouvoir, et du projet de traité qu'elles ont bien voulu lui envoyer. Il s'empresse d'y répliquer par quelques observations, en faveur desquelles il sollicite la même indulgence que leurs excellences ont montrés pour ce qu'il a jusqu'ici eu l'honneur de leur représenter à ce sujet.

L'ancien traité de 1785 fut redigé et signé en originel dans les deux langues, Françoise et Angloise, ce que le soussigné espère que leurs excellences consentiront à faire également pour le nouveau. Fondé sur cette attente, il a l'honneur de leur remettre maintenant le projet du traité en langue Angloise, dans lequel il a repété les termes de l'ancien traité dans tous les articles où le projet de leurs excellences a conservé les termes du François, à l'exception de deux changemens peu considérables que les changemens dans la constitution des Etats Unis, survenus depuis la signature du traité de 1785, rendent nécessaires; l'une dans le préambule du traité, l'autre dans le quatrième article.

Quand aux nouveaux articles, le soussigné a généralement fait une traduction de ceux dans le projet que leurs excellences lui ont communiqué. Il croiroit mal répondre à la complaisance qu'elles ont montré dans tout le cours de cette négociation, non moins qu'au vœu de son Gouvernement de prouver sa déférence aux désirs de Sa Majesté Prussienne, s'il insistoit davantage sur l'article de la contrebande; en conséquence, il a entièrement adopté les dispositions à cet égard contenues dans le projet de leurs excellences.

D'après les mêmes principes, il n'a pas hesité d'adopter, à l'égard des reprises maritimes, celui des alternatifs proposés par leurs excellences, qui se trouve sanctionné par l'approbation et la préférence de Sa Majesté le Roi de Prusse, persuadé que son Gouvernement se fera gloire de participer aux sentimens d'humanité qui ont dicté cette préférence. Il s'est donc permis de remplir, dans ce sens, l'article XXI, et en même tems de faire un changement nécessaire au dix-septième article, pour le rendre conforme à cet arrangement.

Il a pris encore la liberté de proposer quelques additions et changemens, marqués dans la marge du projet de leurs excellences, qu'il désire leur faire agréer, et dont il a l'honneur de leur exposer les motifs.

Le terme de " hautes," ajouté aux parties contractantes, ne se trouve pas dans les articles copiés de l'ancien traité. On propose de l'effacer dans les nouveaux articles, pour donner de l'uniformité à l'ensemble, et parceque les Etats Unis, n'ayant adopté aucun titre de grandeur, ne se sont jamais appliqué cet épithète dans aucunc de leurs traités.

Dans l'article XIII, les termes de " ci-devant appellés" ne semblent plus devoir appartenir aux articles de contrebande, puisque l'article même contient une liste de contrebande actuelle; c'est pourquoi on propose de les effacer.

Dans l'article XIV, on voudroit ajouter que la certe-partie, ou les connoissemens, aussi bien que le rôle d'équipage, seront accompagnés de certificats par les officiers publics accoutumés pour donner à ces papiers un dégré d'authenticité, que sans eux ne peuvent avoir des documens passés simplement entre des individus. Le soussigné croit même que ces certificats sont d'usage dans les états Prussiens, et que leurs excellences ont entendu les comprendre dans les mots mêmes de *connoissemens*, et de " rôle d'équipage." Mais comme ces certificats ne sont pas essentiellement partie de ces papiers, et comme ils ne sont nécessaires que dans le tems de guerre maritime, il vau-

drait peut-être mieux les nommer expressément. Une autre raison qui rende ces certificats nécessaires, c'est que très communément à bord des navires Americains les connoissemens ne désignent que les ballots, ou caisses, avec leurs marques et numéros, sans en spécifier le contenu, comme l'exige les lois Prussiennes des navigateurs de ce pays.

Le projet du soussigné a varié un peu la clause qui donne un délai de trois mois aux navigateurs pour se procurer les documens nécessaires en tems de guerre. Il n'exige ces documens que pour les navires qui auront fait voile des ports de la Puissance neutre plus de trois mois après que le Gouvernement neutre ait connoissance de la guerre. Parceque, d'un côté, le navire pourroit se trouver en mer beaucoup plus que trois mois après la déclaration de guerre sans posséder ces documens, s'il etoit sorti du port neutre avant ou peu après cette déclaration; et de l'autre, l'intention des parties contractantes n'est pas d'exempter les navires neutres de la production de tout document qui puisse constater leur neutralité, (exemption dont les ennemis de la partie belligérante pourroient abuser, en la reclamant sans y avoir le droit,) mais d'admettre pour les bâtimens qui sont dans l'impossibilité d'être pourvus des documens spécifiés toute autre preuve raisonnable et équivalente.

Dans l'article XV, on voudroit omettre la stipulation que les vaisseaux de guerre n'approcheront les navires neutres, qu'au delà de la portée de canon. Cet engagement, commun à beaucoup de traités modernes, n'est que très rarement, pour ne pas dire jamais, observé. Il seroit souvent impossible, et toujours très incommode, aux deux vaisseaux de l'observer. Dans les gros tems on pourroit rarement envoyer un bateau à la distance qu'il le faudroit pour rester hors de la portée du canon. Dans les tems moderés, il fauderoit que les deux vaisseaux s'arrétassent pendant la traversée du bateau entr'eux, ce qui causeroit une perte inutile de tems, et au vaisseau de la partie belligérante, et au navire neutre; d'ailleurs, en se liant à cette stipulation envers les neutres, on s'y lie dans le fait envers l'ennemi, puisque rien n'est plus ordinaire aux bâtimens des belligérans que d'arborer le pavillon neutre pour échapper à l'ennemi. Or, pour observer cette clause, il faudroit qu'un vaisseau armé cessât la poursuite de tout navire que hisseroit le pavillon neutre pour en rester hors de la portée de canon jusqu'à ce qu'il ait envoyé son bateau pour examiner les papiers du pretendu neutre, ce qui faciliteroit infiniment son evasion.

Dans le même article XV, les mots "passeports et documens" semblent mieux convenir que ceux de "lettres de mer et passeports" adoptés de l'ancien traité, qui n'exigeoit pas les autres documens designés dans le nouveau.

Dans l'article XVI, pour eviter la construction possible que les navires de l'une des parties dans les ports de l'autre seroient sujets à l'embargo pour être employés à quelque usage particulier, on propose, au lieu des mots "public ou particulier" de substituer les mots "que ce soit."

A l'article XIX, on a ajouté une clause pour le faire conformer aux traités subsistans entre les Etats Unis et la Grande Bretagne, dont le soussigné a fait mention dans sa note à leurs excellences du 11ème Juillet de l'année dernière.

En soumettant tout ceci à la considération de leurs excellences, il ajoute que lorsqu'elles en auront decidé, si elles trouvent bon de signer le traité dans les deux langues, il en fera faire copie double de l'originel en Anglois, pour être prête au moment où il leur conviendra de procéder à l'échange des pleinpouvoirs et à la signature.

JOHN Q. ADAMS.

A leurs Excellences Messieurs les MINISTRES D'ETAT, &c.

[TRANSLATION.]

Mr. Adams to the Ministers of Prussia.

BERLIN, *March* 16, 1799.

The minister plenipotentiary of the United States of America has received the note of their excellencies, dated the 19th February, accompanied by a copy of their full power, and the project which they have been pleased to transmit. He hastens to make some observations in reply, for which he solicits the indulgence they have been kind enough to extend to his previous representations on the same subject.

The ancient treaty of 1785 was concluded and signed, as an original, in two languages, the French and English; and the undersigned hopes that the new treaty will be executed in the same manner. Relying on this expectation, he has now the honor to transmit the project in the English language; in which he has repeated the terms of the ancient treaty, in every article where the project of their excellencies has preserved the French terms, with the exception of two inconsiderable changes, rendered necessary by the alterations in the constitution of the United States: the one in the preamble, the other in the fourth article.

As to the new articles, a translation has generally been made by the undersigned, in the project which their excellencies have communicated. He would, in his opinion, very ill return the courtesy which he has received in the course of this negotiation, and not less imperfectly exhibit the deference which his Government has desired him to manifest towards His Prussian Majesty, if he insisted further on the article of contraband. He has, therefore, in this respect, adopted entirely the provisions contained in the project of their excellencies.

Upon the same principle, he has not hesitated to adopt, in relation to maritime re-captures, the alternative of those proposed by their excellencies, which he finds has been sanctioned by the approbation and preference of His Majesty the King of Prussia; being persuaded that his Government will do itself the honor of participating in those sentiments of humanity which have dictated that preference.

The term "high," applied to the contracting parties, is not found in the articles copied from the ancient treaty. It is proposed to erase it from the new articles, not only for the sake of uniformity, but because the United States, having declined the adoption of any title of distinction, have never applied this epithet in any of their treaties.

In the thirteenth article, the terms "heretofore called" do not appear to apply apporpriately to the articles of contraband; since the article itself contains a list of what is contraband. On that account it is proposed to expunge them.

In the fourteenth article, it is wished to add, that the charter-party, or bill of lading, as well as the muster-roll, shall be accompanied by the certificates of the public officers who are accustomed to issue them, in order to give to these papers a degree of authenticity, without which no documents would be entitled to credit, even in the private transactions of individuals. The undersigned believes that these documents are in use within the Prussian dominions, and that their excellencies have intended to comprise them within the words "bills of lading," and "muster-roll." But as these certificates are not an essential part of these papers, and as these papers themselves are only necessary in a time of maritime war, it would perhaps be better to name them expressly. Another consideration appears to render these certificates necessary; the bills of lading, on board of American vessels, very frequently designate only the bales and boxes, with their marks and numbers, without specifying their contents, as is required of Prussian navigators by the laws of this country.

The project of the undersigned has slightly varied the clause which gives to the navigators a delay of three months, in order to procure the documents necessary in time of war. It only exacts these documents from vessels which shall have sailed from the ports of the neutral Power more than three months after the neutral Government has knowledge of the war; because, on the one hand, the vessel may be at sea more than three months after a declaration of war, without possessing these documents, if it shall have sailed from a neutral port before, or a little after this decaration; and, on the other, the intention of the contracting parties is not to exempt neutral vessels from the production of every document that can prove their neutrality; (an exemption which the enemies of the belligerent party may abuse, by demanding it without right,) but to allow the vessels necessarily unprovided with these specified documents every other reasonable and equivalent proof.

In the fifteenth article it may be proper to omit the stipulation that ships of war shall not approach neutral vessels within cannon shot. Although this engagement is frequently to be found among modern treaties, it has been seldom or never observed. It would be always difficult, and sometimes impossible, to observe it. In tempestuous weather a boat could be rarely sent the distance which would be necessary, if the vessel should remain out of cannon's reach. In moderate weather, the two vessels must stop while a boat is passing between them, and this would occasion a

useless waste of time, both to the neutral and belligerent vessels: besides, in binding one's self by this stipulation towards a neutral, an obligation is also created in favor of an enemy, since nothing is more usual with belligerent vessels than attempts to escape an enemy under the mask of a neutral flag. But, if this clause were observed, an armed ship would be arrested in the pursuit of every vessel that could raise a neutral flag; and, if a pretended neutral were at liberty to remain out of the reach of cannon while a boat could be sent for the examination of papers, facilities would be given to fraud.

In the same article, the words "passports and documents" seem more proper than "sea-letters and passports," which have been borrowed from the ancient treaty, which does not require the documents designated in the new one.

In the sixteenth article, to avoid the possible construction that the ships of one of the parties in the ports of the other might be subjected to an embargo, for the purpose of being employed on some special occasion, it is proposed to substitute for the words "public or private" the word "whatsoever."

To the nineteenth article a clause has been added, to make it conform to the subsisting treaties between the United States and Great Britain, to which the undersigned referred in his note to their excellencies, dated the 11th July of the last year.

In submitting these remarks to the consideration of their excellencies, he has only to add, that, whenever they shall have decided whether it will be their pleasure to sign the treaty in the two languages, he will cause two copies of the original to be prepared in English, that he may be ready, at the time it may suit their convenience, to proceed to the exchange of the full powers and to the signature.

JOHN Q. ADAMS.

To their Excellencies the MINISTERS OF STATE, &c.

No. 147.

Extract of a letter from John Quincy Adams, Minister, &c. at Berlin, to the Secretary of State, dated

"MAY 10, 1799.

"I received a few days since a note from the cabinet ministers, with a new project for a treaty, in which they have complied with all the alterations I had proposed in my last note, excepting in one particular, and for that they offer an expedient, which I think will answer perfectly well the purpose. I have therefore replied, and sent them a draught in our language entirely conformable to their plan; so that, at present, we are fully agreed upon the tenor of the treaty, the several copies of which only remain to be drawn up and signed, which I hope will be done in the course of a month."

BERLIN, *le* 30 *Avril*, 1799.

Il nous reste peu de chose à répliquer à la dernière note que Monsieur Adams, ministre plénipotentiaire des Etats Unis de l'Amérique, nous a fait l'honneur de nous adresser en date du 16 Mars. La plupart des nouveaux changemens qu'il nous a proposés ne présentant point de difficulté essentielle, nous n'avons pas hésité de les adopter selon ses désirs, à la seule exception de l'article XIV, où il etoit question de stipuler, "qu'en tems de guerre les *certe-parties*, les *connoissemens*, et les *rôles d'équipage* seroient expédiés *par les magistrats* ou *officiers publics* du lieu d'où le navire aura mis à la voile."

Les renseignemens que nous avons retirés sur cette matière nous prouvent, que dans quelques unes de nos provinces on est déjà depuis longtems dans l'habitude d'expédier judiciairement les papiers de mer ci-dessus nommés; mais, en d'autres endroits, nos negocians et nos propriétaires de vaisseaux se contentent de passer leurs contrats ou devant un notaire, ou devant un commissaire de justice, ou quelquefois même sous seing privé; et ils sont d'autant plus les maitres de suivre à cet égard les usages reçus et leurs convenances, qu'il n'existe aucune loi, ni du Souverain, ni des tribunaux maritimes, qui les oblige à des formalités rigoureuses. Il ne nous appartiendroit donc pas d'imposer aux sujets du Roi une nouvelle gêne, qui seroit contraire à leurs droits et à leurs priviléges; et tout ce que nous avons pû faire pour nous rapprocher des idées de Monsieur Adams, c'est d'ajouter à l'article XIV, "que les documens seront toujours expédiés dans la forme établie à l'endroit d'où le navire aura mis à la voile."

Il sera le premier à reconnoitre que nous ne saurions aller plus loin, et nous en appellons à cette équité dont il nous a donné tant de preuves satisfaisantes dans tout le cours de nôtre négociation.

Tout le reste du traité est conforme à ses vœux, et nous supposons qu'il ne trouvera plus rien à réléver dans le sécond projet que nous lui communiquons ci-joint. Seulement nous le prierons de le faire collationner encore une fois avec la traduction Angloise également ci-annexe, et dechanger dans celle-ci, d'après le texte François, le passage refait de l'article XIV.

Peut-être sera-t il nécessaire aussi de retoucher la dernière période de ce même article, ainsi que les articles XVII, XIX, et XXI, pour les assimiler davantage aux expressions et aux tours de phrase dont nous nous sommes servis dans l'original.

Après que Monsieur Adams aura eu la complaisance de nous renvoyer les deux exémplaires, nous ne tarderons pas de faire expédier l'instrument du traité en double, et chacun dans les deux langues; et rien ne nous empechera plus ensuite de procéder avec lui à la signature.

FINCKENSTEIN.
ALVENSLEBEN.
HAUGWITZ.

A Monsieur ADAMS, *Ministre Plénipotentiaire des Etats Unis de l'Amérique.*

[TRANSLATION.]

The Prussian Ministers to Mr. Adams.

BERLIN, *April* 30, 1799.

In the reply we have now to make to the note of Mr. Adams, minister plenipotentiary of the United States, dated the 16th of March, but few observations will be necessary.

The greater part of the alterations which he has recently suggested present no essential difficulty. We have, therefore, unhesitatingly adopted them, in conformity with his desire. The only exception is in the fourteenth article, in which he proposes to stipulate "that, in times of war, the charter-parties, bills of lading, and lists of the ship's company, shall be issued by the magistrates or public officers of the place from whence the ship shall have sailed." We are informed, from the statements with which we have been furnished on this subject, that, in some of our provinces, the practice has prevailed for a long time, to issue the above named sea-papers judicially; but that, in others, our merchants and owners of vessels are content with making their contracts before a notary or a commissary of justice, and sometimes even under a private seal; and they are, in this respect, the more enabled to follow the established usages and consult their own convenience, inasmuch as there is no law enacted by the Sovereign, or recognized by the maritime tribunals, which has required of them more rigorous formalities. It is not, therefore, within our competency to impose on the subjects of the King a new restraint, which would conflict with their rights and privileges; and the nearest approximation which we can make to the views of Mr. Adams is, to add to the fourteenth article "that the documents shall always be issued in the form established at the place from whence the ship shall have sailed." He will be the first to acknowledge that it is not in our power to go beyond this; and, in justification of our decision, we rely upon that equity of which he has given, in the course of the negotiation, so many satisfactory proofs.

All the residue of the treaty is in conformity with his desires: and we can anticipate no objection to the second project we herewith communicate. We pray him, however, to collate once more the English translation, herewith

also transmitted, and to charge the latter, in the passage redrawn in the 14th article, according to the alteration in the French text.

Perhaps, also, it will be necessary to retrench the last period of the same article, as well as the 17th, 19th and 21st articles, to assimilate them still more to the expressions and phraseology which we have adopted in the original.

After Mr. Adams shall have had the goodness to return these two copies, we will not delay the conclusion of the treaty in duplicates, each in the two languages; and nothing will afterwards prevent our proceeding with him to the signature.

FINCKENSTEIN.
ALVENSLEBEN.
HAUGWITZ.

To Mr. ADAMS, *Minister Plenipotentiary of the United States of America.*

A leurs Excellences Messieurs les Ministres d'Etat et du Cabinet du Roi.

Le ministre plénipotentiare des Etats Unis d'Amérique a l'honneur de remettre à leurs excellences le nouveau projet de traité qu'elles ont bien voulu lui envoyer, avec un exemplaire en langue Angloise, qu'il y a rendu entièrement conforme.

En adoptant, sans hésiter, tous les changemens que leurs excellences ont cru necessaires, tant à l'egard des papiers stipulés par l'art. XIV, qu'au tour de phrase dans les art. XVII, XIX, and XXI, il se bornera à remarquer seulement que dans son projet, pour désigner la modification qui termine l'art. XIX, il s'etoit servi des expressions précises du traité entre les Etats Unis et la Grande Bretagne, et comme c'est l'étendue de l'engagement contracté par le traité antérieur, qui doit nécessairement servir de mesure à celle de la modification actuelle, il s'entend que le changement de phrase, à cet article, n'en fait pas dans le sens.

Il sera dès à présent prêt à signer le traité aussitôt que les exemplaires en seront expediés, et au moment que leurs excellences lui feront l'honneur de lui indiquer.

JOHN Q. ADAMS.

BERLIN, *le* 4 *Mai*, 1799.

[TRANSLATION.]

Mr. Adams to the Ministers of Prussia.

BERLIN, *May* 4, 1799.

The minister plenipotentiary of the United States of America has the honor to return to their excellencies the new project of the treaty which they have been pleased to transmit to him, with the copy in English, which has been made to conform to it throughout.

In adopting, without hesitation, all the changes which their excellencies have thought necessary, as well in relation to the papers stipulated by the 14th article, as to the phraseology of the 17th, 19th, and 21st articles, he will confine himself to the single remark that, in his project, in order to designate the modification at the close of the 19th article, he has used the precise expressions of the treaty between the United States and Great Britain; and as it is the extent of the engagement formed by a previous treaty, which ought to serve as the measure of its actual modification, he understands that the change of phraseology, in this article, will occasion no difference in its meaning.

He will be ready to sign the treaty as soon as the copies shall be prepared, and at whatever moment their excellencies may signify their wishes.

JOHN Q. ADAMS.

No. 150.

BERLIN, *July* 13, 1799.

SIR:

I have the honor to send with this, the two originals in the French language and our own, of the treaty of amity and commerce between His Majesty the King of Prussia, and the United States, signed on the 11th instant.

I am, with great respect, sir, your very humble and obedient servant,

JOHN Q. ADAMS.

THE SECRETARY OF STATE.

6th CONGRESS.] **No. 156.** [1st SESSION.

IMPRESSED AMERICAN SEAMEN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 11, 1799.

DEPARTMENT OF STATE, *December* 9, 1799.

SIR:

In pursuance of the "Act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen,' and to amend the same," I have the honor to lay before Congress abstracts of all the returns made to me by the collectors of the different ports, of registered seamen,* and of impressed seamen; and a report, exhibiting abstracts of the communications received from the agents employed by virtue of that act,

And am, with great respect, sir, your most obedient servant,

TIMOTHY PICKERING.

The Hon. the SPEAKER *of the House of Representatives of the United States.*

* For registered seamen, see Commerce and Navigation, No. 48.

Report of the Secretary of State on the communications from the agents employed under the act for the relief and protection of American Seamen.

DAVID LENOX, ESQ., *the Agent in Great Britain.*

By this statement, dated July 12th, 1797, and laid before Congress on the 27th of February, 1798, it appeared that applications had been made, at different times, to the Lords of the Admiralty, by Mr. Pinckney and Mr. King, the ministers of the United States to His Britannic Majesty, for the release of four hundred and one American seamen, who had been impressed and detained on board his ships of war; and that the applications for their release had been renewed by the agent. It was also therein noted, that some few of them had been discharged. His subsequent applications, added to the former, make a total of six hundred and fifty-one, on the 1st of January, 1799; of whom he gives the following details:

Discharged,	173
Ordered to be discharged, and are supposed to be so,	99
Detained, having no documents to prove their citizenship,	172
Entered and have received the bounty, [and whom, therefore, the Admiralty will not release]	93
Detained as British subjects,	29
Not on board the ships represented,	22
Run, [made their escape]	17
Not answering description in their certificates,	2
Detained as prisoners of war, having been taken on board French armed ships,	8
On board ships on foreign stations, which will be renewed when the ships are accessible,	3
Dead, (Robert Swan,)	1
Sent on board by the civil power,	1
Cases unanswered, which have been renewed, and the result will appear in future abstracts,	31
Total,	651

"NOTE. Besides the above eight cases of men, detained as prisoners of war, many others are confined in different prisons in England, but as the British Government refuse to release them but by exchange, no future application can, with propriety, be made by me."

On the agent's return of December 13th, 1797, he made this note: "Those ordered to be discharged are supposed to be so generally, as there has been but one instance of a second application." And, on his return of March 1st, 1798, that "four men had been discharged, who were taken on board the Dutch fleet in the action with Admiral Duncan, and not included in that return."

His returns from the 1st of January to the 1st of August, 1799, exhibit the following result:

New applications in those seven months for two hundred and sixty-eight seamen, of whom are discharged	26
Ordered to be discharged, and supposed to be so,	55
Detained, having no proof of their citizenship,	73
Entered and have received the bounty,	31
Detained as British subjects,	15
Not on board the ships represented,	12
Run, [made their escape,]	9
Dead, 1; killed in action, 1,	2
On board ships on foreign stations,	5
Taken on board of French privateers,	2
Cases unanswered	38
Total,	268

REMARKS.—The candor with which Major Lenox has conducted his agency has entitled him to attention; and he repeatedly states that he has uniformly experienced a readiness in obtaining the discharge of our seamen, when he could accompany his applications with proofs of their citizenship. Those destitute of such proofs he has advised to write to their friends in America, to procure them, promising to forward their letters free of expense; but says, "It is astonishing how few have availed themselves of this advice; and from which it may reasonably be inferred that there are many of them who have no just claim to our interference:" adding, however, that there is no doubt that many of them are our citizens; and that, to facilitate the obtaining of proofs, he had endeavored to ascertain the States to which they said they belonged. These lists I caused to be printed, and sent to the collectors of the customs, in the different ports, to be exhibited to the merchants, and others concerned in shipping, resorting to their offices, as the channel through which the proofs were most likely to be obtained; but the number of cases for which proofs have in consequence thereof been furnished has been extremely small.

In June, 1798, he remarked, that many of our seamen were then possessed only of certificates from notaries, which were not regarded; while those from the collectors were generally respected. And in January, 1799, he says: "I conceive it proper to mention that I have obtained the discharge of many of our citizens who were not in "possession of documents; and this must be attributed to the candor of the officers who reported the cases to the "Admiralty." He adds: "I also take pleasure in mentioning, that I am well convinced that Board have not a "wish to detain one of our seamen entitled to our protection." On the other hand, on the 1st of August, 1799, he writes: "You will perceive that my official business has not diminished; and, as I have before observed, there is "not the smallest prospect of it while the war continues. Custom-house protections continue to be generally "regarded; but I have many instances to the contrary: for, when ships of war are in want of hands, some of the "captains pay little regard to them. However, I continue to experience great candor and attention to my appli-"cations at the Admiralty. Much of our difficulties arises from the neglect of our captains in not seeing that their "men are possessed of proper certificates; and the consequence is, that scarcely a man without them escapes im-"pressment."

The agent, in June, 1798, wrote as follows: "A very great proportion of our seamen, who are taken in our ves-"sels by the French, enter on board their privateers; but as this [the British] Government detain them as prison-"ers of war, and the French will not be very anxious to exchange them, the evil will, perhaps, be soon remedied. "I have informed them that no application will be made by me without the most satisfactory proofs of their having "been forced into that service."

MR. HENRY CRAIG.

An American merchant residing in Martinico, and executing the office of Agent for the Windward Islands' station, has continued the favorable reports made by Captain Talbot, of the obliging demeanor of the British Admiral Harvey, and ready attention to all his applications for the release of American seamen found impressed on board the ships under his command. In his letter of January 31st, 1798, Mr. Craig says: "I have had the most prompt assistance from Rear Admiral Harvey in all cases of application for the release of an American citizen; and he has given positive instructions, to the respective commanders in his squadron, not to impress a citizen of the United States, where such can be designated."

He says also, that, among the great number of French prisoners brought into Martinico, were often found some Americans, who had transgressed the laws of the United States, forbidding their citizens to enter on board any privateer employed to cruise upon the subjects, citizens, or property, of any Prince or State, with whom the United States were at peace, or upon the citizens of the United States or their property; and that he had recommended to Admiral Harvey to detain them as prisoners, and as men guilty of a high offence against their native country.

On the 24th of April, 1798, he writes, "I am happy to inform you that no instance of impressing an American has taken place for some time;" and hazards an assurance that few or none will take place in future. And in a subsequent letter of October 24th, 1798, he says, that no instance of impressing an American seaman had occurred for the last sixteen months.

SILAS TALBOT, ESQ., *Agent in the West Indies.*

In his letter of December 15th, 1797, from Jamaica, he represents the situation of American seamen in the squadron under the command of Admiral Sir Hyde Parker, as peculiarly grievous, all communication with them being rendered extremely difficult; that, according to the representations of the seamen, there were restraints on their writing letters to him to inform of their situation; some, as they told him on board the Ceres, having been punished for it; and the seamen, generally, who did write to him, earnestly desiring him not to let it be known to their officers, for fear, as they said, of being punished for so doing.

On the 8th of February, 1798, he wrote, that since his last, he had heard of but one man impressed, and he had no protection; but at the same time he says that not one before impressed had been released.

In his letter of April 8th, 1798, he writes as follows: "Nothing new in this quarter has occurred since my last, in the conduct of the British Admirals, and other officers commanding ships and vessels of war, towards American seamen; nor have I heard of a single instance of their directly impressing and detaining any one of them for many months past: but at the same time I must observe, that it is very probable the number of our seamen that are daily detained on board British ships of war are not very much reduced from that which was occasioned by impressing out of American vessels two or three years ago. True, they do not go on board our vessels now as heretofore, and take out our seamen to man their ships; but, unfortunately, circumstances have taken place which seem to facilitate, and, as it were, put our seamen wholly in their power, and enable them to derive from our sailors the same benefit of their services, with some appearance of plausibility. I allude to the very considerable number of our vessels that are retaken by British ships, after having been captured by the French; and also the great number of French privateers that are captured by His Majesty's ships, almost all of which have more or less of our seamen on board at the time of capture, which were taken out of prizes they had made of American vessels. All Americans thus found, either on board recaptured vessels or privateers, go of course directly on board of British ships of war. These unfortunate men, having been carefully examined and plundered by the French crews of all kinds of papers, and most commonly of nearly all their wearing apparel, and sometimes to the bare buff, are of course deprived of what is so valuable to them—their protections; and, being thus stripped of the means of proving the place of their nativity, they are frequently detained, under a doubtful pretext of their being British subjects; though some officers, more liberal and more just than others, will put them on shore to shift for themselves. Another very fruitful means of obtaining our seamen is, by capturing our vessels as prize, under pretence of contraband goods, or covered property, &c. If they take possession of our vessels, with the view of sending them into port as prize, whether the vessels are or are not libelled, the men are once for all forced out of their own vessels, and detained on board the capturing ship, which still continues at sea, by which our seamen are seldom returned to their own vessels."

On the 11th of June (the last letter prior to his recall) he wrote, that "no material change had taken place relative to the treatment of our seamen."

WILLIAM SAVAGE, ESQ.

A merchant and a magistrate at Kingston, in Jamaica, and the present agent of the United States, on the 26th of June, 1799, mentioned that he had received numerous applications for assistance to impressed American seamen, and that he had recently seen Sir Hyde Parker, the admiral commanding on that station, in hopes that some measure might have been adopted for their relief; but that his application was fruitless. He supposed there were then a hundred Americans in the ships of Admiral Parker's squadron, most of whom he understood had protections.

On the 17th of September last he wrote as follows: "I have, on all occasions, given my best advice, and every humane attention has been paid to the American seamen, many of whom have experienced much distress. In my capacity as magistrate, I have been fortunate in liberating many seamen that have been impressed on *shore;* but when they are once on the *water*, my power ceases." He adds: "From the best information I have been able to collect, I have reason to believe there are upwards of two hundred and fifty Americans on board the squadron on this station."

Admiral Parker paid no attention to the agent's application on behalf of our impressed seamen; the Admiral having determined, and informed the agent of the determination, that no proofs would be regarded by him, unless specially presented by the American Government through the British minister; nor then, but in the single case of *native Americans*. Under this determination, there will be detained not only the subjects of His Britannic Majesty, naturalized in the United States since the peace of 1783, but all who, born elsewhere, were *then* resident in and had become citizens of the United States; also, all foreigners, as Germans, Swedes, Danes, Portuguese, and Italians, who voluntarily serve in the merchant vessels of the United States. And it is a fact that, such foreigners have frequently been impressed, although their languages and other circumstances demonstrated that they were not British subjects.

In the agent's letter of October 12th, he says, "The collectors cannot be too guarded in their examinations of people previous to their obtaining protections; as many British subjects do obtain them, and after their arrival here, ship on board of British vessels, to the very great inconvenience of the captains of American vessels."

The cases of Richard Carter and John Edes, natives of the State of Massachusetts, communicated by Mr. Savage, are too remarkable to be abridged. The annexed depositions furnish all the details, with the proofs necessary to substantiate the facts. It was probably owing to the aggravated sufferings of these men that the writs of habeas corpus, by which they were liberated, were allowed to be served and obeyed: for Admiral Parker, in 1797, by a general order, forbade all the officers under his command to discharge any man in consequence of any writ of habeas corpus, till such writ was referred to him as commander-in-chief. And this order, as appeared in my report of February, 1798, put an end to the discharges of our seamen by virtue of such writs.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *December 9th*, 1799.

JAMAICA, *ss.*

I, Charles Douglas, deputy secretary, and notary public, of this His Majesty's Island of Jamaica, duly authorized, allowed, and sworn, practising in the town of Kingston, in the county of Surrey, and island aforesaid:

Do hereby certify, and make known, to all to whom these presents shall or may in any wise concern, that William Savage, Esq. before whom the affidavits of Henry Dandelot, Eliphalet Ladd, and Richard Carter, contained in the paper writings hereunto annexed, marked A, B, and C, taken to the truth therein respectively mentioned, is one of his Majesty's Judges of the Court of Common Pleas for the precinct of Kingston, in the county of Surrey, and Island aforesaid, duly authorized and empowered, and that to all acts or judgments in writing, by him, the said William Savage, attested, due faith and credit is and ought to be given in judgment courts, or without.

In testimony whereof, I have hereunto set my hand and seal of office, at Kingston, aforesaid, this twenty-ninth day of June, one thousand seven hundred and ninety-nine.

C. DOUGLAS,
Deputy Secretary and Notary Public. } [L. S.]

A.

KINGSTON, JAMAICA, *ss.*

Henry Dandelot, mariner, commanding the brig Hopewell, of Philadelphia, being duly sworn, maketh oath, and saith: That, on the sixteenth day of April last, on his voyage from Philadelphia, aforesaid, to the island of Cuba, where he was bound, the said brig was captured by a French privateer, and, about five hours afterwards, re-captured by His Britannic Majesty's ship Surprise, Captain Hamilton: That when he was so captured, five of his crew, to wit:

Thomas Robinson,	a native	of New York,
James Wake,	do.	of Boston,
Thomas Sound,	do.	of Norfolk,
Samuel Espy,	do.	of Philadelphia,
John C. Mulburn,	do.	of Germany,

all subjects of the United States of America, were put on board the privateer: that, on the next night, the said privateer was captured by His said Britannic Majesty's ship Surprise, and, on the eighteenth of the same month, the said brig and privateer were brought into the harbor of Port Royal: that, on their arrival, the said Thomas Robinson, James Wake, Thomas Sound, Samuel Espy, and John C. Mulburn, were pressed on board His said Majesty's ship Surprise, notwithstanding they have regular American protections. And deponent further saith, that he hath made repeated application on board the said ship for the discharge of the said men, but without effect, and that they are detained on board her against their will and consent.

HENRY DANDELOT.

Sworn before me, one of His Majesty's Justices, assigned to keep the peace, for the parish of Kingston, June 14, 1799.

WM. SAVAGE.

KINGSTON, *ss.*

Henry Dandelot, within named, personally appeared, and solemnly made oath, that he was yesterday on board the within named frigate, the Surprise, and saw Captain Hamilton, and requested of him to deliver up the within named seamen, which he refused.

Sworn before me, at Kingston, Jamaica, 18th June, 1799.

WM. SAVAGE.

JAMAICA, *ss.*

William Tinker, of the parish of Kingston, in the county of Surrey, and island of Jamaica, practitioner in physic and surgery, being duly sworn, maketh oath and saith: That he, this deponent, was, on or about the twentieth day of June, last past, requested, in his professional capacity, to attend an American seaman, named Richard Carter, belonging to a ship called the Pomona, commanded by —— Kennerd, belonging to Portsmouth, in the State of New Hampshire, North America; and this deponent further saith, from the situation in which he found the said Richard Carter, he verily believes he had been very severely beaten some days previous, his blood being very much extravasated, and, from the appearance of the bruises, deponent says it must have been done with a thick rope.

WM. TINKER.

Sworn before me, (being first duly stamped) the 5th day of July, 1799.

WM. SAVAGE.

B.

KINGSTON, JAMAICA, *ss.*

Eliphalet Ladd, second mate on board the ship Thomas and Sarah, of Philadelphia, and a native of Exeter, State of New Hampshire, being duly sworn, maketh oath and saith: That on Wednesday last, the twelfth day of June, instant, he came on shore with two seamen belonging to said ship, named John Edes and Israel Randol, in order to land a boat-load of staves; that, having so done, was about to receive a receipt for the same, on the wharf of Messrs. Ballantine Dick & Co. when a press-gang came up, and immediately laid hold of John Edes, who was then standing at the door of the compting-house. Deponent informed the officer commanding the party, whose name, he has been informed, was William Wiseman, that the said Edes was an American subject, that he was born in Boston, and had a protection, which he could produce in a few minutes; the officer said if deponent could show it, Edes should be released; deponent then went on board his ship, and returned with his own and Edes' protection, and, meeting with Charles Haight, merchant, the owner of the Thomas and Sarah, they went to the ordnance wharf, where the press-gang was gone to, and showed Edes' protection to the officer: on his seeing it, he replied he knew nothing about it. Mr. Haight then observed he should seek satisfaction somewhere else: that Mr. Haight, and deponent being about to go away, one of the gang, who is named Moody, observed to the officer if he was going to let that damned rascal go (meaning deponent;) the officer replied no, proceed and take him; which Moody accordingly did, and, with a broad sword, cut deponent on the forehead, and made a wound of three inches: they then took deponent, together with Edes, and conducted them, in different boats, on board the Brunswick man of war; that the boat in which Edes was, made the ship some little time before the one deponent was in, and on deponent's nearing the ship, he heard the cries of a man flogging, and on going up the side of the Brunswick, he perceived Edes, who was crying, and addressing himself to the first lieutenant, a Mr. Harris, saying, here is the mate who can attest to what I have told you. The lieutenant then laying hold of deponent by the arm, said, Go along on the quarter-deck, you damned rascal; which deponent accordingly did: that all the impressed men were then examined, and afterwards ordered by the lieutenant into the waist; that, when they got there, Edes pulled off his shirt, and showed deponent his back, which was bruised from his shoulders to his hips; he then informed he had been just whipped with ropes'-ends, as deponent was going up the ship's side, by the boatswain and his mate, by orders of the lieutenant: that deponent remained on board the Brunswick all that day and the night, during which period no chirurgical or medical assistance whatever was given to the wound he had received on his head, nor to the bruises of the said Edes, who, during the night, called out several times from extreme pain, and the next morning barely able to move himself; that between nine and ten o'clock the next morning, the whole of the impressed men were again ordered on the quarter deck, and again examined, and stationed, except deponent and Edes; that while the examination was going on, the Captain of the Thomas and Sarah was coming on board, but was prevented by the lieutenant, who ordered the sentinel to keep him off; that about eleven of the clock the captain of the Brunswick came on board, and at three o'clock in the afternoon deponent was discharged, but the said Edes detained.

ELIPHALET LADD.

Sworn before me, one of His Majesty's justices of the peace for the parish of Kingston, this 19th day of June, 1799.

WM. SAVAGE.

I, Joseph Whipple, collector of the district of Portsmouth in the State of New Hampshire, do hereby certify, that Richard Carter, an American seaman, aged twenty-three years or thereabouts, of the height of five feet ten inches, light complexion, light-brown hair, light colored or blue eyes, was born in Kittery in the State of Massachusetts, has this day produced to me proof, in the manner directed in the act, entitled "An act for the relief and protection of American seamen;" and pursuant to the said act I do hereby certify that the said Richard Carter is a citizen of the United States of America.

In witness whereof, I have hereunto set my hand and seal of office, this 2d day of December, A. D. 1796.

[L. S] JOSEPH WHIPPLE, *Collector.*

C.

JAMAICA, *ss.*

Richard Carter, mariner, one of the seamen of and belonging to the ship called the Pomona, of the port of Portsmouth, in New Hampshire, one of the United States of North America, being duly sworn, maketh oath and saith, that he, this deponent, was born in Kittery in the State of Massachusetts, in North America, on or about the twelfth day of June, one thousand seven hundred and seventy-four, and is a citizen of the United States of North America, and had a regular certificate thereof, signed by the proper officer, a true copy whereof is hereunto annexed; and this deponent saith, on or about the twenty-third day of April last, he shipped as a seaman on board the said ship Pomona, at Portsmouth aforesaid, for a voyage from thence to Jamaica, and back, and accordingly departed in the said ship on the said voyage, and arrived in Kingston, Jamaica, on or about the seventh day of June instant, where the cargo was to be discharged; and this deponent saith, that while he was employed in his duty as a seaman, assisting in discharging the cargo of the said ship Pomona, on the eleventh day of this instant, June, he was taken and seized by a press-gang, belonging to His Britannic Majesty's ship of war the Brunswick, and forcibly carried away, notwithstanding this deponent represented to the officer who commanded the said press gang, that he was an American citizen, and had a regular certificate thereof on board the said ship Pomona; and this deponent saith he was violently forced into a boat and struck twice with a drawn cutlass, by one of the officers with the said press gang, and two men with pistols and hangers placed over this deponent, who loaded their pistols in the presence of deponent, and threatened to blow out his brains if he attempted to move or to speak; and then they carried this deponent, and also John Edes, one of the seamen of the ship Thomas and Sarah, an American citizen whom they had also seized, on board the said ship of war the Brunswick: and this deponent saith, on getting on board the Brunswick, this deponent, and the said John Edes, were ordered to go on the quarter deck, where Mr. Harris, the first lieutenant of the said ship, abused this deponent and the said John Edes, and gave them in charge to the master of the said ship, while he went to look for the boatswain's mate, and soon after returned with the boatswain's mate, whom he ordered to take this deponent and the said John Edes, and to beat them; in obedience to which orders, the said John Edes and this deponent were severely beaten, particularly this deponent, the said boatswain's mate doubling a rope of about three inches and an half thick, and beating this deponent with great violence over the head, face, neck, shoulders, back, and stomach, until he had tired himself, and then he gave the same rope to one of the mariners of the said ship Brunswick, and he also severely beat this deponent in the same manner; and this deponent saith, he received upwards of a hundred blows, and was thereby greatly bruised, and his face cut, and his stomach as well externally as internally much injured, so that this deponent brought up a quantity of blood for several days after; and this deponent saith, that notwithstanding he had been so cruelly treated, he was compelled to assist in hoisting in the boats belonging to the said ship; and this deponent saith, that Nathaniel Kennerd, the master of the said ship Pomona, immediately after this deponent was seized by the press gang, went to the said ship Brunswick, and arrived on board just before this deponent; and the said Nathaniel Kennerd took with him the certificate of this deponent being an American citizen, and submitted the same to the said Lieutenant Harris; and this deponent saith, he did not give any provocation or commit any offence whatever to authorize or induce the treatment which he received as above stated; and this deponent saith, he was forcibly detained on board the said ship Brunswick for the space of ten days, when he was brought back to the Pomona, in consequence of a writ of habeas corpus having been sued forth on behalf of this deponent.

RICHARD CARTER.

Sworn before me (being first duly stamped) this 25th day of June, 1799.

WM. SAVAGE.

Abstract of all the protests or affidavits of masters of ships and vessels of the United States, transmitted to the Secretary of State, in pursuance of the fifth section of the "Act for the relief and protection of American seamen," and received by him since the 27th February, 1798, the date of his last report to the House of Representatives.

No. of Protest.	Date of protest.	Names of American vessels.	Where belonging.	Master's name.	Names of people impressed.	Of what country.	By whom impressed.	When impressed.	Whether they had protections.
1	Aug. 20, 1798,	Ship Smallwood,	– –	Dennis M. Johnson,	Gates Isburn, James M'Cormick, John Anderson,	United States, Do. Denmark,	British frigate Amphitrite,	Aug. 20, 1798,	Does not appear.
2	June 28, 1798,	Do. G. Washington,	– –	James Sampson,	Thomas Pine,	United States,	British brigantine Eugene,	June 2, 1798,	Does not appear, but he was released.
3	Aug. 5, 1798,	Snow Rover,	– –	Wilson Jacobs,	John Thomas,	Ireland,	British ship Driver,	May 9, 1798.	
4	Aug. 15, 1798,	Ship Huron,	New York,	Eli Brown,	Moses Burnham, William Little, John W. Reader, James Peters, William Williams, William Newhall, Richard Hawkins,	United States, Denmark, United States,	British frigate Garland,	June 30, 1798,	All having protections but Peters and Williams.
5	Dec. 10, 1798,	Ship Hope,	– –	Elijah Clark,	Hugh Christie,	Do.	British brigantine Diligence,	Aug. 1, 1798,	Having a protection, this man afterwards made his escape.
6	Nov. 22, 1798,	Ship Poll Carey,	Edenton,	James Williams,	Archibald Clark,	Do.	British sloop Thorn,	Sept. 14, 1798,	Does not appear.
7	Nov. 16, 1798,	Schooner Hannah,	Newburyport,	William Remick,	John Lewis,	Canada,	British frigate Magicienne,	Aug. 5, 1798.	
8	Nov. 21, 1797,	Ship Active,	Philadelphia,	Alexander Rose,	John Hutt, Francis Jackson,	United States,	British frigate Topaze,	Nov. 19, 1798,	Does not appear.
9	Oct. 1, 1798,	Sloop Friendship,	Baltimore,	Richard Lisson,	John Bowen,	Do.	British ship Queen,	– –	Had no protection.
10	Sept. 16, 1797,	Sloop Providence,	E. Greenwich, (R. I.)	P. G. Arnold,	John Godfrey,	Do.	French privateer, name unknown,	Sept. 15, 1797,	Does not appear.
11	Aug. 28, 1798,	Ship Experiment,	Philadelphia,	Benj. Jeune,	Samuel Richards, Henry Hutchins, Nathan Carpenter, John Burkett, Thomas Jones, Thomas Carlett, John M'Dougald, Benj. Wilcocks, Thos. Thistlewaite, William Megret,	United States, England,	British ship York,	Aug. 26, 1798,	The four first only had protections.
12	Aug. 27, 1798,	Brig Ann,	Newburyport,	William Huse,	John Long,	Unknown,	British sloop Lark,	June 17, 1798,	Had no protection.
13	Oct. 12, 1798,	Brigantine Sally,	– –	Paul Simpson,	Jeremiah Pearson, Paul ———,	United States,	A British ship, name unknown,	Sept. 3, 1798,	Had protections.
14	Sept. 1, 1798,	Ship Belisarius,	Salem,	Jno. Crowninshield,	William Jefferson, Francis Murray,	Do.	British ship L'Oiseau,	Feb. 7, 1798,	Had none.

ABSTRACT—Continued.

No. of Protest.	Date of protest.	Names of American vessels.	Where belonging.	Master's name.	Names of people impressed.	Of what country.	By whom impressed.	When impressed.	Whether they had protections.
15	Nov. 28, 1798,	Schooner Nancy,	– –	Samuel Low,	Amaziah Waterman, Weliome Allen, Timothy Bennett,	United States,	French privateer brig Romas,	Sept. 27, 1798,	Does not appear.
16	Feb. 6, 1798,	Snow Catharine,	Baltimore,	Thomas Jackson,	Joseph Herklots, Andrew Barry, Peter Henry Jews, Frederick Donburgh, William Hardon, William Latham, George Ashmore, Renedeck Read, Henry Blydason, William Smiley,	Bremen. United States,	French privateer lugger L'Eole,	Oct. 24, 1798,	Does not appear.
17	March 24, 1798,	Sch. Sukey & Polly,	– –	– –	James Crichton, Samuel Merit, John Atwell,	United States,	French privateer schooner Sans-pareil.	March 22, 1798,	Does not appear.
18	May 21, 1798,	Sloop Sally,	Providence,	John Hammett,	Samuel Gordon, Pierce Briggs,	Ditto,	Do. do. do.	March 2, 1798,	Does not appear.
19	July 17, 1798,	Ditto,	– –	– –	Daniel Morgan Brown,	Ditto,	British sloop of war Thunderer.		
20	August 6, 1798,	Sch. Regulator,	New York,	Andrew Robins,	A Swede, name unknown, Ellick Balloon,	– – A native of E. Ind.	British man of war Adventurer,	July 29, 1798,	Does not appear.
21	Sept. 28, 1798,	Ship Gen. Greene,	Providence,	Samuel Brown,	Stephen Been,	Do. of Bermuda,	English cruiser Holker,	June 18, 1798,	Does not appear.
22	Ditto,	Ship Geo. Williams,	– –	Ebenezer Corey,	Thomas Robinson,	Unknown,	A British agent at Turk's Island,	Oct. 10, 1798,	Does not appear.
23	July 19, 1798,	Schooner Fox,	New York,	Henry Dandelot,	John Frazier,	United States,	By two British officers,	May —, 1798,	Had a protection.
24	August 14, 1798,	Brig Ann,	– –	Richard Law,	John Walker, (a negro)	Ditto,	British brig privateer Hero, Captain Cockburn,	July 20, 1798,	Does not appear.
25	July 7, 1798,	Brigant. Neptune,	New York,	Comfort Goodwin,	Eliakim Harry, (mulatto)	Ditto,	Boat's crew of British sloop of war Tortorelle.	May 27, 1798,	Had a protection.
26	June 14, 1799,	Brig Hopewell,	Philadelphia,	H. Dandelot,	Thomas Robinson, James Wake, Thomas Sound, Samuel Espy,	United States,	British ship Surprise,	June 18, 1799,	Had protections.
27	April 30, 1799,	Ship Harriott,	Portsmouth, (N. H.)	Daniel Orr,	John C. Mulburn, James Walch,	Germany, United States,	British ship Mermaid,	Feb. 3, 1799,	Had no protection.
28	June 8, 1799,	Ditto,	– –	– –	Asale Harris,	Ditto,	British ship of war Carnatic,	– –	Had a protection.

ABSTRACT—Continued.

No. of Protest.	Date of protest.	Names of American vessels.	Where belonging.	Master's name.	Names of people impressed.	Of what country.	By whom impressed.	Where impressed.	Whether they had protections.
29	Sept. 11, 1799,	Ship Charlestown,	– –	Alexander Coffin,	Stephen Bowne, –	United States,	British frigate Active, – –	June 18, 1799,	Does not appear.
					John Tite, –	Do.	Do. do. do. – –	– –	Does not appear.
30	Oct. 19, 1799,	Ship Harriott,	Portsmouth, (N. H.)	Daniel Orr, –	John Billings, mate,	South Carolina,	French privateer Le Courageux,	– –	Does not appear.
					W. Miller, boatswain,				
					James Planter, –	Virginia,			
					John Levy, –	New York,			
					Thomas Hicks,	Philadelphia,			
					Richard Studdy,				
					John Christop, –	A foreign seaman			
31	April 19, 1799,	Schooner Nabby,	Salem, (Mass.)	William Cook,	Thomas Patterson,	United States,	British sloop of war La Legeree.	April 4, 1799,	Does not appear.
					Jos. Smith,				
					Bartholomew Smith,				
					Henry West,				
					Elijah Hendrick,				
					Jos. Saltern,				
					Philip Grow,				
32	April 18, 1799,	Brig Fairy, –	Massachusetts,	Nich. Broughton,	John Lee,	United States,	Do. do. – –	April 4, 1799,	Does not appear.
					John Flourance,				
					Bartholomew Markin,				
					Matthew Basset,				
					Jeremiah Galchell,				
					Francis Bowden,				
33	August 7, 1799,	Brig Diamond, –	Baltimore,	Joshua Goodale,	William Brown, –	Unknown,	By Press Gang from an English frigate, name unknown,	April —, 1799,	Does not appear.
34	May 3, 1799,	Schooner Pomona,	Nantucket,	Peter Gardner,	Thomas Tucker, –	Do. mulatto,	British sloop of war La Legeree, –	April 12, 1799,	Does not appear.
35	Jan. 9, 1799,	Brigantine Polly,	– –	William Cook,	Michael Hammond, –	Philadelphia,	British sloop of war Amphitrite, –	Jan. 8, 1799,	Does not appear.
36	June 18, 1799,	Brigantine Experience.	Charlestown,	James Hewitt,	Samuel Blake,	United States,	British sloop of war Lullaby,	May 2, 1799,	The greater number had protections.
					William Anderson,				
					James Dalmatwy,				
					John Thompson,				
					John Huff,				
					John Linch,				
					G. Shoemaker,				
					John Hout,				
					John Bricris,				
					Isaac Debauh,				
37	May 11, 1799,	Ship Hamilton, –	Alexandria,	Thomas Turrell,	John Harper, –	Ireland,	British frigate Podeces, – –	Nov. 20, 1798,	Had no protection.
38	March 2, 1799,	Schooner Apollo,	Wiscasset,	William Clifford,	Abraham Dodge	United States,	French privateer schooner, name unknown,	Feb. 8, 1799,	Does not appear.
					John Radcliff				
					Merril Ladd,				
					John Shaw,				
39	Feb. 23, 1799,	—— Polly, –	Norwich, Con.	Moses Benjamin,	John Clark,	United States,	Press Gang of Frenchmen, and sent on board frigate La Pensée,	Dec. 7, 1798.	Had protections.
					Elijah Booth,				

Return of American Seamen which have been impressed from on board of vessels belonging to the United States, and arrived in the District of the City of New York, commencing the 1st of January, and ending the 31st of March, 1798.

Date of entry.	Vessels' names.	Masters' names.	From whence.	Names of the persons impressed.	Of what country.	By whom impressed.	Where.	Date.
1798.								
January 13.	Schooner Hope,	Cooke,	Trinidad,	Gustus Salvage,	Sweden,	British sloop of war, name unknown,	Port of Spain,	1797, Nov. 9.
" "	Schooner Juliana,	Vicary,	Jeremie,	Jacob Grainger,	America,	British frigate Magician, captain unknown,	Jeremie,	" Oct. 29.
" 17.	Ship Nancy,	Forrest,	Newry,	Ross Culley, mate, William Teaf, Philip Feagan,	Ireland,	French privateer Favourne, captain unknown,	At sea,	" Nov. 27.
" 22.	Ship Jason,	Pendor,	Port-au-Prince,	John M'Neal,	America,	British sloop of war Lark, Captain Spinks,	At sea,	" "
Feb'ry 15.	Brig Hazard,	Drummond,	London,	Thomas Green,	Do.	British press gang,	Gravesend,	" Aug. 5.
March 3.	Schooner Fox,	Dandelot,	Port-au-Prince,	John Johnson,	Denmark,	British ship of war, name unknown,	Port-au-Prince	" "
				Samuel Nathan,	America,			
" 6.	Brig Rowena,	Marriner,	Port-au-Prince,	*Joseph Myrick,	Do.	British ship of war Abeguana, Captain Coushy,	Port-au-Prince	1798, Feb. 5.
" 7.	Brig Endeavor,	Macy,	Isle of Wight,	†Francis Calespy,	Do.	British gunboat, Captain Stewart,	Cowes,	1797, Oct. 2.
" 9.	Ship America,	Baxter,	London,	†John Suthard,	Do.	British frigate Triton, captain unknown,	At sea,	" Sep. 2.
" "	Sloop Eliza,	Fairchild,	St. Bartholomew's,	James Powers, mate,	Do.	French privateer Sanspareil, Captain Petitte,	At sea,	1798, Jan. 10.
				Edward Sweeny,	Do.			
				Joseph King,	Do.			
				Caleu Mickell,	Do.			
				Matthias Peterson,	Do.			

Return, commencing the 1st of April, and ending the 30th of June, 1798.

April 13.	Brig David & George,	White,	Antigua,	George Wilson,	Denmark,	British frigate, name unknown,	Antigua,	1798, Mar. 3.
" 27.	Brig Iris,	Lee,	Lisbon,	Walter Campbell,	Scotland,	A Mr. Coffin, a British commissioner, at	Lisbon,	" Mar. 3.
May 3.	Brig Clinton,	Champlin,	Havanna,	William Jasper,	Africa,	Three armed Spaniards, at	Havanna,	" Feb. 7.
" 23.	Brig Union,	Mathews,	Porto Rico,	William Williams,	England,	British man of war York, captain unknown,	Cape François,	" Feb. 13.
June 9.	Sloop Ruby,	Finley,	St. Domingo,	Henry Potter,	America,	British man of war Acasta, Captain Leau,	At sea,	" Apr. 8.
" 14.	Schr. Two Brothers,	Denoon,	Curaçoa,	Hugh Irvin,	Do.	British man of war Regulus, Captain Eyre,	Denomaria bay.	
" 19.	Brig Eliza,	Denison,	St. Croix,	John Thompson,	Do.	British 74 Vengeance, Captain Russel,	At sea,	" Apr. 28.
" 25.	Ship Alex. Hamilton,	Wyse,	Havre,	Thomas Shipley,	Do.	British 74 Cynthia, captain unknown,	At sea,	1797, Dec. 22.

* Had a protection, but said to have belonged to the Hermione.

† Had no protection.

DISTRICT OF NEW YORK, *Collector's Office, July* 1, 1798.

JOSHUA SANDS, *Collector.*

Return of American seamen which have been impressed from on board of vessels belonging to the United States, and arrived in the district of the city of New York, from the 1st of July, to the 30th of September, 1798.

Date of entry.	Vessel's names.	Masters' names.	From whence.	Names of persons impressed.	Of what country.	By whom impressed.	Where.	Date.
1798.								1798.
July 9,	Brig Neptune, - -	Goodwin,	Jeremie, - -	Eliakim Harry, (a mulatto,) -	America, -	British sloop of war, Tourterelle, - - -	Jeremie, - -	May 7.
" 21,	Schooner Fox, - -	Dandelot,	Port-au-Prince,	John Frazier, - - - - -	Do. - -	By two British officers, - - - - -	Port-au-Prince,	" "
Aug. 6,	——— Regulator,	Robins,	Aux Cayes, -	One seaman, name unknown,	Sweden, -	British man of war, Adventure, - - -	At sea, - -	July 19.
" 14,	Brig Ann, - - - -	Law, -	New Orleans, -	Ellick Baloon, - - - -	East Indies,	Ditto brig privateer, Hero, - - - -	Ditto, - -	" 20.
				John Walker, (a negro,) - -	America,			

Return commencing the 1st of October, and ending the 31st of December, 1798.

Oct. 15.	Ship Edinburg packet,	McLachland,	Leith, - -	William Cowan, - - -	Scotland, -	By a British press-gang, - - - -	Leith, - -	August 18,
Nov. 16.	Brig Integrity, - -	Gillender,	St. Petersburg,	Andrew Watson, - -	Ditto, - -	Do. brig Cutter, Captain Temple, - -	At sea, - -	" 5.

DISTRICT OF NEW YORK, *Collector's Office, January 1st*, 1799.

JOSHUA SANDS, *Collector.*

Return of American Seamen which have been impressed from on board vessels belonging to the United States, and arrived in the District of the city of New York, from the 1st of January to the 30th of March, 1799.

Date of entry.	Vessels' names.	Masters' names.	From whence.	Names of the persons impressed.	Of what country.	By whom impressed.	Where.	Date.
1799, Jan. 17.	Sch. Determinate Ro-	Taylor, -	Cuba, - -	Mattrosen Inas, -	Switzerland,	British advice boat Lark, John Wentworth Loring,	At sea, -	1799, Jan. 17.
" Mar. 16.	Brig Elias, [ver.	Maxfield,	Kingston, - -	George Little, -	Ireland, -	Frigate Surprise, Edward Hamilton, - -	Kingston, -	" Mar. 11.
" Jan. 17.	Schooner Elizabeth,	Clapp, -	New Orleans, -	Benjamin and Nicholas Iadmyarn, -	{Hambro', Hispaniola, }	Sloop of war Le Prompt, Captain Spread,	{Off Bahama Islands, }	1798, July 31.
1798. Oct. 31.	Schooner Galliot, -	Hudson, -	Cadiz, - -	The mate & four other seamen, names unk'n,	Unknown, -	Ship of war Edgar, 74 guns, - - -	Off Cadiz, -	" Sep. 28.
" Jan. 2.	Ship Cheesman, -	Ogilvie, -	Falmouth, -	Geo. Mitchell, Robert White, Thos. Webb, John Daniel, Joseph Bishop, Sam'l Hill, and Peter Legrey,	All Americans,	{French privateer cutter Felix, Andrew Viand, and sent to Nantz, - - - }	At sea, -	" Oct. 25.
	Ditto, -	Ditto. -	Ditto, - -	Nathaniel Sangs and E. March, - -	Americans, -	British ship Cleopatra, Pellew, - - -	At sea, -	" Oct. —.
1799, Jan. 16.	Brig Essequebo Packet,	Wilson, -	Martinique, -	Samuel Perry, -	Ditto, -	British ship of war, - - - -	At sea, -	" Dec. 24.

Return from the 1st of April to the 30th of June, 1799.

1799, Mar. 5.	Schooner Enterprise,	Horton, -	Havanna, -	Benjamin Weston, -	United States,	British brig Neptune, Lieutenant Lenox, -	At sea, -	1798, Dec. 11.
" April 1.	Ship Cygnet, -	Gore, -	Jamaica, - -	Arimos Saul and Simon Church, - -	Sweden, -	British frigate Maidstone, - - -	At sea, -	1799, Mar. 13.
" April 9.	Schooner Barbara, -	Clay, -	Ditto, - -	Benedictus Philippius Glawman, -	Curaçoa,	Ditto, ditto, - - -	At sea, -	" Mar. 1.
" June 13.	Brig Ceres, -	O'Conner,	Ditto, - -	John Newell, - -	Sweden,	British ship of war Queen, - - -	At sea, -	" April 16.

COLLECTOR'S OFFICE, NEW YORK, *June* 30, 1799.

JOSHUA SANDS, *Collector.*

Return of American seamen which have been impressed from on board of vessels belonging to the United States, and arrived in the district of the city of New York, from the 1st of July to the 30th of September, 1799.

Date of entry.	Vessels' names.	Masters' names.	From whence.	Names of the persons impressed.	Of what country.	By whom impressed.	Where.	Date.
1799, July 3,	Brig Little George, -	Griffiths, -	Havanna, -	Nicholas Bartole, - - -	Italy, -	British Sloop of war Lark, Loring, -	At sea, -	1799, June 23,
8,	Brig Eliza, -	Barham, -	Montego Bay,	Pet. Smith, Geo. Ford, Rob. Shaw, John Rose,	England, -	Do. do. -	- -	10,
10,	Schooner Enterprise, -	Sellers, -	New Orleans,	Samuel Tavenner, - - -	- -	Do. Swallow, Hayes,	- -	
15,	Ship General Wayne,	Seaman, -	Havanna, -	William Schooley, - - -	United States,	Sixty-four York, Furier, -		
Aug. 14,	Brig Paramaribo, -	Chew, -	- -	John E. Blake, - - -	England, -	Frigate Trent, Otway, -	Do. -	May 22,
31,	Sloop Industry, -	Brown, -	- -	John Williams, - - -	Do. -	Privateer Nancy, Hutchinson,	Do. -	Aug. 17,
Sept. 3,	Brig Nancy, -	Reed, -	Kingston, -	Thomas Whelps, - - -	United States,	Sloop of war Rattler, Whelen,	Kingston,	6,
7,	Ship Magnet, -	Stetson, -	Liverpool, -	Jonathan Dodds, - - -	England, -	Press-gang, - -	Liverpool	June 17,
24,	Brig Neutrality, -	Cunningham,	Kingston, -	William Hendrick, - - -	Do. -	Ship of war Abergaveney, Thompson,	Kingston.	
24,	(Omitted, being mislaid)	- -	- -	- - - -	United States.			
May 27,	Sloop Vermont, -	Trueman, -	- -	Joseph Baker, Eben. Varney, Chancy Hancock, Thomas Gelston.	Do. -	French Privateer Resolve, - -	At sea, -	Mar. 23,
1797, Oct. 25,	Barque Favorite, -	Troop, -	Bordeaux, -	Ephraim Euston, Cato Rogers, and William Mathias.	Do. -	Deserted at Bordeaux, and entered into the French service.	Bordeaux	Between 1st Sept. & 5th Oct. 1797.

Collector's Office, New York, *September* 30, 1799.

JOSHUA SANDS, *Collector.*

Register of seamen employed on board of ships or vessels of the United States impressed or detained by ships or vessels of foreign nations.

IMPRESSMENTS AND DETENTIONS OF SEAMEN, AND BY WHOM MADE.

Date.	Names of seamen.	To what country or state belonging.	From what vessel detained.	Masters' names.	In what port or place impressed or detained.	By what ship or vessel.	Commanders' names.	Remarks.
1797, Oct. 23,	John Lacey, -	Ireland, without protection,	Brig Lorancy, -	Joseph Morris,	Coast of Hispaniola,	British frigate Tortorel, -	Capt. West,	Reported 12th Feb. 1798, impressed.
1798, Jan. 14,	Edward Wright	Do. with a protection,	Ship Experiment,	Benj. Jenne,	Port-au-Prince, -	British ship of 50 guns, Abergaveney	Unknown, -	Do. 7th March, 1798, do.
Feb. 6,	James Higgins, Benj. Stafford,	Perth Amboy, New Jersey, Pasquotank, N. Carolina,	- - -	- -	- - -	British ship letter of marque Nereus, - -	Capt. Williams	These two detained in lieu of men taken from on board the Nereus.

Taken from the protests of the masters of the above vessels which have arrived in the port of Perth Amboy between the 1st day of January and the 31st day of March, 1798.

Note.—It appears from the protest, that John Lacey was an Irishman, and had no protection. From the protest it appears that Edward Wright was also an Irishman, but having a protection *obtained by perjury.* And see the same protest for the cause of detaining the other two.

Collector's Office, District of Perth Amboy, *April* 1, 1798.

JOHN HALSTED, *Collector.*

6th CONGRESS.] No. 157. 1st SESSION.

TUNIS.

COMMUNICATED TO THE SENATE, DECEMBER 13, 1799.

Gentlemen of the Senate:

UNITED STATES, *December* 13, 1799.

In conformity with your recommendation, expressed in your resolution of March 6, 1798, I have entered into a friendly negotiation with the Bey and Government of Tunis on the subject of the fourteenth article of the treaty of peace and friendship between the United States and that Power. The result of that negotiation I now lay before the Senate, for their consideration.

JOHN ADAMS.

Extract from the instructions of Richard O'Brien, William Eaton, and James Leander Cathcart, appointed to negotiate alterations of the Treaty with Tunis.

By the powers herewith delivered to you from the President of the United States of America, you are authorized to confer, negotiate, and conclude, with the Bey and Regency of Tunis on the alterations to be made in the treaty between the United States and that Power, as arranged in the month of August, 1797, by the agency of Joseph Etienne Famin, who was employed by Joel Barlow, Esq. agent and consul general of the United States at Algiers.

The important object of discussion arises out of the fourteenth article of that treaty, of which the following is a translation:

"ARTICLE 14. The citizens of the United States of America who shall transport into the Kingdom of Tunis the merchandise of their country, in the vessels of their nation, shall pay three per cent. duty. Such as may be laden by such citizens, under a foreign flag, coming from the United States or elsewhere, shall pay ten per cent. duty. Such as may be laden by foreigners on board of American vessels, coming from any place whatever, shall also pay ten per cent. duty. If any Tunisian merchant wishes to carry merchandise of his country, under any flag whatever, into the United States of America, and on his own account, he shall pay three per cent. duty."

This article is subversive of our great revenue system: it is, besides, without reciprocity. It cannot be important to the Bey and Regency, though ruinous to us.

The revenues of the United States arise chiefly from duties on goods imported. These duties generally exceed ten per cent. They are imposed on our own merchants, and increased on the merchants of foreign nations. Our treaties with those nations stipulate that no higher duties shall be paid by their subjects than by those of the most favored nation. Consequently, if this article in the treaty with Tunis should be ratified by the American Government, the duties on all the goods imported into the United States by the subjects of those foreign nations must be reduced to three per cent. This would necessarily involve the reduction of the duties on goods imported in our own vessels, or our whole navigation would sink under the unequal burthen. This sacrifice, then, it is impossible to make. We should thereby deprive ourselves of the means of supporting our own Government, of paying our public debts, and even of fulfilling our engagement with the Bey and other Barbary Powers. While no advantage would arise to the Bey and his *proper subjects*, probably a few European and Jewish merchants, settled at Tunis, would alone be benefited.

For these reasons, the President cannot apprehend any difficulty in your obtaining the Bey's consent to abolish the fourteenth article before mentioned. In its place may be substituted a stipulation that the commerce of the United States with Tunis, and of Tunis with the United States, should be on the footing of the commerce of the most favored nations, for the time being, respectively. At all events, the fourteenth article must be rejected, if war should be the consequence. This evil, however, by every soothing and persuasive measure, you will endeavor to prevent. Should it, nevertheless, be insisted on, it will evidently be for the purpose of extorting further stipulations for the delivery of money or stores; but the demand must be resisted. As the article is destitute of any reasonable foundation, without a precedent in any treaty with any other Barbary Power, and strikingly wanting in reciprocity, a submission to it would be dishonorable to the United States. If, to prevent a war, any thing should be added to the very burthensome contract already made, that addition should not have any reference to the fourteenth article, but be stipulated at large, on the conclusion of the new article or articles which you may negotiate.

The Senate have advised the ratification of the treaty, with the exception of the fourteenth article alone; but the eleventh and twelfth articles are objectionable. In firing salutes in the ports of the two Powers reciprocally, to return gun for gun will be proper; but, as the Tunisian vessels of war would probably never enter the ports of the United States, while the vessels of war of the latter were likely often to enter the ports of Tunis, to stipulate for the donation of a barrel of powder for every gun which shall be required for the salute, was to authorize the levying of a contribution in a way not very honorable on either side. It will, therefore, be desirable to expunge this stipulation, and to confine this article to mutual salutes, gun for gun; and it will be very well to limit the number to *fifteen*, the federal salute. The twentieth article of the treaty with Algiers requires a mutual salute of twenty-one guns; and, if there be any motive to induce the Bey of Tunis to require a salute of more than fifteen guns, the number may be increased to *twenty-one*. If, nevertheless, the Bey should persist in claiming a barrel of powder for every gun fired in his ports, for a salute to a vessel of war of the United States, then it will be of more consequence to limit the number of guns to at least fifteen, and at most to twenty-one.

In the twelfth article it is stipulated that "the subjects or citizens of the two nations shall be protected by the government or commandants of the places where they may be, and not by the other authorities of the country." This is not very intelligible: possibly it may mean that the officers on the spot shall furnish such protection, without obliging the citizens of the United States in the Tunisian dominions, or the subjects of Tunis in the United States, to seek it at a distance, if the seat of Government be distant; but, if such protection be withheld by subordinate officers, the persons needing protection ought not to be forbidden to resort for justice to the chief authority in each nation. But the clause most objectionable in this article is that which permits the *Government* of Tunis to compel an American captain to put his vessel into its service at such freight as the Government itself shall prescribe. This will put it into the power of any merchant resident at Tunis, who has the ear of the Bey or of one of his chief officers, to command the service of American vessels for compensations wholly inadequate and unreasonable. The fourteenth article of the treaty with Algiers is proper and honorable: "Should the Dey want to freight any American vessel in the Regency or Turkey, *said vessel not being engaged*, in consequence of the friendship subsisting between the two nations, he expects to have the preference given him, *on his paying the same freight offered by any other nation*."

The three articles in question may be changed into the following forms:

"ARTICLE 11. When a vessel of war of one of the parties shall enter a port of the other in which there is a fortification, she shall be saluted with fifteen guns, which salute the vessel of war shall return, gun for gun."

ARTICLE 12. The first part may stand as it is as far as the words (in the English translation,) "which may extend to merchant vessels, but not to those of war;" after which the article may be thus continued: "The subjects and

citizens of the two nations, respectively, shall be protected, in the places where they may be, by the officers of the Government there existing; but, on failure of such protection, and for redress of every injury, the party may resort to the chief authority in each country, by whom adequate protection and complete justice shall be rendered."

"In case the Government of Tunis shall have need of an American vessel for its service, such vessel being within the Regency, [and not previously engaged,] the Government shall have the preference, on its paying the same freight as the Tunisian merchants usually pay for the same service, or at the like rate, if the service be without a customary precedent." The words, in brackets, [and not previously engaged] if objected to, may be omitted.

"ARTICLE 14. All vessels belonging to the citizens and inhabitants of the United States shall be permitted to enter the different ports of the kingdom of Tunis, and freely trade with the subjects and inhabitants thereof, on paying the usual duties that are paid by all other nations at peace with the Regency. In like manner, all vessels belonging to the subjects and inhabitants of the kingdom of Tunis shall be permitted to enter the different ports of the United States, and freely trade with the citizens and inhabitants thereof, on paying the usual duties that are paid by all other nations at peace with the United States."

Or, if preferred, the fourteenth article may be in the following form:

"The commerce of the citizens and inhabitants of the United States with the kingdom of Tunis, and of the subjects and inhabitants of the kingdom of Tunis with the United States, shall be on the footing of the most favored nations, for the time being, respectively."

Some such form is indispensable: it is impossible to place the commerce of the Tunisian subjects on a better footing than that of the most favored nation; and there must be an exact reciprocity in the stipulation.

A copy of the act of the Senate on this subject is annexed. By that you will see that an alteration in the fourteenth article only is essential; but you will aim at the proposed alterations in the eleventh and twelfth articles.*

6th CONGRESS.] **No. 158.** [1st SESSION.

SPAIN.

COMMUNICATED TO CONGRESS, JANUARY 23, 1800.

UNITED STATES, *January* 23, 1800.

Gentlemen of the Senate and Gentlemen of the House of Representatives:

I transmit to Congress, for the information of the members, a report of the Secretary of State, of the 9th instant, a letter from Matthew Clarkson, Esq. to him, of the 2d, and a list of the claims adjusted by the commissioners, under the twenty-first article of our treaty with Spain.

JOHN ADAMS.

DEPARTMENT OF STATE, *January* 9, 1800.

The Secretary of State has the honor to lay before the President of the United States a statement of the claims of American citizens adjusted by the Board of Commissioners, under the twenty-first article of our treaty with Spain, and a letter from Matthew Clarkson, Esq. the commissioner on the part of the United States, dated the 2d instant, informing that the commission terminated on the 31st of December last.

TIMOTHY PICKERING.

PHILADELPHIA, *January* 2, 1800.

SIR:

I have the satisfaction to inform you that the commission for carrying into effect the twenty-first article of the treaty of friendship, limits, and navigation, between the United States of America and the King of Spain, was closed on the 31st day of December, 1799.

I am, with the greatest respect, sir, you most obedient humble servant,

MATTHEW CLARKSON.

TIMOTHY PICKERING, *Secretary of State.*

* No. 133, page 123, will show the treaty as originally submitted to the Senate, to which the Senate consented; with the *exception of the fourteenth article.* The following resolution will, with the preceding instructions, exhibit the modifications proposed and effected.

IN THE SENATE OF THE UNITED STATES, *December* 24, 1799.

Resolved, (two-thirds of the Senators present concurring therein,) That the Senate do advise and consent to the ratification of the eleventh, twelfth, and fourteenth articles of the treaty of peace and friendship between the United States of America and the Bey and Government of Tunis, according to the substance and form of the said articles, as they now appear in the treaty; they having been the subject matter of a new negotiation, in the month of March, 1799, when the contracting parties agreed to their present modification, through their agents duly empowered for such purpose.

Claims adjusted on the 21st Article of the Spanish Treaty.

	Names.	Masters.	Interest from	Dolls.	Cts.
1.	Ship Rooksby,	Nath. Jones,	April 20, 1796,	15,535	79
2.	Ship Greenway,	Amos Oakman,	April 20, 1796,	14,846	39
3.	Brig Nymph,	Thomas Webb,	February 2, 1794,	46,118	00
4.	Ship Russell,	Israel Young,	May 1, 1794,	29,731	39
5.	Snow Eliza,	William Lovett,	June 10, 1794,	31,808	38
6.	Brig Dolphin,	John Morris,	March 1, 1794,	21,066	87
7.	Brig Aurora,	Timothy Sage,	February 10, 1794,	10,416	56
8.	Sloop Diamond,	John Buck,	February 1, 1794,	5,390	62
9.	Brig Juno,	Samuel Johnson,	August 5, 1793,	4,042	33
10.	Brig Betsey,	Samuel Lewis,	November 1, 1795,	7,316	89
11.	Ship Liberty,	Roger Haddock,	June 23, 1795,	4,260	98
12.	Brig Betsey,	John Denabre,	March 15, 1796,	19,880	87
13.	Sloop Polly,	James Hodge,	February 27, 1794,	9,101	39
14.	Brig Betsey,	Benjamin Cozens,	January 29, 1794,	12,737	18
15.	Sloop Sally,	Elisha Brown,	September 9, 1793,	3,496	44
16.	Brig Columbia,	Stephen Holland,	November 12, 1793,	1,073	50
17.	Sloop Alexander Hamilton,	John Mease, Jun.	December 14, 1794,	7,893	70
18.	Sloop Jacob,	Joseph Phillips,	February 10, 1794,	9,351	00
19.	Schooner Dove,	Paul Garvin,	February 12, 1794,	3,847	99
20.	Schooner Swallow,	Woodbridge Odlin,	September 15, 1793,	1,134	89
21.	Brig Aurora,	John Chapman,	September 12, 1793,	4,258	02
22.	Brig Rosanna,	Hooker Baxter,	July 5, 1794,	5,490	85
23.	Schooner Winthrop & Mary,	Israel Frask,	March 15, 1795,	10,020	99
24.	Brig Resolution,	Richard Perry,	March 1, 1794,	4,894	83
25.	Sloop Polly,	David Ingersoll,	October 1, 1793,	446	75
26.	Schooner Adventure,	Benjamin Trefethen,	October 1, 1794,	1,300	00
27.	Brig Paragon,	Allen Hallet,	June 24, 1795,	782	19
28.	Sloop Union,	John Wallace,	September 22, 1793,	468	82
29.	Brig Three Friends,	John Endicott,	December 1, 1795,	2,088	50
30.	Schooner Gorham,	James Hays,	November 1, 1795,	7,875	58
31.	Sloop Betsey,	Zeb. P. Burnham,	January 27, 1794,	750	00
32.	Schooner Edward,	John Union,	June 1, 1794,	8,487	02½
33.	Sloop Crisis,	Gurdon Bill,	June 11, 1794,	1,500	00
34.	Brig Betsey,	John Jones,	November 23, 1795,	9,000	00
35.	Schooner Mary,	Henry Keeler,	November 26, 1793,	1,084	36
36.	Schooner Jeremiah,	Thomas Barker,	April 24, 1795,	1,961	00
37.	Schooner Eagle,	Mayo Gerrisk,	October 1, 1793,	635	00
				320,095	07½

COMMISSIONERS' OFFICE, *November* 16, 1799.

In the following cases no papers have appeared:

* Schooner Agra, Captain ——.
* Sloop Eliza, Captain Moffatt, Baltimore.
* Schooner Maria, Captain ——.
* Mary Ann, a vessel.
* Schooner Port-au-Prince, Captain ——.
* A Boat.

Those marked with an asterisk have been ordered to be restored by His Catholic Majesty.

Claims at present before the Commissioners, and undetermined.

Schooner Lively, Captain Slocum, Providence, Rhode-Island; additional papers requisite to substantiate the claim.

Ship Harmony, Captain Robinson, Baltimore; additional papers requisite to substantiate the claim.

William Bartlett's claim for freight of passengers; the papers in the hands of Mr. Viar.

Schooner Mary, Captain Hill, (I. McMillan's claim;) additional vouchers written for by Mr. Viar, and not yet received.

The letter from the Department of State of the 11th October, 1799, to the Secretary of the Commissioners, renders it doubtful whether any additional vouchers will be obtained.

Sloop Julius Cæsar, Captain Silleman; additional vouchers wanted.

Schooner Mary, Captain De Leon, a claim of James Jackson, filed by the Secretary of State, by whom additional papers have been written for.

Edward Church's claim; papers wanting to substantiate it.

COMMISSIONERS' OFFICE, *November* 16, 1799.

6th CONGRESS.] No. 159. [1st SESSION.

GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 7, 1800.

UNITED STATES, *February* 7, 1800.

Gentlemen of the House of Representatives:

In consequence of your request to me, conveyed in your resolution of the 4th of this month, I directed the Secretary of State to lay before me copies of the papers intended. These copies, together with his report, I now transmit to the House of Representatives, for the consideration of the members.

JOHN ADAMS.

DEPARTMENT OF STATE, *February* 6, 1800.

The Secretary of State has prepared, as directed, and now respectfully submits to the President of the United States copies of the papers which probably were contemplated by the House of Representatives in their resolve of the 4th instant: although no requisition, as the resolve supposes, has ever been received, nor any communication made to the judge of the district court of South Carolina, concerning any man by the name of *Jonathan Robbins*. But by the proceedings before that judge, as they have been published, it appears that a seaman named *Thomas Nash*, the subject of the British minister's requisition, did assume the name of *Jonathan Robbins*, and make oath "that he was a native of the State of Connecticut, and born in Danbury in that State." The Secretary, therefore, besides the copy of the requisition, and the copies of his letter to the Judge of the District Court of South Carolina, and of the judge's answer, has prepared, and herewith encloses copies of the certificates of the selectmen and town-clerk of Danbury, and extracts of letters from Admiral Sir Hyde Parker, satisfactorily proving, that the *Thomas Nash*, calling himself *Jonathan Robbins*, who, on the requisition of the British minister, was delivered up by the judge aforesaid, with the assent of the President of the United States, *was not an American citizen*, but *a native Irishman*, who, to his other crimes, added *perjury*, in the hope thereby to escape the punishment due to *piracy* and *murder*. The original certificates of the selectmen and town-clerk of Danbury are in the Secretary's possession; and he has compared the extract of Admiral Parker's letter to Mr. Liston with the original, and the extract of the Admiral's letter to the British consul at Charleston, with the passage as recited in the consul's original letter to Mr. Liston. All which is respectfully submitted.

TIMOTHY PICKERING.

No. 1.

Copy of a note from Robert Liston, Esq. Envoy Extraordinary and Minister Plenipotentiary of his Britannic Majesty, to Timothy Pickering, Secretary of State of the United States.

PHILADELPHIA, *May* 23, 1799.

R. Liston presents his respects to Col. Pickering, Secretary of State.

A seaman of the name of Thomas Nash, having been committed to gaol in Charleston, (South Carolina,) at the instance of His Majesty's consul there, on suspicion of his having been an accomplice in the piracy and murder committed on board His Majesty's ship Hermione, and information of the circumstance having been transmitted to Vice Admiral Sir Hyde Parker, a cutter was despatched to Charleston with an officer on board, to whom the man was well known, in order that his person might be identified, and that he should be carried to the West Indies for trial. But on the application of the consul for the restoration of Nash, in conformity to the treaty of 1794, Judge Bee, and the federal attorney, were of opinion that he could not with propriety be delivered up without a previous requisition on my part made to the Executive Government of the United States. May I therefore, request, sir, that you will be pleased to lay this matter before the President, and procure his orders that the said Thomas Nash be delivered up to justice.

No. 2.

Letter from the Secretary of State to Judge Bee.

DEPARTMENT OF STATE, *Philadelphia, June* 3, 1799.

SIR:

Mr. Liston the minister of His Britannic Majesty, has requested that Thomas Nash, who was a seaman on board the British frigate Hermione, and who, he is informed, is now a prisoner in the gaol of Charleston, should be delivered up. I have stated the matter to the President of the United States. He considers an offence committed on board a public ship of war on the high seas to have been committed within the jurisdiction of the nation to whom the ship belongs. Nash is charged, it is understood, with *piracy* and *murder*, committed by him on board the above mentioned British frigate, on the high seas, and consequently "within the jurisdiction" of His Britannic Majesty: and therefore, by the 27th article of the treaty of amity with Great Britain, Nash ought to be delivered up, as requested by the British minister, *provided such evidence of his criminality be produced, as, by the laws of the United States, or of South Carolina, would justify his apprehension and commitment for trial if the offence had been committed within the jurisdiction of the United States.* The President has, in consequence hereof, authorized me to communicate to you "his advice and request" that Thomas Nash may be delivered up to the consul or other agent of Great Britain, who shall appear to receive him.

I have the honor to be, &c.

TIMOTHY PICKERING.

The Hon. THOMAS BEE, Esq. *Judge of the District of South Carolina.*

No. 3.

Letter from Thomas Bee, Esq. to the Secretary of State, dated

CHARLESTON, SOUTH CAROLINA, *July* 1, 1799.

In compliance with the request of the President of the United States, as stated in your favor of the 3d ultimo, I give notice to the British consul that, at the sitting of the district court on this day, I would order Thomas Nash, the prisoner charged with having committed murder and piracy, on board the British frigate Hermione, *on such strong evidence of his criminality as justified his apprehension and commitment for trial*, to be brought before me on *habeas corpus*, in order to his being delivered over agreeable to the 27th article of the treaty of amity with Great Britain. The consul attended in court and requested that the prisoner should remain in gaol until he had a convenient opportunity of sending him away. I have therefore directed that he remain in prison, until the consul should find it convenient to remove him.

I have the honor to be, &c.

THOMAS BEE,
District Judge of South Carolina.

Hon. TIMOTHY PICKERING, *Secretary of State.*

No. 4.

DANBURY, *September* 16, 1799.

We, the subscribers, select men of the town of Danbury, in the State of Connecticut, certify, that we have always been inhabitants of said town, and are from forty-five to fifty-seven years of age, and have never known an inhabitant of this town by the name of Jonathan or Nathan Robbins, and that there has not been, nor now is, any family known by the name of Robbins within the limits of said town.

Certified per

ELI MYGOT,
EBENEZER BENEDICT,
JUSTUS BARNUM,
BENJAMIN HICHCOK.

DANBURY, *September* 16, 1799.

The subscriber, late town clerk for the town of Danbury, in the State of Connecticut, certifies, that he kept the town records twenty-five years, viz: from the year 1771 until the year 1796; that he is now fifty-six years of age, and that he never knew any person by the name of Robbins, born or residing in the said town of Danbury, during that term of twenty-five years, before or since.

MAJOR TAYLOR.

No. 5.

Extract of a letter from Admiral Sir Hyde Parker to Robert Liston, Esq. Envoy Extraordinary and Minister Plenipotentiary of His Britannic Majesty to the United States, dated in

PORT ROYAL HARBOR, JAMAICA, *September* 9, 1799.

"I have had the honor of receiving duplicates of your excellency's letters, numbered 10, 11, and 12; and in answer thereto, acquaint you that, in consequence of Nash, one of the ringleaders in the mutiny, murders, &c. on board the Hermione, being delivered up by the United States to me, he has been tried at a court martial, and sentenced to suffer death, and afterwards hung in chains; which sentence has been put into execution. He acknowledged himself to be an Irishman."

No. 6.

Extract of a letter from Benjamin Moodie, Esq. Consul of His Britannic Majesty at Charleston, South Carolina, to Robert Liston, Esq. Envoy of His said Majesty to the United States, dated

NOVEMBER 19, 1799.

"In consequence of many obstacles I had to encounter in obtaining the delivery of Thomas Nash, late of His Majesty's ship Hermione, and of the numerous publications to the northward, and in this place, I wrote to Admiral Sir Hyde Parker, requesting he would be good enough to send me minutes of the court martial, to which he answered, under date 13th September last, "I am to acquaint you that Nash has been executed, agreeably to the sentence of a court martial, and that he confessed himself to be an Irishman; and it further appears by the Hermione's books, that he was born at Waterford, on the 21st of December, 1792; entered a volunteer on board the Dover, received £3 bounty money, and was removed to the Hermione, 28th of January, 1793. And with respect to transmitting the minutes of his trial, that is not in my power, but rests with the lords of the admiralty only."

6th CONGRESS.] No 160. [1st SESSION.

FRANCE.

REPORTED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 14, 1800.

The Committee of Commerce and Manufactures beg leave to report, on the subject of the suspension of the commercial intercourse between the United States and France, that the laws which have been enacted for that purpose have been, as far as appears to the committee, faithfully executed in all respects depending on the care of the officers of the United States. It is but too probable, however, that individuals, engaged in pursuit of private commercial advantages, and regardless of the public welfare, have evaded, in many instances, the provisions of those laws. Some observations from the Secretary of the Treasury, relative to these practices, and a detail of the cases, which, under the sixth section of the last act of Congress, prohibiting commercial intercourse with France, have been transmitted to that Department, are herewith submitted. The committee, being of opinion that it is expedient further to suspend all commercial intercourse, between the United States and France, have prepared a bill for that purpose, which is also submitted, and, in the opinion of the committee, ought to be enacted without delay.

TREASURY DEPARTMENT, *January* 23, 1800.

SIR:

I have the honor to enclose a statement of all the cases which have been transmitted to this Department for decision, pursuant to the act of Congress passed on the 9th of February, 1799, entiled "An act further to suspend the commercial intercourse between the United States, and France and the dependencies thereof."

Although this statement contains the substance of the information desired by the committee, and particularly in what manner the power granted by the sixth section of the act has been exercised, yet it may be useful to observe, that the law of Congress passed on the 13th of June, 1798, which imposed the first restrictions on commercial intercourse with France, was, by this Department, understood to declare the following principles, by which the conduct of the collectors of the customs has accordingly been governed.

1st. That all exports to France or her dependencies were prohibited after the 1st day of July, 1798, except the goods and effects of Frenchmen residing in the United States, and about to depart in vessels with permits from the President of the United States.

2d. That the entry of vessels *bona fide* the property of citizens of the United States, or employed by them, and having on board property of such citizens only, was lawful until the 1st day of December, 1798, and no longer.

Although the true interpretation of the law cannot be considered as finally settled by judicial decisions, yet, as diversities of opinion are known to exist, it is desirable that the sense of the Legislature may be ascertained upon the following points, in case the restrictions upon commerce with France shall be continued after the 3d day of March ensuing.

1st. Whether the restrictions shall extend to any, except French and American vessels?

2d. Whether trade through a neutral country, by means of a *mutual agent* of persons residing in the dominions of France and the United States, shall be lawful?

3d. Whether cartel vessels, with passports of the President of the United States, authorizing the departure of French citizens and their effects, shall be exempted from the restrictions imposed on other vessels?

4th. Whether vessels which may be *captured* or driven *by distress* into French ports, the cargoes of which may be seized or detained by the French Government, shall be allowed to receive merchandise or produce in exchange, or compensation for the cargoes so seized or detained.

The following practices have been discovered, and may be expected to increase, in case the law shall not provide a competent remedy.

1st. American citizens have proceeded to the island of St. Thomas, and have there obtained certificates of naturalization for themselves and their vessels; with such vessels a direct trade between the United States and French ports has been attempted to be prosecuted, in the same manner as before the law was passed.

2d. Agents for commercial houses have been established in the island of St. Thomas, and other neutral places, to whom the productions of the United States have been consigned; these productions have been shipped from thence in other American vessels for French ports. The vessels employed between the neutral French ports have been generally covered as Danish property.

3d. Although vessels which have been employed in transporting French citizens and their property from the United States have been carefully restricted by instructions, and by the custom-house inspection, from transporting merchandise on account of persons resident in the United States, yet there is reason to suspect that the intentions of the Government have in some instances been evaded. In case it shall be deemed reasonable to continue the provision for removing French citizens and their property, precise regulations for preventing the vessels from being employed in commerce will be highly necessary.

4th. Vessels have been carried to the vicinity of French ports, where, as is believed, they have been *captured* by French privateers, in consequence of pre-concerted arrangements: other vessels have entered French ports, on *pretence of distress*. Although the *vessels* have in many instances been liberated, yet the *cargoes* have been detained by order of Government. In some cases, the masters or owners have been *permitted* to purchase return cargoes; latterly, to strengthen the plea for being admitted to entry in the United States, it has been represented that the masters have been *compelled to receive cargoes on board their vessels*.

The cases of vessels which have been reported as having been captured by privateers, or driven into French ports in distress, have been attended with particular difficulty. In some instances the representations have, doubtless, been fair and correct; but in others they have unquestionably been collusive and fraudulent. The protests and other papers usually produced by masters of vessels could not, however, furnish the means of a just discrimination.

No effectual remedy is perceived against an abuse which must continue to increase, but by declaring importations from French ports to be unlawful in all cases whatever, without excepting those of vessels really captured or driven into French ports in distress. The capture or arrival in distress may be *involuntary*, and, therefore, not *illegal;* but the purchase of a new cargo, or any purchase whatever, *except of necessaries to enable the captured persons to return to their own country*, ought, as is believed, to be declared *unlawful*.

It may be said that such a regulation would be odious and severe; that it would be cruel to oblige men to suffer unnecessary losses, or to abandon their property to great risks, when an equivalent was offered. Admitting these objections to have some force, yet it may be observed, with equal truth, that the act prohibiting commercial intercourse ought to be considered, in connexion with other measures, as constituting a part of the system of resistance adopted by the United States; that, prior to the adoption of this system, our vessels were captured and condemned indiscriminately; that the suspension of commerce is a measure which, if well executed, must powerfully influence the conduct of the French colonies; that no system of resistance can be executed without exposing our citizens to some losses; that it is impossible to distinguish cases of real capture or distress from those which are fictitious; that many of our citizens will not make reasonable efforts to avoid being captured or entering French ports, if they find themselves exempted from every loss and inconvenience; that the plea of *forcible exchange* cannot be admitted without permitting the French Government virtually to repeal our laws, by means of their own internal regulations; and that, if the United States refuse to submit to an insidious policy, and some of our citizens suffer losses, it is against the French and not the American Government that their complaints ought to be directed.

I have the honor to be, with great respect, sir, your most obedient servant,

OLIVER WOLCOTT.

The Honorable SAMUEL SMITH, Esq.
Chairman of the Committee of Commerce and Manufactures.

6th CONGRESS.] **No. 161.** [1st SESSION.

DIPLOMATIC EXPENDITURES.

REPORTED TO THE HOUSE OF REPRESENTATIVES, MAY 5, 1800.

The Committee of Ways and Means, to whom were referred the estimates for the public service of the present year, having observed in those estimates some items under the head of "The Diplomatic Department," which seemed to require further examination, reserved them for the subject of a separate report; which they now beg leave to submit to the consideration of the House.

The items alluded to occur in the following order:

1. "For reimbursing the consuls of the United States, for making and supporting the claims of American citizens to captured property, before the tribunals of foreign countries." The sum estimated for this object is ten thousand dollars.

Two questions occurred to the committee, on this subject.

1. Whether it be proper to make any further allowance of this kind? and

2. Whether, admitting it to be so, the sum estimated be not larger than is necessary? On the first point the committee find that the first and only appropriation for this object, heretofore made by Congress, is contained in the act of April 18th, 1798, (3d volume of laws, 41) in which authority is given, "to reimburse such reasonable advances of money as have been made, or during the present year shall be made, by consuls of the United States, in making and supporting claims of American citizens to captured property, before the tribunals of foreign countries." The committee cannot take upon themselves to say, on what grounds Congress proceeded in making this provision; but they deem the principle, "that the Government ought to support the law suits of its citizens," as altogether inadmissible in itself and highly inexpedient in its consequences. It is an expenditure for the proper direction, application and control whereof, no adequate security can be had; and the very allowance of which invites, and almost impels,

to its undue increase by encouraging persons to undertake, upon slight or insufficient grounds, suits whereof they are not to bear the burthen but must reap the gain.

As, however, the former allowance may have led the consuls to suppose that it would be continued, and thereby have induced them to embark in expenses which they would otherwise have avoided, the committee conceive that it would be improper to withhold this allowance too suddenly. They would, therefore, recommend that it be extended to expenses that heretofore have been, or, before a reasonable time for notice to the contrary, may be incurred for the above purpose.

As to the sum necessary for this object, the committee find, by an extract from the accounts in the Secretary of State's office, which has been furnished to them by the Secretary, and is hereto subjoined, (No. 1) that no consuls except those at Alicant, Bourdeaux, and Cadiz, have furnished acounts of expenditures under this head; and that the sum so laid out by them in two years, 1797 and 1798, amounted to something less than eleven thousand dollars. They are, therefore, of opinion that five thousand dollars would be sufficient for the proposed appropriation, which ought to be confined to past transactions; and that a stop should be put to the expense in future.

2. "For reimbursing consuls and others for aid rendered to distressed American seamen in foreign countries, bringing them home from thence, and assistance in the United States." The estimate for this object is thirty thousand dollars.

The committee find that two appropriations have been heretofore made by Congress on this head. The first by the act of April 18th, 1798, and the second by that of March 2d, 1799.

The first of these appropriations was blended with that for the prosecution of claims; and thirty thousand dollars were appropriated for the two objects. The second was distinct, and amounted to twenty thousand dollars.

Under the act of May the 28th, 1796, "for the relief and protection of American seamen," there has been an annual appropriation for four years of fifteen thousand dollars, for the salaries and expenditures of agents appointed pursuant thereto. By an extract from the accounts in the Department of State, which has been furnished to the committee, and is hereto subjoined, (No. 2) it appears that the disbursements of one of these agents residing in London, up to December 1st, 1799, amounted to four thousand four hundred and sixty-four dollars and eleven cents, and that the other, who was sent to the West Indies in 1798, disbursed nine thousand five hundred and seventy-two dollars in the object of his mission.

It further appears, by the extract referred to, that the whole expenditures for this object, except those of the agents in London and the West Indies, amounted, in 1797, to eight hundred and fifteen dollars and seventy cents; and in 1798, to one thousand two hundred and seventy-five dollars and twenty-nine cents, and that, in 1799, they rose to twenty-nine thousand and sixty-six dollars and eighteen cents.

This extensive and rapid increase, the committee conceive, must be considered as furnishing a conclusive argument against the measure itself. An expenditure liable to such abuse, and holding out such strong temptations for it, ought to be authorized with very great caution, even if it were justified by proper principles. The committee do not consider it as so justified, nor can they discover any principle of duty or good policy which requires the Government to defray the expenses of every seaman in foreign countries, who chooses to call himself American, to say that he is destitute, and to ask for a passage to the United States. If the experience of the last three years were not conclusive on the point as the committee conceive it to be, still it would be easy to discern the extent to which an expenditure of this kind, if left on the footing of the former appropriations, must be carried.

Cases may no doubt occur in which relief ought to be extended, and the expense reimbursed to those who give it; but those cases, it is conceived, ought to be left to the discretion of Congress on their particular circumstances: and there can be no doubt that, where those circumstances shall be found to have justified an advance the reimbursement will be made.

It is therefore the opinion of the committee, that the appropriation in question ought to be withheld, and that such accounts for disbursements of this kind, as may hereafter be presented, ought to be laid before Congress, in order to be decided on according to the merits of each case.

3. "Costs of prosecuting claims in prize causes, before the high court of admiralty, and courts of appeals in London, for the years 1799 and 1800." The sum estimated for this object is ninety thousand dollars.

The faith of the United States being formerly pledged to answer for the payment of these costs, and Congress having directly sanctioned that measure by the act of March 3d, 1797, assuming the payment, and making an appropriation of fifty thousand dollars therefor, the committee conceive that the propriety of taking the step in the first instance cannot now be inquired into. They have, therefore, confined their attention to the amount which ought now to be appropriated.

On this point they have been informed by the Secretary of State, that the cases in which the United States are pledged for costs, amount to two hundred and ninety-one; the cost of two hundred and thirty-six of which are estimated at two hundred and fifty pounds sterling each; and of fifty-five, at one hundred and fifty pounds sterling each, amounting, in the whole, to sixty-seven thousand two hundred and fifty dollars; of which sum twenty-three thousand six hundred and thirty-five dollars have been paid, leaving a balance of forty-three thousand six hundred and fifteen dollars still to be provided. The committee conceive that it will be unnecessary to extend the appropriation beyond that balance.

This appropriation, with the others which they have thought it proper to recommend, are contained in the bill herewith presented for the consideration of the House. And they have also subjoined a letter from them to the Secretary of State, and his answer, (Nos. 3, 4) as containing matters relative to the subject of their report.

In concluding, they beg leave to state explicitly, that, in recommending it to the House to withhold or curtail the appropriations in question, and in pointing out the inexpediency of measures formerly adopted on that head, they do not mean to imply the slightest censure on the manner in which the business has been conducted by the Department of State. On the contrary, their objections arise from a firm persuasion that it cannot be so conducted as to prevent abuse; and that if it could, still the measures ought to be given up, as being erroneous and inexpedient in their nature and principles.

No. 1.

Expenditures in prosecuting the claims of American Citizens, for property captured by the Belligerent Powers, copied from the account current of the Secretary of State, ending December 31, 1799.

Date		Vol. H. No.	Amount. Dollars. Cents.
November 26, 1795.	Paid North and Haskins, agents for William Lees, for the hire of the sloop Ambuscade, William Rockwell, master, employed to carry inhibitions to the West Indies,	-	1,604 20
December 5, "	E. and J. Perot, for expenses in obtaining admiralty papers at Antigua,	-	22 60
" 12, "	William Rockwell, for expenses in serving inhibitions, obtaining copies of the proceedings of the British Vice Admiralty courts on American vessels, pilotage and port charges of the sloop Ambuscade, &c. &c. in the West Indies,	-	580 00
February 18, 1796,	P. J. and J. Dawdy, for their account in obtaining transcripts of fifty-one causes in the court of Vice Admiralty, on American vessels captured and carried into Montserrat, judges' fees, attorneys' do. &c.	-	3,107 91
" 20, "	John Stealing, for copies of the proceedings of the Vice Admiralty court at Halifax, on American vessels captured and carried in there,	-	235 50
" 23, "	Lloyd and Sparks, for M. Lisle's account, for obtaining copies of the proceedings of the court of Vice Admiralty at Tortola, on twelve American vessels captured and carried in there,	-	441 75
" 25, "	E. and J. Perot, for Fisher and Darrell's account for obtaining copies of the proceedings of the court of Vice Admiralty at Antigua, on American vessels,	-	1,498 84
April 8, "	J. Hollingsworth and Co., for B. Amory, Jun.'s account, for obtaining copies of the proceedings of the court of Vice Admiralty at St. Kitt's, on American vessels carried in there, serving motions, &c.	-	1,361 42
" 22, "	John Gardner, Jun. for balance of his account for services as agent, for procuring copies of the proceedings of the British Vice Admiralty courts in the West Indies, on American vessels, &c.	-	80 86
May 23, "	Brades, Harper, and Brades, for their account in obtaining copies of the proceedings of the court of Vice Admiralty in Dominica, on American vessels captured and carried in there,	-	1,868 49
July 22, "	J. Warder, Parker, and Co., for Forbes, Stevens, and Co.'s, account, for obtaining copies of the proceedings of the court of Vice Admiralty at New Providence, on American vessels captured and carried in there,	-	3,445 06
" 23, "	J. Hollingsworth and Co., for B. Amory, Jun.'s account, for serving inhibitions, &c. at St. Kitt's,	-	35 49
August 11, "	John Gardner, Jun., for obtaining copies of the proceedings of the court of Vice Admiralty at Barbadoes, on American vessels captured and carried in there,	-	377 50
" 23, "	E. and J. Perot, for Fisher and Darrell's and J. Walrond's accounts, for serving inhibitions, &c. at Antigua and Barbadoes,	-	49 45
" 25, "	Campbell and Whittle, for expenses in obtaining appeal papers, &c. from the Vice Admiralty court at Kingston,	-	896 50
September 15, "	John Vaughan, for Bridgmans and Hall's account, for a list of American vessels, libelled in the court of Vice Admiralty at Kingston, serving inhibitions, &c.	-	142 44
December 6, "	Thomas Fitzsimons, Chairman of the Committee of Merchants, for insurance of the sloop Ambuscade, employed to carry inhibitions to the West Indies, postage, and advertising,	-	222 32
May 4, 1797,	E. and J. Perot, for copies of the proceedings of the court of Vice Admiralty at Bermuda, on the ship Two Friends,	-	81 90
July 11, "	J. Campbell, for Campbell and Whittle's account, for obtaining appeal papers from the court of Vice Admiralty at Kingston, serving inhibitions,	-	402 37
February 10, 1798,	W. D. and J. Brade, for their account, in obtaining copies of the proceedings of the court of Vice Admiralty, on thirty-seven American vessels, captured and carried into Dominica,	-	1,111 14
April 18, "	E. and J. Perot, for J. and W. Perot's account, for procuring copies of the proceedings of the Vice Admiralty court at Bermuda, serving inhibitions, &c.	-	1,025 22
May 5, "	Paid Jehu Hollingsworth and Co., for B. Amory, Jun.'s account, for obtaining copies of the proceedings of the Vice Admiralty court at St. Kitt's, serving inhibitions, &c.	-	777 00
" 15, "	E. and J. Perot, for Peter Dowdy and Co.'s account, for expenses of serving seven inhibitions at Montserrat,	-	68 00
" 25, "	P. Moore, Clerk of the District court of Maryland, for copies of the proceedings of said court in the case of Glass and others against the sloop Betsy, &c.	-	15 50
June 8, "	Henry Cooper, for expenses of serving inhibitions, &c. at Tortola, &c.	-	202 77
August 13, "	Benjamin Amory, Jun. for expenses of procuring copies of the proceedings of the Admiralty court at St. Kitt's, in four American causes,	-	185 42
December 18, "	Samuel Bayard, for compensation as agent of the United States, for prosecuting claims and appeals before the Board of Commissioners, under the 7th article of the British treaty,	-	14,551 09

No. 1.—Continued.

Date.		Vol. H. No.	Amount. Dollars. Cents.
April 30, 1799,	Thomas Fitzsimons, Chairman of the Committee of Merchants on British spoliations, for postage, printing certificates, J. Stealing's, and Fisher and Darrell's drafts, - - - - -	-	170 50
	Amount of payments in 1795, - - $2,206 80		
	Ditto, - 1796, - - 13,763 53		
	Ditto, - 1797, - - 484 27		
	Ditto, - 1798, - - 17,936 14		
	Ditto, - 1799, - - 170 50		
		-	34,561 24
	Paid Robert Montgomery, consul at Alicant, on account, for expenditures in 1797 and 1798, - $4,896 83		
	Joseph Fenwick, consul at Bourdeaux, for ditto, - *2,700 00		
	Joseph Iznardy, consul at Cadiz, for ditto, - - †3,200 00		
		-	10,796 83
	Amount of payments to Proctors, to June 5, 1798, by S. Bayard and S. Williams, agents of the United States at London, £13,635 sterling, - - - -	-	60,900 00
			106,258 07
	Ditto, to ditto, by S. Williams, from June 5, 1798, to November 20, 1799, £10,000 sterling, - - - -	-	44,444 44
			150,702 51
	On the 29th November, 1799, Mr. Williams writes that, "the balances due the Proctors amount to at least £12,000, and are daily increasing," - - - - - -	-	53,333 33
			204,035 84
	Deduct costs refunded from the awards in London, to August, 1797, received by Mr. Bayard, £1,706 14*s* 4*d* sterling, $7,585 41		
	Mr. Williams observes, June, 1798, that the costs on thirty cases, may be refunded by January, 1799, £7,500 sterling, - - - - 33,333 33		
		-	40,918 74
			164,117 10

No. 2.

Account of expenditures in affording relief and protection to distressed American seamen, copied from the account current of the Secretary of State, ending on the 31st of December, 1799.

Date.		Vol. D. No.	Amount. Dollars. Cents.
March 7, 1797, -	To paid Jeremiah Olney's account relative to impressments, -	1	6 00
July 29, 1797, -	David Smith, for the passage of a seaman from Philadelphia to Martha's Vineyard, - - - - -	2	6 00
October 18, 1797, -	Samuel Hodgdon, for the account of B. H. Phillips, consul of the United States at Curaçoa, for aid to seamen, - -	3	195 12
December 7, 1797,	William Allen, health officer, for aid to John Hennet, - -	4	20 25
December 29, 1797,	For the draft of E. Vanderhorst, consul of the United States at Bristol, being for the annual subscription of the United States to the Bristol Infirmary for the relief of seamen, for the year 1797,	5	23 33
	Amount of payments in 1797, - - -	-	250 70
May 3, 1798, -	Sylvanus Bourne, consul of the United States at Amsterdam, for aid to seamen, - - - - - -	6	103 79
May 17, 1798, -	Jeremiah Tatem, for Joseph Iznardy's account of provisions, &c. for seamen while on their passage from Cadiz to Philadelphia, -	7	314 60
May 30, 1798, -	John Dickman, and others who had been captured by the French, to enable them to return to their homes, - - -	8	91 00
June 8, 1798, -	Joseph Kinley, and others ditto, - - - -	9	34 00
June 9, 1798, -	George W. Talbot, for the passage of forty-one seamen from Porto Rico to Philadelphia, - - - - -	10	328 00
July 9, 1798, -	Francis Higgins, for aid to John Allen, a seaman, - -	11	12 75
July 23, 1798, -	James Monroe, for Fulwar Skipwith's account, for aid to distressed seamen, - - - - - -	12	25 23
December 13, 1798,	William Allen, health officer, for aid to Samuel Barber, a distressed seaman, - - - - - -	13	22 92
	Amount of payments in 1798, - - -	-	932 29

* Mr. Fenwick having transmitted the specific expenditures for some of the items in his account, amounting to 14,080 livres 15*s.* to Mr. Humphreys at Madrid, and Mr. Skipwith at Paris. This sum, therefore, is not set down as the actual proportion of his account for prosecuting claims in prize causes; but it is presumed to be nearly accurate.

† Mr. Iznardy's expenditures exceed the payments made to him; this sum, therefore, is put down as the proportion of his account (to the amount paid) for prosecuting claims in prize causes.

No. 2—Continued.

Date.		Vol. D. No.	Amount. Dollars.	Cents.
January 1, 1799.	Paid William Dupuy, for the draft of E. Vanderhorst, consul of the United States at Bristol, it being for the annual subscription of the United States to the Bristol Infirmary for the relief of seamen, for the year 1798,	14	23	33
January 2, 1799,	Silas Talbot, agent of the United States, for the relief and protection of American seamen in the West Indies,	15	9,572	00
January 4, 1799,	Clement Humphreys, Jun. for aid to seamen in France,	16	733	88
January 4, 1799,	John Robertson, for supplies to American seamen put on board the brig Independent, by Robert Montgomery, consul of the United States at Alicant,	17	73	30
January 8, 1799,	Daniel Steinmetz, for aid to seamen at Bourdeaux,	18	535	06
January 9, 1799,	Francis Breuil, for passages of seamen from Bourdeaux to Philadelphia,	19	5,540	85
January 28, 1799,	Stephen Swett, for aid to seamen at Marseilles, and passages of two from thence to Philadelphia,	22	125	00
January 10, 1799,	Paid Francis Higgins, for aid to John Allen, a seamen,	20	14	88
January 22, 1799,	Daniel Hauley, consul of the United States at Havanna, for aid to seamen at that place,	21	692	85
February 25, 1799,	David Phipps, for the passage of a seaman from Amsterdam to Philadelphia,	23	30	00
March 1, 1799,	A. and J. Bosquet, for the passage of T. Russell from Bourdeaux to Philadelphia,	24	60	00
March 15, 1799,	Jacob Mayer, consul of the United States at Cape François, for aid to seamen,	25	257	50
March 30, 1799,	John Nixon and Co., for the account of John Diol, for aid to the crew of the brig Maria, which was cast away,	26	69	97
May 18, 1799,	Nicklin and Griffith, for provisions furnished the seamen who returned in the ship Jane, from Porto Rico, while she was performing quarantine at the fort,	27	45	79
May 28, 1799,	L. M. O'Brien, consular agent of the United States at Santander, for aid to seamen,	28	642	60
June 1, 1799,	William Ellery, for the expenses of a deposition relative to the impressment of a seaman,	29	2	00
June 21, 1799,	John Prince, for the passages of seamen from St. Domingo to Philadelphia,	30	140	00
July 16, 1799,	William Ellery, expenses of a deposition relative to the impressment of seamen,	31	2	00
July 16, 1799,	Nicholas Duff for the passages and provisions for twelve seamen, from Teneriffe to New York,	32	480	00
August 24, 1799,	John Steinmetz, for aid to seamen at Bourdeaux,	33	256	59
September 28, 1799,	Jonas Jones and others, distressed seamen, [who returned from Cadiz in the cartel Hope]	34	45	00
September 30, 1799,	Nathaniel Gale and others, ditto,	35	24	00
October 3, 1799,	George Pearle and others, ditto,	36	21	00
October 4, 1799,	Robert McCannon and others, ditto,	37	12	00
October 7, 1799,	John K. Meyer and W. Lonergan, ditto,	38	16	00
October 8, 1799,	Elijah Townsend, ditto,	39	8	00
October 9, 1799,	S. Wing and A. Thompson, ditto,	40	10	00
October 11, 1799,	G. Hastie, for the account of Robert Moore, surgeon of the cartel, which was sent from Cadiz to Philadelphia with American seamen,	41	218	00
December 12, 1799,	Savage and Dugan, for passages of seamen from Cadiz to Philadelphia; support of ditto at Cadiz and in the Delaware, and demurrage of the ship Hope,	42	836	00
December 12, 1799,	George Hastie, for his expenses from New Castle to Trenton, on business relative to the seamen who returned from Cadiz in the ship Hope,	43	19	00
December 17, 1799,	William Allen, health officer, for aid to Wm. Phillips, a distressed seaman,	44	17	33
	Amount of payments in 1799,	-	20,523	93
	Total amount of payments in 1797, 1798, and 1799,		21,706	92

Amount of expenditures in 1797,	$250 70		
Paid R. Montgomery, consul at Alicant, on account,	565 00		
		815	70
Amount of expenditures in 1798,	932 29		
Paid R. Montgomery, consul at Alicant, on account, included in the year 1799,			
M. Morphy, ditto, Malaga ditto,	343 00		
		1,275	29
J. Izuardy, ditto, Cadiz, ditto, included in 1799,			
Amount of expenditures in 1799,	20,523 93		
Paid R. Montgomery, consul at Alicant, on account,	2,510 13		
M. Morphy, ditto, Malaga,	396 50		
F. Skipwith, ditto, Paris,	800 00		
J. Fenwick, ditto, Bourdeaux,	*1,300 00		

* Mr. Fenwick having transmitted the specific expenditures for some of the items in his account, (amounting to 14,080 livres 15s.) to Mr. Humphreys at Madrid, and F. Skipwith at Paris. This sum, therefore, is not set down as the actual proportion of his account for the relief of seamen, but it is presumed to be nearly accurate.

B. H. Phillips, ditto, Curaçoa,	1,630 00	
J. Pitcairn, ditto, Hamburg,	330 00	
J. Iznardy, ditto, Cadiz,	†6,566 49	
J. M. Iznardy, agent at Havanna,	4,000 00	
J. Simpson, consul,	581 13	
		38,638 18
		$40,729 17
Amount of expenditures by David Lenox, agent for the relief of seamen, residing in Great Britain, to the 31st December, 1799, £1,004 13*s.* sterling,	4,465 11	
Amount of his salary, from 3d March, 1797, to December 31, 1799, at $3,000 per annum,	6,741 66	
		11,206 77
Amount of claims forwarded, remaining unpaid,		2,589 30
		$54,525 24

No. 3.

COMMITTEE ROOM, *April* 7, 1800.

I am directed, sir, by the Committee of Ways and Means, to resquest that you will be so good as to favor me, as soon as convenient, for their use, with

First, an account, as particular as can be rendered at present, of the expenditure in each year, separately, of all moneys heretofore granted by Congress, and, for defraying the expenses of prosecuting claims in prize causes, before the Courts of Admiralty and Appeal in London, for reimbursing to consuls of the United States, their expenses in making and supporting the claims of American citizens for captured property before foreign tribunals.

And, for reimbursing the said consuls and others, for aid rendered to distressed American seamen in foreign countries.

And for defraying the expenses of bringing home the said seamen, and affording them assistance in the United States.

Secondly, information of the manner in which the accounts of the said expenditures, and each of them, are checked, controlled, and settled.

Thirdly, information how far expenses of any of the aforesaid descriptions may have already been incurred, beyond the former grants therefor.

And how far the faith of Government may be considered as pledged for further expenses under any of the said heads; and,

Fourthly, your opinion how far it is expedient to continue the said expenses, or any of them, beyond the engagements which may have already been contracted.

With great respect, I have the honor to be, sir, your most obedient humble servant,

ROBERT GOODLOE HARPER.

The Honorable SECRETARY OF STATE.

No. 4.

DEPARTMENT OF STATE, *April* 14, 1800.

SIR:

In compliance with the desire of the Committee of Ways and Means, expressed in your letter of the 7th instant, I have the honor to enclose two statements, one of expenditures for the relief of American seamen, the other for making and supporting the claims of American citizens for captured property before foreign tribunals.

The enclosed printed copy of a circular letter to our consuls will show what directions have been given relative to the accounts and vouchers for their expenditures.

The expensive prosecution of claims, before the high Court of Admiralty and Court of Appeals in London, comprehends about two hundred and thirty-six cases, the costs of which have been estimated to average two hundred and fifty pounds sterling each:

Amounting to,	£59,000
And fifty-five other cases to average £150	8,250
	67,250
Of which have been paid,	23,635
Leaving to be paid,	£43,615

But on the final settlement of these claims, and payment of decrees and awards in favor of the claimants by the British Government, those costs will be reimbursed. Where the claims are rejected, as the public will have nothing in its hands, the costs in many, perhaps in most, cases, may be lost. Provision for paying the costs in the first instance should doubtless be continued, for the same reason that it was at first made.

Although the appropriation for prosecuting claims before other foreign tribunals, in the act of April 18, 1798, (Laws vol. 4. p. 93.) was expressed to be for expenditures which *had been* made, or which *during that year should be* made, by our consuls, and my circular letter adopts the expression yet I conceive they will look to the United States for reimbursing subsequent expenditures; for they cannot suppose, that, when they had incurred expenses by instituting appeals, which remained undecided at the close of 1798, they should immediately relinquish them: on the contrary, they will naturally think that the motives which induced the first provision will lead Congress to continue to provide for the same objects while the same causes remain; that is, while captures continue to be made, and seamen (prisoners, or otherwise distressed,) demand relief.

I have the honor to be, with great respect, sir, your most obedient servant,

TIMOTHY PICKERING.

ROBERT GOODLOE HARPER, Esquire, *Chairman*, &c.

† Mr. Iznardy's expenditures exceed the payments made to him. This sum is put down as the proportion of his account (to the amount paid) for the relief of seamen.

6th CONGRESS.] No. 162. [2d SESSION.

IMPRESSED AMERICAN SEAMEN.

COMMUNICATED TO THE SENATE, DEC. 12, 1800.

DEPARTMENT OF STATE, *December* 9, 1800.

SIR:

In pursuance of the "Act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen,' and to amend the same," I have the honor to lay before Congress an annual return, ending this day, containing an abstract of all the returns made to the Secretary of State, by the collectors of the different ports, pursuant to the "Act for the relief and protection of American seamen,"* and of the communications received from the agents, employed by virtue of the same, in foreign countries.

I am, sir, with great respect, your obedient servant,

J. MARSHALL.

The Hon. the SPEAKER *of the House of Representatives.*

Abstract of the communications from the Agents employed under the "Act for the relief and protection of American Seamen."

DAVID LENOX, Esq., the Agent in Great Britain.

THIRD QUARTER, 1799.

Abstract of applications made by David Lenox, for the discharge of seamen, representing themselves to be citizens of the United States of America, and detained on board His Britannic Majesty's fleets, from the 1st day of August to the 1st day of November, 1799.

Cases unanswered per last abstract,		38
Applications since,		192
Renewed applications,		21
		— 251
Discharged,	35	
Ordered to be discharged, and are supposed to be so,	48	
		— 83
Detained for want of evidence of citizenship,		37
Entered, and have received the bounty,		22
Detained as British subjects,		4
Taken in arms,		2
Not on board ships represented,		8
Not answering description in certificates,		2
Run,		6
Detained for trial, or examination in a court of justice,		1
Dead. (Thomas Snell, Jun.)		1
Cases unanswered,		85
		— 251

D. LENOX,
Agent of the United States of America, residing in Great Britain, for the relief and protection of American Seamen.

LONDON, *November* 1, 1799.

FOURTH QUARTER, 1799.

Abstract of applications made by David Lenox, for the discharge of seamen, representing themselves to be citizens of the United States of America, and detained on board His Britannic Majesty's fleets, from the 1st day of November, 1799, *to the 1st day of January,* 1800.

Cases unanswered per last abstract,		85
Applications since,		106
Renewed applications,		27
		— 218
Discharged,	37	
Ordered to be discharged, and supposed to be so,	31	
		— 68
Detained for want of evidence of citizenship,		41
Entered, and have received the bounty,		8
Detained as British subjects,		19
Taken on board French privateers,		2
Not on board ships represented,		8
Run,		9
Detained on suspicion of being concerned in the mutiny on board the Hermione,		1
Declines leaving the British service, (John Shaw, of Boston,)		1
Cases unanswered,		61
		— 218

D. LENOX,
Agent of the United States of America, residing in Great Britain, for the relief and protection of American Seamen.

LONDON, *January* 1, 1800.

* For abstract of registered seamen, see Commerce and Navigation, page 449.

FIRST QUARTER, 1800.

Abstract of applications made by David Lenox, for the discharge of seamen, representing themselves to be citizens of the United States of America, and detained on board His Britannic Majesty's fleets, from the 1st day of January to the 1st day of April, 1800.

Cases unanswered per last abstract,		61
Applications since,		109
Applications renewed,		3
		— 173
Discharged,	22	
Ordered to be discharged, and are suppsoed to be so,	33	
	— 55	
Detained, having no documents to prove their citizenship,		29
Entered, and have received the bounty,		12
Detained as British subjects,		6
Not on board ships represented,		2
Not answering description in certificate,		1
Taken on board French and Dutch armed ships,		19
Run, (made their escape,)		6
No wish to leave the British service, after he had requested my interference, (James Smith,)		1
Cases unanswered,		42
		— 173

D. LENOX,
Agent of the United States of America, residing in Great Britain, for the relief and protection of American Seamen.

LONDON, *April* 1, 1800.

SECOND QUARTER, 1800.

Abstract of applications made by David Lenox, for the discharge of seamen, representing themselves to be citizens of the United States of America, and detained on board His Britannic Majesty's fleets, from the 1st day of April to the 1st day of July, 1800.

Cases unanswered per last abstract,		42
Applications since,		125
Applications renewed,		9
		— 176
Discharged,	39	
Ordered to be discharged, and are supposed to be so,	31	
	— 70	
Detained, having no documents to prove their citizenship,		42
Entered, and have received the bounty,		6
Detained as British subjects,		5
Not on board ships represented,		4
Run, (made their escape,)		3
On board the La Lutine frigate when she foundered,		1
Cases unanswered,		45
		— 176

D. LENOX,
Agent of the United States of America, residing in Great Britain, for the relief and protection of American Seamen.

LONDON, *July* 1, 1800.

HENRY CRAIG, Esq. Agent at Martinique.

No communications have been received from him since the last report to Congress.

WILLIAM SAVAGE, Esq. Agent at Jamaica.

The following extracts from his letters exhibit the general nature of the impressments which, during the last year, took place on that station.

JANUARY 30, 1800.

"The impressing of American seamen is rigidly pursued, to the great distress of the American trade."

FEBRUARY 20.

"The American trade, for some months past, has been greatly distressed, in consequence of their seamen being so generally impressed. In many instances, the masters have been necessitated to take people of any nation, and pay the most extravagant wages in advance, or suffer their property to remain here."

AUGUST 21.

"I beg leave to recommend, that the nearest of kin to impressed seamen frame affidavits of their being natives of America, and that the same be sworn to before the Governor, or Chief Justice of the State, accompanied with a certificate from you, or the British consul general, stating that the person administering the oath was authorized so to do. Documents of this nature, I have good reason to think, will induce Lord Seymour, now admiral on this station, to liberate the parties, as he assures me of his disposition to do the strictest justice."

NOVEMBER 1.

"The conduct of the navy here, so far as respects the impressing and detaining American seamen, is widely different, on the score of humanity, from what was pursued during the administration of Admiral Parker."

Mr. Savage has, since the last report to Congress, transmitted lists of impressed seamen, calling themselves Americans, to the number of one hundred and sixty-seven.

Abstract of all the Protests or Affidavits of Masters of Ships and Vessels of the United States, transmitted to the Secretary of State, in pursuance of the fifth section of the "Act for the Relief and Protection of American Seamen," and received since the 9th of December, 1799, the date of his last report to Congress.

No. of Protest.	Date of Protest.	Names of American vessels.	Where belonging.	Master's Name.	Names of People impressed.	Of what country.	By whom impressed.	When impressed.	Whether they had protections.
1	May 27, 1800,	Schooner Union,	- -	R. McDonald,	John Jones, - -	England, - -	Br. sloop of war Le Prune,	- -	Does not appear.
2	June 4, "	Brig Sally,	- -	W. H. Nichols,	John Barley, - - / John Tucker, - -	Batavia, - - / Unknown, - -	Press gang at Liverpool,	In Feb. 1800.	Do. do.
3	April 29, "	Ship Nonpareil,	- -	Asa Rosseter,	Dennis Grady, -	Unknown, - -	British frigate Cleopatra, -	April 20, "	Do. do.
4	April 28, "	Schooner Sally,	- -	Wm. Holland,	Peter Cook, - -	United States, -	Do. do. Surprise, -	April 13, "	Do. do.
5	April 28, "	Brig Hunter,	- -	E. Wells,	Richard Barret, -	Ireland, - -	Do. 71, Carnatic, -	April 9, "	Do. do.
6	April 9, "	Ship Hunter,	- -	W. B. Foster,	Richard Garrick, -	England, - -	Do. frigate Retaliation, -	March 5, "	Do. do.
7	April 2, "	Ship Columbia,	- -	T. Pickens,	John Letson, J. Ross, and John Smith, -	Unknown, - -	Do. sloop of war Pelican,	Oct. 10, 1799,	Do. do.
8	July 17, "	Ship Lydia,	New York,	H. Tredwell,	A. Wilson and J. Milligan,	United States, -	Do. frigate Cleopatra,	July 9, 1800,	Wilson had a protection.
9	Aug. 18, "	Brig Amazon,	- -	James Neill,	R. B. Mawdsley, John Burget, S. Lewis, D. Carroll, J. Myrick, and Joseph, (a black.)	All but John Myrick supposed to be natives of the U. States,	Do. privateer Cynthia, -	July 10, "	Does not appear.
10	Sept. 3, "	Ship Ohio,	- -	James Allen,	John Peters, - -	Montreal, - -	Press gang, - -	July 13, "	Do. do.
11	Sept. 10, "	Ship Chesapeake,	- -	Andrew Tombs,	Thomas Hall, -	England, - -	British sl'p of war Dasher,	Aug. 1, "	Do. do.
12	Sept. 30, "	Sloop Charlotte,	- -	Giles Starr,	William Phillips, -	Do. - -	Do. frigate Boston, -	Sept. 21, "	Do. do.
13	Dec. 2, 1799,	Brig Betsey,	Salem, Mc.	Timothy Pope,	Edward May, - -	United States, -	Do. sloop of war Morlaye,	Nov. 10, 1799,	Do. do.
14	Mar. 3, 1800,	Brig Hunter,	Baltimore,	John Wheeler,	Reading Jones, -	Do. - -	Do. ship Minotaur, -	Feb. 25, 1800,	Had a protection.
15	Aug. 7, "	Brig Sukey,	Salem,	Samuel Sivett,	J. Pierce, & S. Peabody,	Do. - -	Do. armed brig El Corso,	June 1, "	Had no protection.
16	Dec. 21, 1799,	Ship Justina,	- -	Batt Flowers,	John Preter, - -	Unknown, - -	Do. frigate Quebec, -	Aug. 22, 1799,	Does not appear.
17	Jan. 10, 1800.	Brigantine Trio,	- -	Francis Hill,	Samuel Stout, -	U. States, in N. York,	Do. ship of war Asia, -	Dec. 31, "	Do. do.
18	Jan. 21, "	Schr. Enterprise,	New York,	Elijah Tiffany,	Nicholas V. Brown, -	Belonging to N. York,	Do. vessel Musqueto, -	Sept. 29, "	Do. do.
19	April 25, "	Brig Arethusa,	R. Island,	William Smith,	William Sullivan, -	Ireland, - -	Do. frigate Bourdelais, -	- -	No protection.
20	Oct. 19, 1799,	Ship Financier,	Boston,	Isaac Clark,	E. Graham & A. Mansfield,	United States, -	Do. do. Andromeda, -	July 28, 1799,	Does not appear.
21	July 17, "	Brig'e Washington,	Salem,	John Murphy,	Archibald McMillan, -	North Britain, -	Do. do. do. -	July 9, "	Do. do.
22	Feb. 10, 1800,	Schooner Philip,	Baltimore,	J. N. Reynolds,	James McKirby, -	United States, -	Do. ship Arab, - -	Jan. 7, 1800,	Had a protection.
23	July 30, 1799,	Ship Hazard,	New York,	Pres'd Sisson,	A. Bernier & P. Dufrane,	France, - -	Spanish officer captain of a French privateer, and a seaman at Vera Cruz, -	July 8, 1799,	Does not appear.
24	Oct. 7, "	Brig Nancies,	New York,	Robert Forrest,	Richard Welch, -	United States, -	British sloop of war Fairy,	July "	Do. do.
25	Oct. 18, "	Brig Fidelity,	- -	Benj. Raynes,	John Vannoder, -	Do. - -	Do. ship Dromedary, -	- -	Do. do.
26	" "	Brig Betsey,	- -	Thomas Swain,	William Gool, - -	Do. - -	Do. do. do. -	July 30, 1799,	Had no protection.
27	Oct. 19, "	Brig George,	- -	Dan. Hubbard,	S. Robins & D. Holbrook,	Do. - -	Do. frigate Albecore, -	Aug. 18, "	Do. do.
28	Oct. 23, "	Ship Josiah Collins,	New York,	Thos. Cottiell,	W. Jones, Ed. Austin, and Mich. Kenney, -	Jones, from England, the others from Ireland,	Do. do. Andromeda,	- -	Does not appear.
29	Oct. 26, "	Bg. David & George,	- -	Evert Abeel,	Oliver Stewart,	- - - -	Do. ship Thunderer,	Sept. 8, 1799,	Had a protection.
30	Nov. 9, "	Brigantine Tartar,	New York,	John Matthews,	Andrew Otte, - -	Denmark, - -	Do. frigate Quebec,	Sept. 12, "	Does not appear.
31	Aug. 26, 1800.	Sch. Two Brothers,	N. Haven,	David Noie,	T. Smith, J. Munser, M. B. Terril, and E. Tompkins, -	All United States, -	Do. ship Tisiphone, -	Aug. 7, 1800,	Do. do.
		Brig Two Sisters,	Baltimore,	- -	John Peters, junior, -	United States, -	Do. sloop of war Larke,	- -	Do. do.
		- -	- -	- -	Charles Bushnell, jun.	Do. do. -	Now on bd. the Thunderer,	- -	Do. do.
		- -	- -	- -	Whitford Hudson, -	Do. do. -	Do. Actæon, -	- -	Do. do.
		Sloop Integrity,	- -	Nathan Allyn,	Sanford Stodder, -	Do. do. -	Do. Arab, -	- -	Do. do.

6th CONGRESS.] No. 163. [2d SESSION.

FRANCE.

COMMUNICATED TO THE SENATE, DECEMBER 15, 1800.

UNITED STATES, *December* 15, 1800.

Gentlemen of the Senate:

I transmit to the Senate, for their consideration and decision, a convention both in English and French, between the United States of America and the French republic, signed at Paris on the 13th day of September last, by the respective plenipotentiaries of the two Powers. I also transmit to the Senate, three manuscript volumes containing the journal of our envoys.

JOHN ADAMS.

[The following messages, with the accompanying documents, relating to the same subject, were also transmitted to the Senate.]

UNITED STATES, *December* 22, 1800.

Gentlemen of the Senate:

In conformity with your request, in your resolution of the 19th of this month, I transmit you the instructions given to our late envoys extraordinary and ministers plenipotentiary to the French republic.

It is my request to the Senate, that these instructions may be considered in strict confidence, and returned to me as soon as the Senate shall have made all the use of them they may judge necessary.

JOHN ADAMS.

UNITED STATES, *January* 21, 1801.

Gentlemen of the Senate:

In compliance with your request, signified in your resolution of the 20th day of this month, I transmit you a report, made to me by the Secretary of State* on the same day; a letter of our late envoys to him of the 4th of October last; an extract of a letter from our minister plenipotentiary in London to him of the 22d of November last; and an extract of another letter from the minister to the Secretary of the 31st of October last.

The reasoning in the letter of our late envoys to France is so fully supported by the writers on the law of nations, particularly by Vattel, as well as by his great masters, Grotius and Puffendorf, that nothing is left to be desired to settle the point that, if there be a collision between two treaties, made with two different Powers, the more ancient has the advantage; for no engagement contrary to it can be entered into in the treaty afterwards made, and, if this last be found, in any case, incompatible with the more ancient one, its execution is considered as impossible, because the person promising had not the power of acting contrary to his antecedent engagement. Although our right is very clear to negotiate treaties according to our own ideas of right and justice, honor and good faith, yet it must always be a satisfaction to know, that the judgments of other nations, with whom we have connexion, coincide with ours, and that we have no reason to apprehend that any disagreeable questions and discussions are likely to arise. The letters from Mr. King will, therefore, be read by the Senate with particular satisfaction.

The inconveniences to public officers, and the mischiefs to the public, arising from the publication of the despatches of ministers abroad are so numerous, and so obvious, that I request of the Senate that these papers, especially the letters from Mr. King, be considered in close confidence.

JOHN ADAMS.

Convention entre la République Française et les Etats Unis d'Amérique.

Le Premier Consul de la république Française, au nom du peuple Français, et le Président des Etats Unis d'Amérique, également animés du désir de mettre fin aux différends qui sont survenus entre les deux états, ont respectivement nommé leurs plénipotentiaires, et leur ont donné pleinpouvoir pour négocier sur ces différends et les terminer; c'est à dire, le Premier Consul de la république Française, au nom du peuple Français, a nommé pour plénipotentiaires de la dite république, les citoyens Joseph Bonaparte, ex-ambassadeur de la république Française à Rome et conseiller d'état; Charles Pierre Claret Fleurieu, membre de l'Institut National et du Bureau des Longitudes de France, et conseiller d'état, président de la Section de la Marine; et Pierre Louis Rœderer, membre de l'Institut National de France, et conseiller d'état, président de la Section de l'Intérieur; et le Président des Etats Unis d'Amérique, par et avec l'avis et le consentement du Sénat des dits Etats, a nommé pour leurs plénipotentiaires, Oliver Ellsworth, Chef de la Justice des Etats Unis; William Richardson Davie, ci-devant Gouverneur de l'Etat de la Caroline Septentrionale, et William Vans Murray, ministre résident des Etats Unis à la Haye; lesquels, après avoir fait l'échange de leurs pleinpouvoirs, longuement et mûrement discuté les intérêts respectifs, sont convenus des articles suivans:

ARTICLE 1. Il y aura une paix ferme, inviolable, et universelle, et une amitié vraie et sincère, entre la république Française et les Etats Unis d'Amérique, ainsi qu' entre leurs pays, territoires, villes, et places, et entre leurs citoyens et habitants, sans exception de personnes ni de lieux.

ART. 2. Les ministres plénipotentiaires des deux parties ne pouvant pour le présent s'accorder rélativement au traité d'alliance du 6 Février, 1778, au traité d'amitié

Convention between the French Republic and the United States of America.

The Premier Consul of the French republic, in the name of the people of France, and the President of the United States of America, equally desirous to terminate the differences which have arisen between the two States, have respectively appointed their plenipotentiaries, and given them full powers to treat upon those differences and to terminate the same, that is to say: the Premier Consul of the French republic, in the name of the people of France, has appointed for the plenipotentiaries of the said republic, the citizens Joseph Bonaparte, ex-ambassador at Rome and counsellor of state; Charles Pierre Claret Fleurieu, member of the National Institute, and of the Board of Longitude of France, and Counsellor of State, President of the Section of the Marine; and Pierre Louis Rœderer, member of the National Institute of France, and counsellor of state, President of the Section of the Interior. And the President of the United States of America, by and with the advice and consent of the Senate of the said States, has appointed for their plenipotentiaries, Oliver Ellsworth, Chief Justice of the United States, William Richardson Davie, late Governor of the State of North Carolina, and William Vans Murray, minister resident of the United States at the Hague; who, after having exchanged their full powers, and after full and mature discussion of the respective interests, have agreed on the following articles:

ARTICLE 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship between the French republic and the United States of America, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

ART. 2. The ministers plenipotentiary of the two parties not being able to agree, at present, respecting the treaty of alliance of 6th February, 1778, the treaty of

* This report is not to be found on the files of the office or of the Department, and is presumed to have been only an official form, transmitting the required papers.

et de commerce de la même date, et à la convention en date du 14 Novembre, 1788, non plus que relativement aux indemnités mutuellement dues ou réclamées, les parties négocieront ultérieurement sur ces objets, dans un tems convenable: et jusqu'à ce qu'elles se soyent accordées sur ces points, les dits traités et convention n'auront point d'effet, et les relations des deux nations seront réglées ainsi qu'il suit:

ART. 3. Les bâtimens d'états qui ont été pris de part et d'autre, ou qui pourraient être pris avant l'échange des ratifications seront rendus.

ART. 4. Les propriétés capturées et non encore condamnées définitivement, ou qui pourront être capturées avant l'échange des ratifications, excepté les marchandises de contrebande destinées pour un port ennemi, seront rendues mutuellement sur les preuves suivantes de propriété, *savoir:*

De part et d'autre, les preuves de propriété relativement aux navires marchands, armés ou non armés, seront un passeport de la forme suivante:

"*A tous ceux qui les présentes verront, soi notoire:* que faculté et permission a été accordée à ——, maitre ou commandant du navire appellé ——, de la ville de ——, de la capacité de —— tonneaux, ou environ, se trouvant présentement dans le port et hâvre de ——, et destiné pour ——, chargé de ——, qu'après que son navire a été visité, et avant son départ, il pretera serment entre les mains des officiers autorisés à cet effet: que le dit navire appartient à un ou plusieurs sujets de ——, dont l'acte sera mis à la fin des présentes; de meme qu'il gardera et fera garder par son équipage, les ordonnances et réglemens maritimes, et remettra une liste signée et confirmée par témoins, contenant les noms et surnoms, les lieux de naissance, et la demeure des personnes composant l'équipage de son navire, et de tous ceux qui s'y embarqueront, lesquels il ne recevra pas à bord sans la connaissance et permission des officiers autorisés à ce; et dans chaque port ou hâvre où il entrera avec son navire, il montrera la présente permission aux officiers à ce autorisés, et leur fera un rapport fidèle de ce qui s'est passé durant son voyage; et il portera les couleurs, armes, et enseignes de la république Française ou des Etats Unis durant son dit voyage. En témoin de quoi, nous avons signé les présentes, les avons fait contresigner par ——, et y avons fait apposer le sceau de nos armes.

Donné à ——, *le* ——, *de* ——, *l'an de grace le* ——."

Et ce passeport suffira sans autre pièce, non obstant tout réglement contraire. Il ne sera pas exigé que ce passeport ait été renouvellé ou révoqué, quelque nombre de voyages que le dit navire ait pu faire, à moins qu'il ne soit revenu chez lui dans l'espace d'une année.

Par rapport à la cargaison, les preuves seront des certificats contenant le détail de la cargaison, du lieu d'où le bâtiment est parti, et de celui où il va, de manière que les marchandises défendues et de contrebande puissent être distinguées par les certificats; lesquels certificats auront été faits par les officiers de l'endroit d'où le navire sera parti, dans la forme usitée dans le pays; et si ces passeports ou certificats, ou les uns et les autres ont été détruits par accident, ou enlévés de force, leur défaut pourra être supplée par toutes les autres preuves de propriété admissibles d'après l'usage général des nations. Pour les bâtimens autres que les navires marchands, les preuves seront la commission dont il sont porteurs.

Cet article aura son effet à dater de la signature de la présente convention; et si à dater de la dite signature, des propriétés sont condamnées contrairement à l'esprit de la dite convention, avant qu'on ait connaissance de cette stipulation, la propriété ainsi condamnée sera, sans délai, rendue ou payée.

ART. 5. Les dettes contractées par l'une des deux nations envers les particuliers de l'autre, ou par des particuliers de l'une envers des particuliers de l'autre, seront acquittées, ou le payement en sera poursuivi comme s'il n'y avait eu aucune mésintelligence entre les deux états. Mais cette clause ne s'étendra point aux indemnités réclamées pour des captures ou pour des condamnations.

ART. 6. Le commerce entre les deux parties sera libre; les vaisseaux des deux nations, et leurs corsaires, ainsi que leurs prises, seront traités dans les ports respectifs comme ceux de la nation la plus favorisée, et, en général, les deux parties jouiront dans les ports l'une de l'autre, par rapport au commerce et à la navigation, des priviléges de la nation la plus favorisée.

ART. 7. Les citoyens et habitans des Etats Unis pourront disposer, par testament, donation, ou autrement, de leurs biens, meubles et immeubles, possédés dans le ter-

amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed; the parties will negotiate further on these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and conventions shall have no operation, and the relations of the two countries shall be regulated as follows:

ART. 3. The public ships which have been taken on one part and the other, or which may be taken before the exchange of ratifications, shall be restored.

ART. 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored, on the following proofs of ownership, viz: The proof on both sides with respect to merchant ships, whether armed or unarmed, shall be a passport in the form following:

"*To all who shall see these presents, greeting:*

"It is hereby made known that leave and permission has been given to —— master and commander of the ship called —— of the town of —— burthen —— tons, or thereabouts, lying at present in the port and haven of ——, and bound for ——, and laden with ——, after that his ship has been visited, and before the sailing, he shall make oath before the officers who have the jurisdiction of maritime affairs, that the said ship belongs to one or more of the subjects of ——, the act whereof shall be put to the end of these presents, as likewise that he will keep, and cause to be kept by his crew on board, the marine ordinances and regulations, and enter in the proper office a list, signed and witnessed, containing the names and surnames, the places of birth, and abode of the crew of his ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine; and in every port or haven where he shall enter with his ship, he shall show this present leave to the officers and judges of the marine, and shall give a faithful account to them of what passed and was done during his voyage; and he shall carry the colors, arms, and ensigns of the French republic, or the United States, during his voyage. In witness whereof, we have signed these presents, and put the seal of our arms thereunto, and caused the same to be countersigned —— at —— the —— day of —— anno Domini ——."

And this passport will be sufficient without any other paper, any ordinance to the contrary notwithstanding; which passport shall not be deemed requisite to have been renewed or recalled, whatever number of voyages the said ship may have made, unless she shall have returned home within the space of a year. Proof with respect to the cargo shall be certificates, containing the several particulars of the cargo, the place whence the ship sailed, and whither she is bound; so that the forbidden and contraband goods may be distinguished by the certificates, which certificates shall have been made out by the officers of the place whence the ship set sail, in the accustomed form of the country. And if such passport or certificates, or both, shall have been destroyed by accident, or taken away by force, their deficiency may be supplied by such other proofs of ownership as are admissible by the general usage of nations. Proof, with respect to other than merchant ships, shall be the commission they bear.

This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned, contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for.

ART. 5. The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two states. But this clause shall not extend to indemnities claimed on account of captures or confiscations.

ART. 6. Commerce between the parties shall be free. The vessels of the two nations, and their privateers, as well as their prizes, shall be treated in the respective ports as those of the nation the most favored; and, in general, the two parties shall enjoy in the ports of each other, in regard to commerce and navigation, the privileges of the most favored nation.

ART. 7. The citizens and inhabitants of the United States shall be at liberty to dispose, by testament, donation, or otherwise, of their goods, moveable and immove-

ritoire Européen de la république Française; et les citoyens de la république Française auront la meme faculté à l'égard des biens, meubles et immeubles, possédés dans le territoire des Etats Unis, en faveur de telle personne, que bon leur semblera. Les citoyens et habitans d'un des deux états, qui seront héritiers des biens, meubles ou immeubles, situés dans l'autre, pourront succéder *ab intestato*, sans qu'ils ayent besoin de lettres de naturalité, et sans que l'effet de cette stipulation, leur puisse être contesté ou empeché, sous quelque prétexte que ce soit; et seront les dits héritiers, soit à titre particulier, soit *ab intestato*, exempts de tout droit quelconque chez les deux nations. Il est convenu que cet article ne dérogera en aucune manière aux lois qui sont à présent en vigeur chez les deux nations, ou qui pourraient être promulguées à la suite contre l'émigration; et aussi que dans le cas où les lois de l'un des deux états limiteraient pour les étrangers l'exercice des droits de la propriété sur les immeubles, on pourrait vendre ces immeubles, ou en disposer autrement en faveur d'habitans ou de citoyens du pays où ils seraient situés, et il sera libre à l'autre nation d'établir de semblables lois.

Art. 8. Pour favoriser de part et d'autre le commerce, il est convenu que si, ce qu'à Dieu ne plaise, la guerre éclatait entre les deux nations, on allouera, de part et d'autre, aux marchands, et autres citoyens ou habitans respectifs, six mois après la déclaration de guerre, pendant lequel tems ils auront la faculté de se retirer avec leurs effets et meubles qu'ils pourront emmener, envoyer, ou vendre, comme ils le voudront, sans le moindre empechement. Leurs effets, et encore moins leurs personnes, ne pourront point, pendant ce tems de six mois, être saisis; au contraire, on leur donnera des passeports qui seront valables pour le tems nécessaire à leur retour chez eux; et ces passeports seront donnés pour eux, ainsi que pour leurs bâtimens et effets, qu'ils désireront emmener ou envoyer. Ces passeports serviront de sauf-conduit contre toute insulte et contre toute capture de la part des corsaires, tant contre eux que contre leurs effets; et si, dans le terme ci-dessus désigné, il leur était fait par l'une des parties, ces citoyens, ou ces habitans, quelque tort dans leur personnes ou dans leurs effets, on leur en donnera satisfaction complète.

Art. 9. Les dettes dues par des individus de l'une des deux nations aux individus de l'autre, ne pourront, dans aucun cas de guerre, ou de démêlés nationaux, être séquestrées ou confisquées, non plus que les actions ou fonds qui se trouveraient dans les fonds publics, ou dans des banques publiques ou particulières.

Art. 10. Les deux parties contractantes pourront nommer, pour protéger le négoce, des agens commerciaux qui résideront en France et dans les Etats Unis; chacune des parties pourra excepter telle place qu'elle jugera à propos, des lieux où la résidence de ces agens pourra etre fixée. Avant qu'aucun agent puisse exercer ses fonctions, il devra être accepté, dans les formes reçues par la partie chez laquelle il est envoyé; et quand il aura été accepté et pourvu de son *exequatur*, il jouira des droits et prérogatives dont jouiront les agens semblables des nations les plus favorisées.

Art. 11. Les citoyens de la république Française ne payeront dans les ports, hâvres, rades, contrées, isles, cités, et lieux des Etats Unis, d'autres ni de plus grands droits ou impôts, de quelque nature qu'ils puissent être, quelque nom qu'ils puissent avoir, que ceux que les nations les plus favorisées sont ou seront tenues de payer; et ils jouiront de tous les droits, libertés, privilèges, immunités, et exemptions en fait de négoce, navigation, et commerce, soit en passant d'un port des dits Etats à un autre, soit en y allant ou en revenant de quelque partie ou pour quelque partie du monde que ce soit, dont les nations susdites jouissent ou jouiront. Et réciproquement, les citoyens des Etats Unis jouiront, dans le territoire de la république Française en Europe, des mêmes priviléges, immunités, tant pour leurs biens et leurs personnes, que pour ce qui concerne le négoce, la navigation, et le commerce.

Art. 12. Les citoyens des deux nations pourront conduire leurs vaisseaux et marchandises (*en exceptant toujours la contrebande*) de tout port quelconque, dans un autre port appartenant à l'ennemi de l'autre nation; ils pourront naviguer et commercer en toute liberté et sécurité, avec leurs navires et marchandises, dans les pays, ports, et places des ennemis des deux parties, ou de l'une ou de l'autre partie, sans obstacles et sans entraves, et non seulement passer directement des places et ports de l'ennemi susmentionnés, dans les ports et places neutres, mais encore de toute place appartenant à un ennemi dans toute autre place appartenant à un ennemi, qu'elle soit ou ne soit pas soumise à la même jurisdiction, à moins que ces places ou ports ne soient réellement bloqués, assiégés, ou investis.

able, holden in the territory of the French republic in Europe, and the citizens of the French republic shall have the same liberty with regard to goods, moveable and immoveable, holden in the territory of the United States, in favor of such persons as they shall think proper. The citizens and inhabitants of either of the two countries, who shall be heirs of goods, moveable or immoveable, in the other, shall be able to succeed *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded, under any pretext whatever; and the said heirs, whether such by particular title, or *ab intestato*, shall be exempt from every duty whatever, in both countries. It is agreed that this article shall in no manner derogate from the laws which either state may now have in force, or hereafter may enact, to prevent emigration; and also, that, in case the laws of either of the two states should restrain strangers from the exercise of the rights of property with respect to real estate, such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the country where it may be, and the other nation shall be at liberty to enact similar laws.

Art. 8. To favor commerce on both sides, it is agreed that, in case a war should break out between the two nations, (which God forbid,) the term of six months after the declaration of war shall be allowed to the merchants, and other citizens and inhabitants, respectively, on one side and the other, during which time they shall be at liberty to withdraw themselves, with their effects and moveables, which they shall be at liberty to carry, send away, or sell, as they please, without the least obstruction; nor shall their effects, much less their persons, be seized during such term of six months; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them for their vessels and the effects which they shall be willing to send away or carry with them; and such passports shall be a safe conduct against all insults and prizes which privateers may attempt against their persons and effects. And if any thing be taken from them, or any injury done to them, or their effects, by one of the parties, their citizens, or inhabitants, within the term above prescribed, full satisfaction shall be made to them on that account.

Art. 9. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares, nor moneys which they may have in public funds, or in the public or private banks, shall ever, in any event of war, or national difference, be sequestered or confiscated.

Art. 10. It shall be free for the two contracting parties, to appoint commercial agents for the protection of trade, to reside in France and the United States. Either party may except such place as may be thought proper from the residence of these agents. Before any agent shall exercise his functions, he shall be accepted in the usual forms by the party to whom he is sent; and when he shall have been accepted and furnished with his *exequatur*, he shall enjoy the rights and prerogatives of the similar agents of the most favored nations.

Art. 11. The citizens of the French Republic shall pay in the ports, havens, roads, countries, islands, cities, and towns of the United States, no other, or greater duties or imposts, of what nature soever they may be, or by what name soever called, than those which the nations most favored are, or shall be obliged to pay, and they shall enjoy all the rights, liberties, privileges, immunities, and exemptions in trade, navigation, and commerce, whether in passing from one port in the said States to another, or in going to and from the same from and to any part of the world, which the said nations do, or shall enjoy. And the citizens of the United States shall reciprocally enjoy in the territories of the French Republic in Europe, the same privileges and immunities, as well for their property and persons, and for what concerns trade, navigation, and commerce.

Art. 12. It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever to any port of the enemy of the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, and to pass not only directly from the places and ports of the enemy aforementioned, to neutral ports and places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same power, or under several; unless such ports or places shall be actually blockaded, besieged, or invested.

Et dans le cas, comme il arrive souvent, où les vaisseaux feraient voile pour une place ou port appartenant à un ennemi ignorant qu'ils sont bloqués, assiégés, ou investis, il est convenu que tout navire qui se trouvera dans une pareille circonstance, sera détourné de cette place ou port, sans qu'on puisse le retenir ni confisquer aucune partie de sa cargaison (*à moins qu'elle ne soit de contrebande, ou qu'il ne soit prouvé que le dit navire, après avoir été averti du blocus ou investissement, a voulu rentrer dans ce même port;*) mais il lui sera permis d'aller dans tout autre port ou place qu'il jugera convenable. Aucun navire de l'une ou de l'autre nation, entré dans un port ou place avant qu'ils ayent été réellement bloqués, assiégés, ou investis par l'autre, ne pourra etre empeché de sortir avec sa cargaison: s'il s'y trouve, lorsque la dite place sera rendue, le navire et sa cargaison ne pourront etre confisqués, mais seront remis aux propriétaires.

Art. 13. Pour régler ce qu'on entendra par contrebande de guerre, seront compris sous cette dénomination la poudre, le salpetre, les pétards, mèches, balles, boulets, bombes, grenades, carcasses, piques, hallebardes, épées, ceinturons, pistolets, fourreaux, selles de cavalerie, harnais, canons, mortiers avec leurs affuts, et généralement toutes armes et munitions de guerre et ustensiles, à l'usage des troupes. Tous les articles ci-dessus, toutes les fois qu'ils seront destinés pour le port d'un ennemi, sont déclarés de contrebande, et justement soumis à la confiscation. Mais le bâtiment sur lequel ils étaient chargés, ainsi que le reste de la cargaison, seront regardés comme libres, et ne pourront en aucune manière etre viciés par les marchandises de contrebande, soit qu'ils appartiennent à un meme ou à differens propriétaires.

Art. 14. Il est stipulé par le présent traité que les bâtimens libres assureront également la liberté des marchandises, et qu'on jugera libres toutes les choses qui se trouveront à bord des navires appartenans aux citoyens d'une des parties contractantes, quand meme le chargement ou partie d'icelui appartiendrait aux ennemis de l'une des deux: bien entendu, néanmoins, que la contrebande sera toujours excepté. Il est également convenu que cette meme liberté s'étendra aux personnes qui pourraient se trouver à bord du bâtiment libre, quand même elles seraient ennemis de l'une des deux parties contractantes, et elles ne pourront etre enlévées des dits navires libres, à moins qu'elles ne soient militaires, et actuellement au service de l'ennemi.

Art. 15. On est convenu, au contraire, que tout ce qui se trouvera chargé par les citoyens respectifs sur des navires appartenans aux ennemis de l'autre partie, ou à leurs sujets, sera confisqué, sans distinction des marchandises prohibées ou non prohibées, ainsi et de meme que si elles appartenaient à l'ennemi, à l'exception toutefois des effets et marchandises qui auront été mis à bord des dits navires avant la déclaration de guerre, ou même après la dite déclaration, si, au moment du chargement, on a pu l'ignorer; de maniere que les marchandises des citoyens des deux parties, soit qu'elles se trouvent du nombre de celles de contrebande ou autrement, lesquelles, comme il vient d'etre dit, auront été mises à bord d'un vaisseau appartenant à l'ennemi avant la guerre, ou meme après la dite déclaration, lorsqu'on l'ignorait, ne seront, en aucune manière, sujettes à confiscation, mais seront fidèlement et de bonne foi rendues, sans délai, à leurs propriétaires qui les reclameront; bien entendu néanmoins qu'il ne soit pas permis de porter dans les ports ennemis les marchandises qui seront de contrebande.

Les deux parties contractantes conviennent que le terme de deux mois passé depuis la déclaration de guerre, leurs citoyens respectifs de quelque partie du monde qu'ils viennent, ne pourront plus alléguer l'ignorance dont il est question dans le présent article.

Art. 16. Les navires marchands appartenans à des citoyens de l'une ou d'autre des deux parties contractantes, lorsqu'ils voudront passer dans le port de l'ennemi de l'une des deux parties, et que leur voyage, ainsi que les effets de leur cargaison, pourront donner de justes soupçons, les dits navires seront obligés d'exhiber, en pleine mer comme dans les ports ou rades, non seulement leurs passeports, mais encore leurs certificats, prouvant que ces effets ne sont point de la même espèce que ceux de contrebande specifiés dans l'article treize de la présente convention.

Art. 17. Et afin d'éviter des captures sur des soupçons frivoles, et de prévenir les dommages qui en résultent, il est convenu que, quand une des deux parties sera en guerre et l'autre neutre, les navires de la partie neutre seront pourvus de passeports semblables à ceux spécifiés dans l'article quatre, de manière qu'il puisse par là apparaitre que les navires appartiennent véritablement à la

And whereas, it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel, so circumstanced, may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless, after notice of such blockade or investment, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper. Nor shall any vessel of either, that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

Art. 13. In order to regulate what shall be deemed contraband of war, there shall be comprised under that denomination gun-powder, saltpetre, petards, match, ball, bombs, grenades, carcasses, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannon, mortars, their carriages and beds, and generally all kinds of arms, ammunition of war, and instruments fit for the use of troops: all the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation: but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same, or a different owner.

Art. 14. It is hereby stipulated that free ships shall give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the citizens of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect: that although they be enemies to either party, they are not to be taken out of that free ship, unless they are soldiers and in actual service of the enemy.

Art. 15. On the contrary, it is agreed, that whatever shall be found to be laden by the citizens of either party on any ship belonging to the enemies of the other, or their citizens, shall be confiscated without distinction of goods, contraband or not contraband, in the same manner as if it belonged to the enemy, except such goods and merchandises as were put on board such ship before the declaration of war, or even after such declaration, if so be it were done without knowledge of such declaration; so that the goods of the citizens of either party, whether they be of the nature of such as are prohibited, or otherwise, which, as is aforesaid, were put on board any ship belonging to an enemy before the war, or after the declaration of the same, without the knowledge of it, shall no ways be liable to confiscation, but shall well and truly be restored without delay to the proprietors demanding the same; but so as that if the said merchandises be contraband, it shall not be in any way lawful to carry them afterwards to any ports belonging to the enemy.

The two contracting parties agree, that the term of two months being passed after the declaration of war, their respective citizens, from whatever part of the world they come, shall not plead the ignorance mentioned in this article.

Art. 16. The merchant ships belonging to the citizens of either of the contracting parties, which shall be bound to a port of the enemy of one of the parties, and concerning whose voyage, and the articles of their cargo, there shall be just grounds of suspicion, shall be obliged to exhibit, as well upon the high seas as in the ports or roads, not only their passports, but likewise their certificates, showing that their goods are not of the quality of those which are specified to be contraband in the thirteenth article of the present convention.

Art. 17. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed, that when one party shall be engaged in war, and the other party be neuter, the ships of the neutral party shall be furnished with passports similar to that described in the fourth article, that it may appear thereby that the ships really belong to the citizens of the neutral party:

partie neutre. Ces passeports seront valides pour un nombre quelconque de voyages; mais ils seront renouvellés chaque année, si le navire retourne chez lui dans l'espace d'une année. Si ces navires sont chargés, ils seront pourvus non seulement des passeports susmentionnés, mais aussi de certificats semblables à ceux mentionnés au même article, de manière que l'on puisse connaitre s'il y à bord des marchandises de contrebande. Il ne sera exigé aucune autre pièce, non obstant tous usages et réglemens contraires; et s'il n'apparait pas par ces certificats qu'il y ait des marchandises de contrebande à bord, les navires seront laissés à leur destination. Si, au contraire, il apparait, par ces certificats, que les dits navires ayent des marchandises de contrebande à bord, et que le commandant offre de les délivrer, l'offre sera acceptée, et le navire sera remis en liberté de poursuivre son voyage, à moins que la quantité de marchandises de contrebande ne soit trop grande pour pouvoir etre prise convenablement à bord du vaisseau de guerre ou corsaire; dans ce cas, le navire pourra être amené dans le port pour y délivrer la dite marchandise.

Si un navire est trouvé sans avoir le passeport ou les certificats ci-dessus exigés, l'affaire sera examinée par les juges ou tribunaux compétens; et s'il conste, par d'autres documens ou preuves admissibles par l'usage des nations, que le navire appartient à des citoyens de la partie neutre, il ne sera pas condamné, et il sera remis en liberté avec son chargement, la contrebande exceptée, et aura la liberté de poursuivre sa route.

Si le capitaine nommé dans le passeport du navire venait à mourir, ou à être ôté par toute autre cause, et qu'un autre fut nommé à sa place, le navire et sa cargaison n'en seront pas moins en sûreté, et le passeport demeurera dans toute sa force.

Art. 18. Si les bâtimens des citoyens de l'une ou l'autre nation sont rencontrés de long des côtes, ou en pleine mer, par quelques vaisseaux de guerre ou corsaires de l'autre, pour prévenir tout désordre, les dits vaisseaux ou corsaires se tiendront hors de la portée du canon, et enverront leurs canots à bord du navire marchand qu'ils auront rencontré: ils n'y pourront entrer qu'au nombre de deux ou trois hommes, et demander au patron ou capitaine du dit navire exhibition du passeport concernant la propriété du dit navire, fait d'après la formule prescrite dans l'article quatre, ainsi que les certificats susmentionnés relatifs à la cargaison. Il est expressément convenu que le neutre ne pourra etre contraint d'aller à bord du vaisseau visitant pour y faire l'exhibition demandée des papiers, ou pour toute autre information quelconque.

Art. 19. Il est expressément convenu par les parties contractantes, que les stipulations ci-dessus, relatives à la conduite qui sera tenue à la mer par les croiseurs de la partie belligérante, envers les bâtiments de la partie neutre, ne s'appliqueront qu'aux bâtiments navigant sans convoi: et dans le cas où les dits bâtiments seraient convoyés, l'intention des parties étant d'observer tous les égards dus à la protection du pavillon arboré sur les vaisseaux publics, on ne pourra point en faire la visite. Mais la déclaration verbale du commandant de l'escorte, que les navires de son convoi appartiennent à la nation dont ils portent le pavillon, et qu'ils n'ont aucune contrebande à bord, sera regardée par les croiseurs respectifs comme pleinement suffisante; les deux parties s'engageant réciproquement à ne point admettre, sous la protection de leur convoi, des bâtiments qui porteraient des marchandises prohibées à une destination ennemie.

Art. 20. Dans le cas où les bâtiments seront pris ou arrêtés, sous prétexte de porter à l'ennemi quelqu'article de contrebande, le capteur donnera un reçu des papiers du bâtiment qu'il retiendra, lequel reçu sera joint à une liste énonciative des dits papiers: il ne sera point permis de forcer ni d'ouvrir les écoutilles, coffres, caisses, caissons, bales, ou vases, trouvés à bord du dit navire, ni d'enlever la moindre chose des effets, avant que la cargaison ait été débarquée en présence des officiers compétens, qui feront un inventaire des dits effets; ils ne pourront, en aucune manière, être vendus, échangés, ou aliénés, à moins qu'après une procédure légale, le juge ou les juges compétens n'ayent porté contre les dits effets sentence de confiscation, (*en exceptant toujours le navire et les autres objets qu'il contient.*)

Art. 21. Pour que le bâtiment et la cargaison soient surveillés avec soin, et pour empêcher les dégâts, il est arrêté que le patron, capitaine, ou subrécargue du navire *capturé*, ne pourront être éloignés du bord, soit pendant que le navire sera en mer après avoir été pris, soit pendant les procédures qui pourront avoir lieu contre lui, sa cargaison, ou quelque chose y relative.

Dans le cas où le navire appartenant à des citoyens de l'une ou de l'autre partie serait pris, saisi, et retenu, pour être jugé, ses officiers, passagers, et équipage seront traités

they shall be valid for any number of voyages, but shall be renewed every year, that is, if the ship happens to return home in the space of a year. If the ships are laden, they shall be provided not only with the passports above mentioned, but also with certificates similar to those described in the same article; so that it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the said certificates that there are contraband goods on board, the ships shall be permitted to proceed on their voyage. If it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, the offer shall be accepted, and the ship shall be at liberty to pursue its voyage, unless the quantity of the contraband goods be greater than can conveniently be received on board the ship of war or privateer; in which case, the ship may be carried into port for the delivery of the same.

If any ship shall not be furnished with such passport or certificates as are above required for the same, such case may be examined by a proper judge or tribunal; and if it shall appear, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released with her cargo, (contraband goods excepted,) and be permitted to proceed on her voyage.

If the master of a ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and cargo shall nevertheless be equally secure, and the passport remain in full force.

Art. 18. If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ship of war or privateer of the other; for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship shall exhibit his passport concerning the property of the ship, made out according to the form prescribed in the fourth article. And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

Art. 19. It is expressly agreed by the contracting parties, that the stipulations above mentioned, relative to the conduct to be observed on the sea by the cruisers of the belligerent party towards the ships of the neutral party, shall be applied only to ships sailing without convoy; and when the said ships shall be convoyed, it being the intention of the parties to observe all the regard due to the protection of the flag displayed by public ships, it shall not be lawful to visit them: but the verbal declaration of the commander of the convoy, that the ships he convoys belong to the nation whose flag he carries, and that they have no contraband goods on board, shall be considered by the respective cruisers as fully sufficient; the two parties reciprocally engaging not to admit, under the protection of their convoys, ships which shall carry contraband goods destined to an enemy.

Art. 20. In all cases where vessels shall be captured or detained under pretence of carrying to the enemy contraband goods, the captor shall give a receipt for such of the papers of the vessel as he shall retain, which receipt shall be annexed to a descriptive list of the said papers: and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels found on board, or remove the smallest part of the goods, unless the lading be brought on shore in presence of the competent officers, and an inventory be made by them of the said goods. Nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless there shall have been lawful process, and the competent judge or judges shall have pronounced against such goods sentence of confiscation, saving always the ship and the other goods which it contains.

Art. 21. And that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed, that it shall not be lawful to remove the master, commander, or supercargo of any captured ship, from on board thereof, either during the time the ship may be at sea after her capture, or pending the proceedings against her, or her cargo, or any thing relative thereto. And in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers, and crew, shall be hospitably treated.

avec humanité; ils ne pourront être imprisonnés, ni dépouillés de leurs vetemens, ni de l'argent à leur usage, qui ne pourra excéder, pour le capitaine, le subrécargue, et le second, cinq cents dollars chacun; et pour les matelots et passagers, cent dollars chacun.

ART. 22. Il est de plus convenu, que dans tous les cas, les tribunaux établis pour les causes de prises dans les pays où les prises seront conduites, pourront seuls en prendre connaissance; et quelque jugement que le tribunal de l'une ou de l'autre partie prononce contre quelques navires, ou marchandises, ou propriétés réclamées par des citoyens de l'autre partie, le sentence ou décret fera mention des raisons ou motifs qui ont déterminé ce jugement, dont copie authentique, ainsi que de toute la procédure y relative, sera, à leur réquisition, delivrée, sans délai, au capitaine ou agent du dit navire, moyennant le payement des frais.

ART. 23. Et afin de pourvoir plus efficacement à la sureté respective des citoyens des deux parties contractantes, et prévenir les torts qu'ils auraient à craindre des vaisseaux de guerre ou corsaires de l'une ou l'autre partie, tous commandans des vaisseaux de guerre et de corsaires, et tous autres citoyens de l'une des deux parties, s'abstiendront de tout dommage envers les citoyens de l'autre, et de toute insulte envers leurs personnes. S'ils faisaient le contraire, ils seront punis, et tenus à donner, dans leurs personnes et propriétés, satisfaction et réparation pour les dommages, avec intérêt, de quelque espèce que soient les dits dommages.

A cet effet, tous capitaines de corsaires, avant de recevoir leurs commissions, s'obligeront, devant un juge compétent, à donner une garantie au moins par deux cautions responsables, lesquelles n'auront aucun intéret sur le dit corsaire, et dont chacune, ainsi que le capitaine, s'engagera particulièrement et solidairement pour la somme de sept mille dollars, ou trente-six mille huit cent vingt francs; et si les dits vaisseaux portent plus de cent cinquante matelots ou soldats, pour la somme de quatorze mille dollars, ou soixante-treize mille six cent quarante francs, qui serviront à reparer les torts ou dommages que les dits corsaires, leurs officiers, équipages, ou quelqu'un d'eux, auraient fait ou commis pendant leur croisière, de contraire aux dispositions de la présente convention, ou aux lois et instructions qui devront être la règle de leur conduite: en outre, les dites commissions seront révoquées et annullées dans tous les cas où il y aura en aggression.

ART. 24. Lorsque les vaisseaux de guerre des deux parties contractantes, ou ceux que leur citoyens auraient armés en guerre, seront admis à relâcher, avec leurs prises, dans les ports de l'une des deux parties, les dits vaisseaux publics ou particuliers, de même que leurs prises, ne seront obligés à payer aucun droit, soit aux officiers du lieu, soit aux juges, ou à tous autres; les dites prises entrant dans les hâvres ou ports de l'une des deux parties ne pourront être arretées ou saisies, et les officiers des lieux ne pourront prendre connaissance de la validité des dites prises, lesquelles pourront sortir et être conduites en toute franchise et liberté aux lieux portés par les commissions dont les capitaines des dits vaisseaux seront obligées de faire apparoir. Il est toujours entendu que les stipulations de cet article ne s'étendront pas au delà des priviléges des nations les plus favorisées.

ART. 25. Tous corsaires étrangers ayant des commissions d'un état ou prince en guerre avec l'une ou l'autre nation, ne pourront armer leurs vaisseaux dans les ports de l'une ou l'autre nation, non plus qu'y vendre leurs prises, ni les échanger en aucune manière: il ne leur sera permis d'acheter des provisions que la quantité nécessaire pour gagner le port le plus voisin de l'etat ou prince duquel ils ont reçu leurs commission.

ART. 26. Il est de plus convenu qu'aucune des deux parties contractantes non seulement ne recevra point de pirates dans ses ports, rades, ou villes, et ne permettra pas qu'aucun de ses habitans les reçoive, protège, accueille ou recèle en aucune manière, mais encore livrera à un juste châtiment ceux de ces habitans qui seraient coupables de pareils faits ou délits. Les vaisseaux de ces pirates, ainsi que les effets et marchandises par eux pris et amenés dans les ports de l'une ou l'autre nation, seront saisis partout où ils seront découverts, et restitués à leurs propriétaires, agens, ou facteurs duement autorisés par eux, après toutefois qu'ils auront prouvé devant les juges competens le droit de propriété.

Que si les dits effets avaient passé, par vente, en d'autres mains, et que les acquéreurs fussent ou pussent être instruits ou soupçonnaient que les dits effets avaient été enlevés par des pirates, ils seront également restitués.

ART. 27. Aucune des deux nations ne viendra participer aux pêcheries de l'autre sur ses côtes, ni la troubler dans l'exercise des droits qu'elle a maintenant ou pour-

They shall not be imprisoned or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for the captain, supercargo, and mate, five hundred dollars each, and for the sailors and passengers, one hundred dollars each.

ART. 22. It is further agreed, that in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal of either of the parties shall pronounce judgment against any vessel or goods or property claimed by the citizens of the other party, the sentence or decree shall mention the reasons or motives on which the same shall have been founded, and an authenticated copy of the sentence or decree, and of all the proceedings in the case, shall, if demanded, be delivered to the commander or agent of the said vessel, without any delay, he paying the legal fees for the same.

ART. 23. And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war, or privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause, all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security by at least two responsible sureties, who have no interest in the said privateer, each of whom, together with the said commander, shall be jointly and severally bound in the sum of seven thousand dollars, or thirty-six thousand eight hundred and twenty francs; or if such ships be provided with above one hundred and fifty seamen or soldiers, in the sum of fourteen thousand dollars, or seventy-three thousand six hundred and forty francs; to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit during their cruise, contrary to the tenor of this convention, or to the laws and instructions for regulating their conduct: and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

ART. 24. When the ships of war of the two contracting parties, or those belonging to their citizens which are armed in war, shall be admitted to enter with their prizes the ports of either of the two parties, the said public or private ships, as well as their prizes, shall not be obliged to pay any duty either to the officers of the place, the judges, or any others; nor shall such prizes, when they come to and enter the ports of either party, be arrested or seized; nor shall the officers of the place make examination concerning the lawfulness of such prizes; but they may hoist sail at any time, and depart, and carry their prizes to the places expressed in their commissions, which the commanders of such ships of war shall be obliged to show. It is always understood that the stipulations of this article shall not extend beyond the privileges of the most favored nation.

ART. 25. It shall not be lawful for any foreign privateers who have commissions from any Prince or state in enmity with either nation, to fit their ships in the ports of either nation, to sell their prizes, or in any manner to exchange them; neither shall they be allowed to purchase provisions, except such as shall be necessary for their going to the next port of that Prince or state, from which they have received their commissions.

ART. 26. It is further agreed, that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences. And all their ships, with the goods or merchandises taken by them and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors, or agents, duly authorized by them, (proper evidence being first given before competent judges for proving the property;) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect that they had been piratically taken.

ART. 27. Neither party will intermeddle in the fisheries of the other on its coasts, nor disturb the other in the exercise of the rights which it now holds, or may ac-

rait acquérir sus les côtes de Terreneuve, dans le golfe de St. Laurent, ou partout ailleurs, sur les côtes d'Amérique au nord des Etats Unis; mais la pêche de la baleine et du veau marin sera libre pour les deux nations dans toutes les parties du monde.

Cette convention sera ratifiée de part et d'autre en bonne et due forme, et les ratifications seront échangées dans l'espace de six mois, ou plutôt s'il est possible.

En foi de quoi les plénipotentiaires respectifs ont signé les articles ci-dessus, tant en langue Française qu'en langue Anglaise, et ils y ont apposé leurs sceaux, déclarant, néanmoins, que la signature en deux langues ne sera point citée comme exemple, et ne préjudicera à aucune des deux parties.

Fait à Paris, le huitième jour de Vendémiaire, de l'an neuf de la république Française, et le trentième jour de Septembre, mil huit cent.

J. BONAPARTE,
C. P. C. FLEURIEU,
RŒDERER,
O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

quire on the coast of Newfoundland in the Gulf of St. Lawrence, or elsewhere on the American coast, northward of the United States. But the whale and seal fisheries shall be free to both in every quarter of the world.

This convention shall be ratified on both sides in due form, and the ratifications exchanged in the space of six months, or sooner if possible.

In faith whereof, the respective plenipotentiaries have signed the above articles both in the French and English languages, and they have thereto affixed their seals; declaring, nevertheless, that the signing in the two languages shall not be brought into precedent nor in any way operate to the prejudice of either party.

Done at Paris, the eighth day of Vendemiaire, of the ninth year of the French Republic, the thirtieth day of September, Anno Domini eighteen hundred.

JOSEPH BONAPARTE, [L. S.]
OLIVER ELLSWORTH, [L. S.]
CHARLES PIERRE CLARET FLEURIEU, [L. S.]
WILLIAM R. DAVIE, [L. S.]
PIERRE LOUIS RŒDERER, [L. S.]
WILLIAM V. MURRAY. [L. S.]

Journal of Oliver Ellsworth, William R. Davie, and William Vans Murray, Envoys Extraordinary and Ministers Plenipotentiary to the court of France, containing their correspondence and negotiations from the 17th of January, 1800, to the 3d of October in the same year; and terminating in the convention with France, of the 30th September, 1800.

OCTOBER 16, 1799.

The following letter from the Secretary of State, with its enclosure, was delivered to Mr. Ellsworth and Mr. Davie, at Trenton.

DEPARTMENT OF STATE, *Trenton, October* 16, 1799.

SIR:

To fulfil the President's orders, and to convey correctly to you and ——— his sentiments towards you, and his determination respecting your mission as envoys extraordinary to the French republic, I enclose a copy of his letter to me of this date; and have the honor to be, with great respect, sir, your obedient servant,

TIMOTHY PICKERING.

TRENTON, *October* 16, 1799.

SIR:

I request you to order fair copies of the instructions, as corrected last evening, to be prepared and delivered to Judge Ellsworth and Governor Davie, with another for Mr. Murray, without loss of time; and to write a letter to those gentlemen as envoys extraordinary to the French republic, expressing, with the affectionate respects of the President, his desire that they would take their passage for France, on board the frigate the United States, Captain Barry, now lying at Rhode Island, by the 1st of November, or sooner, if consistent with their conveniencies. Captain Barry will have orders to land them in any port of France which they may prefer, and to touch at any other ports which they may desire. The President's best wishes for their health and happiness, as well as for an honorable termination of their mission, will attend them. As their visit to France is at one of the most critical, important, and interesting moments that ever has occurred, it cannot fail to be highly entertaining and instructive to them, and useful to their country, whether it terminate in peace and reconciliation or not. The President sincerely prays God to have them in his holy keeping.

I am, sir, with great respect and esteem, your faithful humble servant,

JOHN ADAMS.

TIMOTHY PICKERING, Esq. *Secretary of State.*

[The following are the instructions above referred to.*]

Instructions to Oliver Ellsworth, William Richardson Davie, and William Vans Murray, Esquires, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French republic.

GENTLEMEN:

You have been witnesses of the enduring patience of the United States, under the unexampled aggressions, depredations, and hostilities, authorized and sanctioned by the French republic against the commerce and citizens of the United States: and you are well informed of the measures adopted by our Government to put a stop to these evils, to obtain redress for the injured, and real peace and security to our country. And you know that, instead of relief, instead of justice, instead of indemnity for past wrongs, our very moderate demands have been immediately followed by new aggressions and more extended depredations; while our ministers, seeking redress and reconciliation, have been refused a reception, treated with indignities, and finally driven from its territories.

This conduct of the French republic would well have justified an immediate declaration of war on the part of the United States; but desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce.

The treatment experienced by the former envoys of the United States to the French republic, having determined the President not to send thither other ministers, without direct and unequivocal assurances previously signified by its Minister of Foreign Relations, that they would be received in character to an audience of the Directory, and that they should enjoy all the prerogatives attached to that character by the law of nations, and that a minister or ministers of equal powers should be appointed and commissioned to treat with them: the French Government, by Mr. Talleyrand, its Minister of Foreign Relations, has declared, *that it will receive the envoys of the United States in the official character with which they are invested; that they shall enjoy all the prerogatives attached to it by the law of nations; and that one or more ministers shall be duly authorized to treat with them.* This the President deems to be substantially the assurance which he required as the previous condition of the envoys entering on their mission. It now belongs to you, gentlemen, to see that this assurance be verified. Your country will not submit to any new indignity or neglect. It is expected, when you shall have assembled at Paris, and have given official notice of it to the Minister of Foreign Relations, that you will be received to an audience of the Executive Directory; that

* Although these instructions formed no part of the original journal, yet, having been communicated by the preceding message, they are inserted here, as an appropriate place.

a minister or ministers, with powers equal to your own, will be appointed to treat with you; and that within twenty days at farthest, after your arrival at Paris, your negotiation will be commenced. If, however, your passports to Paris should be unreasonably withheld; if an audience of the Directory should be denied or procrastinated; if the appointment of a minister or ministers, with equal powers, to treat with you, should be delayed; or, if when appointed, they postpone the intended negotiation; you are to relinquish your mission, demand your passports, and leave France; and, having once resolved to terminate the mission, you are not to resume it, whatever fresh overtures or assurances may be tendered to you by the French Government.

One more limitation: The subjects of difference between the United States and France have often been discussed, and are well understood; and, therefore, admit of a speedy decision. The negotiation is expected to be concluded in such time that you may certainly embark for the United States by the 1st of next April. This is highly important, in order that on your return Congress may be found in session, to take those measures which the result of your mission shall require. If it can be earlier concluded it will be still better.

If any of the periods above mentioned should be prolonged with your assent, it is expected that the circumstances will be stated for your justification.

I. At the opening of the negotiation you will inform the French ministers, that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained, by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from the French republic or its agents. And all captures and condemnations are deemed irregular or illegal, when contrary to the law of nations generally received and acknowledged in Europe, and to the stipulations in the treaty of amity and commerce, of the 6th of February, 1778, fairly and ingeneously interpreted, while that treaty remained in force; especially when made and pronounced.

1. Because the vessels lading, or any part thereof, consisted of provisions or merchandise coming from England or her possessions.

2. Because the vessels were not provided with the *róles d'équipage* prescribed by the laws of France; and which, it has been pretended, were also required by treaty.

3. Because sea letters or other papers were wanting, or said to be wanting when the property shall have been, or shall be, admitted or proved to be American. Such defect of papers, though it might justify the captors and exempt them from damages, for bringing in such vessels for examination, could not, with reason, be a ground of condemnation.

4. When the owners, masters, or supercargoes shall have been refused a hearing, or placed in situations rendering their presence at the trial impracticable.

5. When the vessels or other property captured shall have been sold, or otherwise disposed of, without a regular trial and condemnation.

Captures and condemnations for such causes, and under such circumstances, are manifestly irregular or illegal.

The French Government, if it has any serious wish to accommodate existing differences, can make no difficulty in admitting the general proposition, that, for injuries arising from violated laws and engagements, reparation shall be made. In every claim under this general stipulation, the question will occur, Has the treaty, or the law of nations, been violated?

But such a general stipulation will not be sufficient. The five specific propositions just stated are obviously proper rules of adjudication; but the previous admission of the first and second is vastly important, to remove from hazard the most interesting claims of our citizens.

To capture neutral property, because it was produced or manufactured in the country of an enemy to France, is so palpably unjust, that it seems improbable that even the men who orginated the law, were they still in power, would persist in it as of right; and it is scarcely possible for their successors to hesitate on this point. To hesitate would be to doubt whether a man has a right to occupy his own house, or to wear his own clothes, unless he had built the first, or manufactured the last, with his own hands.

The second proposition respecting the *róle d'équipage*, as well as the first, should be insisted on. Until the decree of the Directory of March 2, 1797, was passed, and we had felt its fatal effects, we had no idea of the meaning which the French applied to the phrase *róle d'equipage*. In the consular convention between the United States and France, article ninth, which relates to deserters from vessels, the document is described in the French by the words "des registres du bâtiment ou *róle d'équipage*," and in the English part of the convention by the words "the registers of the vessel or *ship's rolls*." And this paper was to be produced to the proper judge, to prove a deserter to belong to the vessel in question. The law or usage of each nation was incontestably to direct what was proper for its own vessels in this respect. If an American master claimed from a judge in France his warrant to arrest a deserter, he must have produced his "ship's roll," or what in the United States is called his *shipping paper*, which is a contract signed by all the persons composing a vessel's crew. The propriety and necessity of a *ship's roll* was, in the year 1790, sanctioned and enforced by an act of Congress; and, without such a written contract, the master, besides being subjected to other disadvantages, could not claim his men when they deserted. This ship's roll every American master, bound on a foreign voyage, takes on board his vessel; and, unquestionably, every American vessel, captured and condemned by the French for the want of a *róle d'équipage*, has nevertheless been possessed of the ship's roll, just described; and it is the only *list of the ship's crew*, which could ever have been contemplated by the United States, as necessary for American vessels. There never was, indeed, any intimation on the part of France, from 1778, when the treaty of amity and commerce was made, until the passing of the decree of the Directory, in March, 1797, that a *róle d'equipage*, other than the *ship's roll*, or *shipping paper*, would be required. It was then suddenly demanded; and the decree (like the law of January, 1798, respecting articles of the produce or manufacture of Great Britain,) was instantly enforced, and became a snare to the multitudes of American vessels, which, for want of previous notice, would not have on board the document in question, if their Government should permit them to receive a document which they were under no obligation to produce. For it cannot, with any semblance of justice, be pretended that the vessels of one nation are bound to furnish themselves with papers in forms prescribed by the laws of another. And if we resort to the treaty of 1778, or to the sea-letter or passport annexed to it, on which letter the Directory pretended to found their decree concerning the "*róle d'équipage*," we shall see that these words are not to be found in either; and, although the passport mentions "a list signed and witnessed, containing the names, surnames, the places of birth, and abode of the crew of his [the neutral master's] ship, and of all who shall embark on board her, whom he shall not take on board without the knowledge and permission of the officers of the marine;" yet, instead of being obliged "to have the list on board," the passport declares, that "he shall enter it in the proper office;" and all that the treaty requires him to exhibit at sea is the sea-letter, or passport. In a word, whatever is said about the *róle d'équipage*, in the French application of the phrase, has relation to the laws and usages of France. It was to be exhibited to the officers of the marine; but the United States have not, nor ever had, like France, any such description of officers, employed in the examination and clearing of vessels and their crews, prior to their going to sea; and the Directory, if they had wanted pretences for despoiling our commerce, might as well have made the omission of appointing marine officers in our ports, to whom, according to the letter of the passport, the *róle d' équipage* was to be exhibited, a cause of capture and condemnation, as the omitting to furnish them with *róles d'équipage* in the *French* form. In preparing, in 1793, the sea-letter for American vessels, the Secretary of State, Mr. Jefferson, changed, in divers places, the *letter* of the passport, substituting other words applicable to us; and for "officers of the marine," "officers and judges of the marine," which words were descriptive of French institutions, using only the phrase, "proper officers," in conformity with our own. In the same manner, the "ship's roll," or shipping paper of the United States, if at all required, should have been respected by France, as her "*róle d'équipage*" would have been respected by the United States. And, after all, what was the real object of the sea-letter, (in which alone there is any reference to a *list of the crew*,) and what was it substantially to express? The twenty-fifth article of the treaty of 1778 informs us, "in case either of the parties should be engaged in war, the ships and vessels belonging to the subjects or people of the

other ally, must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and habitation of the master or commander of the said ship, "*that it may appear thereby, that the ship really and truly belongs to the subjects of one of the parties;*" and with this further view, "that all manner of dissensions and quarrels might be avoided and prevented:" for, as was declared in the twenty-seventh article, when a ship of the party remaining neutral, met with by a ship of the other party, had shown her sea-letter or passport, she was to "be free and at liberty to pursue her voyage, so as it should not be lawful to molest or search her in any manner, or to give her chase, or force her to quit her intended course."

It also merits observation, that, according to the tenor of the sea-letter or passport, in every port or haven where he [the neutral master] should enter with his ship, he is required to show, not a *rôle d'équipage*, but his *passport*. Yet this passport, made and intended by the Governments of France and the United States, in 1778, to facilitate and protect their commerce, to exempt it from vexations, and to prevent dissensions and quarrels, has, by the Government of France, been converted into a fatal snare, an engine of mischief, producing quarrels, dissensions, vexations, and, to the commerce of many American citizens, absolute destruction.

II. If these preliminaries should be satisfactorily arranged, then, for the purpose of examining and adjusting all the claims of our citizens, it will be necessary to provide for the appointment of a Board of Commissioners similar to that described in the sixth and seventh articles of the treaty of amity and commerce between the United States and Great Britain.

The commissioners of the two nations may first meet at Paris. In choosing the fifth commissioner, they will have a right to propose a Frenchman or an American. But it might conduce to more satisfactory results if the fifth commissioner were a foreign civilian, eminent for his learning, talents, and integrity.

Three of the commissioners may constitute a board, provided one named on each side and the fifth commissioner be present. The four commissioners, in the absence of the fifth, may also constitute a board; and, in each case, the decisions of a majority are to be valid. But, when on any questions, the four commissioners, in the absence of the fifth, shall be equally divided, such questions are to be re-examined and decided in the presence of the fifth commissioner. Further, in absence of the fifth commissioner, any three of the other commissioners may constitute a board, and their decisions valid in cases where they are unanimous.

The salaries of the commissioners, the expense attending the commission, and the supplying of vacancies in it, may be regulated in the manner proposed in the eighth article of our treaty of amity and commerce with Great Britain.

The commissioners should be appointed and meet at Paris, within six months after the ratifications of the treaty by the respective Governments, and as much sooner as may be.

Claims may be presented to the board during two years, commencing with the day on which the commissioners shall first assemble to proceed to business; and, in particular cases, in which it shall appear to them reasonable and just, they may extend the time of receiving claims to any reasonable term after the expiration of the two years.

All sums which the board may award to American claimants France should stipulate to pay in gold and silver, without any deduction, at such place or places, and at such time or times, as the commissioners shall appoint. The awards should comprehend a reasonable allowance of interest on the amount of the original losses and damages, or, instead of prompt payment, the whole may constitute a transferable capital, bearing interest until the debt be discharged.

The board should also take cognizance of the claims, which may be presented to them by American citizens, for merchandise, or other property, seized by the French in their own ports or elsewhere, and not comprehended under the head of captures; and for their vessels arbitrarily and unreasonably detained in French ports, and for the losses and damages thereby sustained, the board should award equitable compensations to be paid in the manner prescribed in the case of captures.

The claims of the United States, as distinguished from those of their citizens, for injuries received from the French republic, or its citizens, should be submitted to the same board; and whatever sums they award, France should stipulate to pay, in the manner before mentioned, in the case of captures.

As the French Government have heretofore complained of infringements of the treaty of amity and commerce by the United States, or their citizens, all claims for injuries thereby occasioned to France, or its citizens, are to be submitted to the same board; and whatever damages they award, will be allowed by the United States, and deducted from the sums awarded to be paid by France.

If, however, the French Government should desire to waive its *national* claims, you may do the like on the part of the United States. Doubtless the claims of the latter would exceed those of the former; but, to avoid multiplying subjects of dispute, and because *national* claims may probably be less definite than those of *individuals*, and consequently more difficult to adjust, *national* claims may, on both sides, be relinquished.

All claims for sums due to American citizens, by contracts with the French Government or its agents, which may be presented to the board, France should stipulate to pay within the shortest periods possible to obtain, with interest, at the rate or rates agreed on; or, if no agreement about interest appears, then at the rate to be fixed by the board, and from the times when the sums were respectively payable by contract. This also may be transferable stock.

The questions about interest, and any other questions which may arise out of the claims founded on contracts, not explicitly determined by the treaty, may be left to the decision of the Board of Commissioners.

III. If the preceding claims shall be duly attended to, and adequate arrangements made for adjusting and satisfying them, you will then turn your thoughts to the regulation of navigation and commerce, and to some other points interesting to the two nations.

IV. It may be stipulated that there shall be a reciprocal and entirely perfect liberty of commerce and navigation between France and the United States, and their territories and dominions, in every part of the world: but without admitting the vessels of either country into the rivers of the other beyond the highest ports of entry from the sea.

With the usual policy of European nations, France may object to the free admission of American vessels into the ports of her colonies. But the singular injuries our commerce has sustained from France, during the present war, which no payments to be made by her, under the preceding stipulations, can ever fully compensate, plead for an entire liberty of trade with her colonies, at least during the term of the proposed treaty, and until the stipulated compensations shall actually have been made. Another reason will naturally operate in favor of this claim; the inability of France immediately to furnish the requisite navigation and supplies for the commerce of her distant possessions.

But if France will not allow us a trade with her colonies, on the terms which may be agreed in respect to the parent state, we should be silent on the subject. The commerce of all our territories will be open to France; that of all her dominions should be alike open to us. At any rate, it appears inexpedient for the United States to countenance injurious distinctions respecting colonial commerce, to obtain a share in it by agreeing to allow a price for it, in the payment of extra duties. Neither ought we to stipulate any thing like what is contained in the last clause of the third article of our treaty with the United Netherlands. Such an engagement would be a species of guaranty of the colony system. It is sufficient for the United States to treat foreign nations with justice and friendship.

V. It may be stipulated that no other or higher duties shall be paid by the ships or merchandise of one party in the ports of the other than such as are or shall be payable by the like vessels or merchandise of all other nations: that no other or higher duties shall be imposed in one country on the importation of any articles which are the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles being of the growth, produce, or manufacture of any other foreign country; and that no prohibition shall be imposed on the exportation or importation of any articles from or to the territories of the two parties, respectively, which shall not equally extend to all other nations.

And for the information of their respective fellow-citizens, and to prevent abuses, it may be stipulated that the consuls of each nation shall be officially furnished in the other with tariffs of all imposts, customs, duties, and charges; by which tariffs the demands of the officers of each nation may be respectively limited.

VI. The freedom of navigation and commerce here proposed, will require the admission of the citizens of the two countries respectively into the dominions of the other, with liberty to reside there, to hire and possess houses and warehouses for the purposes of their commerce, and complete protection and security for the merchants and traders on each side, with their property, whether in going to, residing in, or returning from, the country of the other. Nor should they be liable to any tax on their persons or property, to which the natives are not equally subject. They should be at liberty to manage their own affairs, without being obliged to employ any factor, broker, or interpreter, or any persons to load or unload their vessels; with a right, however, to employ any or all of them, as well as advocates and attorneys, at their pleasure.

VII. The merchants and others of one nation, residing in the other, should have liberty to dispose of their property by testament, or otherwise, including real estates already acquired; and, if dying intestate, their heirs should enjoy the right of succession. Provided, that, if the laws of either country should at the time be incompatible with such transfer or inheritance of real estates by *aliens*, they may be sold or otherwise disposed of to citizens of the two countries respectively. The citizens of the United States should not, *in respect to their property*, be considered as *aubains* in France; and, consequently, should be exempted from the *droit d'aubain*, or other similar duty.

VIII. The mutual residence of citizens of the two nations in the countries of each other necessarily requires the free exercise of religion, at least in their own houses, and in their own way; and permission to bury the dead in convenient places.

IX. If debtors flee from one country to the other, the creditors should be allowed to pursue them, and have the benefit of the laws of the country to which they flee, in the same manner as if the debts had been there contracted.

X. Neither the debts due from individuals of the one nation to the individuals of the other, nor shares nor moneys which they may have in the public funds, or in the public or private banks, should ever, in any event of war or national differences, be sequestered or confiscated.

XI. The ships of the citizens of the respective countries coming upon any coasts belonging to either, but not willing to enter into port; or, being entered into port, and not willing to unload their cargoes or break bulk; they should be treated according to the general rules prescribed, or to be prescribed, relative to the object in question.*

XII. Neither party should permit the ships or goods belonging to the citizens of the other to be taken within cannon shot of the coast, nor elsewhere within their jurisdiction, by ships of war or others having commission from any Prince, republic, or state whatever. But if such capture or other injury should happen, the party whose territorial rights are thus violated should use his utmost endeavors to obtain from the offending party full and ample satisfaction for the capture or other injury so committed. The just freedom of commerce, and the interest and dignity of the neutral nation, demand the protection of all vessels entering its ports, not only from being taken, but from being pursued within its jurisdiction, or immediately after their departure from its ports: therefore, their enemy, finding an asylum in those ports, should not be permitted to leave the same until the lapse of twenty-four hours after such departure.

XIII. No asylum should be given to pirates; vessels and property rescued from their hands should be restored to the proper owners; the pirates, and any who conceal or assist them, should be brought to condign punishment; all with the precautions customary in such cases.

XIV. The ships of war and other public vessels of each party should at all times be hospitably received in the ports of the other; their officers and crews paying due respect to the laws and government of the country.

XV. In case the citizens of either party with their private shipping, armed or unarmed, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity, to seek for shelter in the ports of the other, they should be received and treated with humanity, and enjoy all friendly protection and assistance.

XVI. In the case of vessels wrecked, foundered, or otherwise damaged, they should receive in each country the same protection and assistance as if they belonged to the inhabitants of the country on whose coasts the misfortune should happen.

XVII. Each party may appoint consuls for the protection of trade, to reside in the dominions and territories of the other, including colonies as well as the mother country: for wherever trade is permitted, there the assistance and protection of consuls is necessary. If a consul be sent to a colony, his provisional admission by the Colonial Government might suffice, until the pleasure of the National Government should be known. The consuls may enjoy the rights and liberties which belong to them by the law of nations.

XVIII. Deserters from public and private vessels should be delivered up, and the laws of each country make suitable provision for that purpose. The merchants and commanders of vessels, public and private, of one nation, in the country of the other, may engage and receive on board seamen or others, natives or inhabitants of the country to which the vessels belong: provided that, either on one side or the other, they may not take into their service such of their countrymen (not deserters) who have already engaged in the service of the other party, whether in war or trade, and whether they meet them by land or sea; at least if the captains or masters under whose command such persons may be found, will not voluntarily discharge them from their service. Not only the original enlistment, shipping paper, or *rôle d'equipage*, but a copy duly certified by a judge of the country, may be admitted in proof of desertion.

XIX. It may be agreed, that on mutual requisitions by the respective ministers or consuls of the two nations, persons charged with murder or forgery committed within the territorial jurisdiction of one, and fleeing to the other, shall be delivered up.

XX. It may be agreed that neither party shall intermeddle in the common fisheries on the coasts of the other party, nor disturb the other party in the exercise of the rights which either now holds, or may acquire, of fishing on the banks of Newfoundland, in the Gulph of St. Lawrence, or elsewhere on the American coast northward of the United States of America: but that the whale and seal fisheries may be freely exercised in every quarter of the world.

XXI. The seventeenth and twenty-second articles of the commercial treaty between the United States and France, of February 6th, 1778, have been the source of much altercation between the two nations during the present war. The dissolution of that and our other treaties with France leaves us at liberty with respect to future arrangements; with the exception of the now preferable right secured to Great Britain, by the twenty-fifth article of the treaty of amity and commerce. In that article we promise mutually that, while we continue in amity, neither party will in future make any treaty that shall be inconsistent with that article or the one preceding it. We cannot, therefore, renew with France the seventeenth and twenty-second articles of the treaty of 1778. Her aggressions, which occasioned the dissolution of that treaty, have deprived her of the priority of rights and advantages therein stipulated. Indeed, if the public faith pledged in the British treaty did not forbid a renewal of those engagements with France, sound policy should prevent it. We should preserve to ourselves the right of allowing every commercial nation in amity with us the like shelter, supplies, and assistance, under like circumstances; and, by excluding all equally when engaged in war, (saving to each the rights of humanity and hospitality) we may keep the calamities of war at a distance. The engagements with Great Britain may cease in two years after the close of the present war: but, under the stipulations contained in the twenty-eighth and last articles of the British treaty, the engagements in question may be continued to a longer period. If, therefore, you should find any cogent reasons for renewing in substance the seventeenth and twenty-second articles of the commercial treaty with France of 1778, it must be with the explicit declaration that neither at the present or any future time, shall the said articles be construed to derogate from the whole or any part of the twenty-fourth and twenty-fifth articles of the treaty of amity, commerce, and navigation between the United States and His Britannic Majesty, concluded at London on the 19th of November, 1794.

XXII. The present war has exhibited such inconveniences and mischiefs in our own country, and such monstrous abuses elsewhere, by trials, or pretended trials, and sales of prizes, by French consuls and agents: in order

* See section 60, new collection law.

to prevent any claim to the exercise of such powers, it will be expedient expressly to declare they shall not be exercised in the United States; whether the prizes are made by public ships or privateers. There will, of course, be a reciprocal denial of the exercise of the like powers by American consuls and agents in the dominions of France. Prizes ought to be conducted to the country to which the captors belong, unless the two parties are engaged in hostilities against a common enemy. But, in this case, the established courts for prize causes in the country to which the prizes are conducted should alone take cognizance of them.

XXIII. The duties of an impartial neutrality, when either party shall remain neutral, will forbid any permission to the enemies of the other to arm originally, or to increase a former armament, in the ports of the neutral party.

XXIV. When one of the parties shall be engaged in war, the vessels of the other may be captured on just suspicion of having on board property belonging to the enemy of the former, or of carrying to the enemy any of the articles which are contraband of war. With these exceptions, the trade of each party to the ports of the enemies of the other should be perfectly free, unless to the ports actually blockaded; and if such enemies forbear to capture enemies' property in neutral vessels, it may be agreed that in such case, the contracting parties will forbear to capture the vessels of each other for that cause. The law of France of the 18th of January, 1798, respecting produce or manufactures coming from England or her possessions, is incompatible with the stipulation here proposed, and, if not repealed, negotiations with you must be deemed illusory.

But that captures on light suspicions may be avoided, and the vexations and injuries thence arising prevented, the usual stipulations for sea-letters or passports, and certificates or manifests of the cargoes of vessels, may be introduced. But neither party should be allowed to prescribe the form, or to require the exhibition of any document (the sea-letter and certificates before mentioned excepted) not required by the laws or usages of the party to whose citizens the vessels and their cargoes belong. The form of the sea-letter should be simple, like that now used by the United States, in that part of the passport which is printed in the English language.

When the quality of the ship, goods, and master shall sufficiently appear from the sea-letter and certificates, the commanders of armed vessels should exact no further proof. And if any merchant ship be not provided with a sea-letter or certificates, the case should be examined by a proper judge; and if it be found, from other proofs and documents, that the vessel truly belongs to the citizens of one of the parties, it should not be liable to confiscation, but be released with its cargo, with the exception of enemies' property and contraband goods which may be found on board. The change of the master not to invalidate the passport.

XXV. The following articles, beyond the quantities proper for the ship's use, may be deemed contraband of war: cannon, mortars, their carriages and beds, muskets, petards, match, ball, bombs, grenades, carcasses, cartridge-boxes, gunpowder, saltpetre, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, and, generally, all kinds of arms and warlike instruments fit for the use of troops: and all these articles may be declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy: but the vessel in which they are laden and the residue of the cargo to be free. France will probably not desire to extend further the use of contraband, and especially not to comprehend timber for ship building, naval stores, and other articles for the equipment of ships. If, however, she urges an extension, then timber for ship building, tar, pitch, turpentine, rosin, copper in sheets, sails, and sail cloth, hemp and cordage, may be added; and, generally, whatever may serve *directly* and *principally* for the equipment of vessels. But iron in pigs and bars, timber for house frames, pine or fir planks and boards, staves, nails suitable for house building, coarse linens, and, generally, all other articles which, though occasionally or from necessity applicable to the equipment of ships, are not *directly* and *principally* prepared for that purpose.

It is also probable that France will not desire to consider provisions as contraband, unless going to a place actually blockaded, and we ought strenuously to resist any other construction: but if what is said on this subject in the eighteenth article of our commercial treaty with Great Britain should induce France seriously and with earnestness to demand the like stipulation, it may be conceded: yet a modification may first be attempted, by proposing not only that if provisions be captured, they shall be promptly paid for, with a reasonable mercantile profit, freight, and demurrage, but that they shall not be captured at all unless going to a place actually blockaded, or to supply an invading army or hostile fleet, though in situations not actually forming an investment or blockade.

XXVI. If, on the exhibition of the certificates or manifests of a ship's cargo, the property of an enemy, or contraband goods, be discovered, and the ship be consequently captured and carried into port, provision must be made to prevent embezzlement, waste, and destruction.

But there is a very common regulation to prevent disorder and injury in stopping and examining neutral ships, which certainly is disregarded in practice, viz: That the examining ship shall not approach the neutral within cannon shot, while her boat is sent to make the examination. It is a rule which would produce both inconvenience and delay, and in bad weather be impracticable, or very dangerous. The provision that only two or three men shall enter the neutral vessel is very proper, though, like many other salutary regulations, is not enforced by penalties on offenders. But instead of visiting the neutral, the other often requires the neutral to send an officer with his papers. This is an abuse; and many instances have occurred in the present war, in which it has been practised with great inhumanity, and most when it was most inhuman—in tempestuous weather, when a boat could not be put out, but with imminent danger of the lives of the men. It will therefore be very well to stipulate that the neutral party shall in no case be required to go on board the examining vessel. And if this should in any cases prevent an examination, it can afford no just ground of complaint: for *prima facie*, better is the right of the neutral than of the belligerent vessel. Besides, the stipulation would be reciprocal.

XXVII. The usual stipulations in treaties, designed to prevent abuses by armed vessels, have ever been found inadequate: perhaps they do not admit of a complete remedy. If, however, any nation does not provide penalties and securies, whereby to restrain offenders and indemnify the injured, the nation itself ought to be responsible. Doubtless, the nation should be immediately responsible for all abuses committed by national ships.

One abuse is the destruction or concealment of papers of captured vessels. A remedy for this seems practicable: the captors may be obliged to give a receipt for them upon a list of the papers; and they may also be sealed up with the seals of the captors and captured.

The master and supercargo, being entrusted by the owners with the vessel and cargo, ought never to be separated from them. They may prevent waste and embezzlement, and, on the arrival of the vessel, will be ready for examination; and, also, to claim the property in behalf of the owners, and contest, as of right they may do, the legality of the capture.

Bribery, or an attempt to bribe any one of the ship's company or passengers to depose to any fact tending to the condemnation of vessel or cargo, or putting any of them to torture for that or any other purpose, should absolutely procure her acquittal.

But a still greater evil remains, and more difficult to remedy—the improper institution of prize courts. Probably no provision can be explicitly made, other than that each party will take effectual care that the judgments and decrees in prize causes shall be given conformably to the rules of justice and equity, and the stipulations of the treaty, and without any unnecessary delay, by judges above all suspicion, and who have no manner of interest in the cause in dispute. It would be some check on the judges in prize causes if their reasons for condemning were required to be stated, with the other proceedings, in writing; and copies of the whole should, if demanded, be delivered to the commander or agent of the captured vessel without the smallest delay, or, at furthest, within fifteen days after sentence pronounced, and sooner if practicable, and at the expense of the captors, (in case of condemnation,) not of the captured, who are otherwise sufficiently distressed.

Prizes, as already observed, should be conducted into the ports of the party at war, or of an associate in the war, and there adjudicated by the regular tribunals. The French have conducted their prizes into neutral as well as belligerent ports; and, when there was no consul to try and condemn, leaving there the prizes, they have carried the papers to a distant place to find a French tribunal; and there, in the absence of the captured party, procured sentences of condemnation, and sold the prizes. The same mode of obtaining condemnations has been uniformly

practised when they carried their prizes into the ports of an associate in the present war. But, without waiting for the result of this farcical trial, it has been common to unlade and sell the cargoes as soon as they reached a port.

An unreasonable burthen is imposed on the captured, in requiring them, if they think proper to appeal to a higher tribunal, to find sureties in large penalties, which, as strangers, it is impossible to procure. This evil demands redress.

The crews are often stripped of their property, and even of their clothes, and turned ashore without money or provisions. Such inhuman pillage is disgraceful to the nation which permits, or does not, by adequate punishments, restrain it. The masters, supercargoes, other officers and seamen, should be allowed certain sums; the former to employ counsel to support their claims to the property captured, and also for their subsistence; and the seamen might have an adequate allowance of good provisions until they could find vessels returning to their own country. To admit masters and supercargoes into the courts to defend the property captured, when they have been previously stripped of their money, and all means of providing the legal assistance essential to a right defence, is to tantalize with the semblance of justice, while the substance is denied.

XXVIII. If vessels of either party sail for a place actually blockaded by the other, without a previous knowledge of the blockade, every such vessel may be turned away, but not detained, nor her cargo, if not enemy's property, nor contraband, be confiscated, unless, after notice, she shall again attempt to enter. Nor should any vessel that may have entered prior to the blockade, be restrained from quitting such place with her return cargo; nor, if found there after the reduction of the place, should they be liable to any injury.

XXIX. If a war should break out between the two nations, six months after the proclamation thereof may be allowed to the merchants and others of each nation, residing in the dominions of the other, for selling and transporting their goods and merchandise. And if, during that term, any thing be taken from them, or injury done them, by either party, or the citizens or subjects of either party, full satisfaction should be made.

XXX. The articles of the treaty which you may conclude, as far as they respect compensation and payment for past injuries and contracts, should be permanent, until the objects thereof be fulfilled. So likewise the article to prevent the sequestration or confiscation of debts, and shares or moneys in the public funds, or in public or private banks, should endure, while on either side there is a subject on which to operate. The other articles of the treaty should terminate in ten or twelve years; a period as long as they will be likely to be mutually satisfactory.

The following points are to be considered as ultimated:

1. That an article be inserted for establishing a board, with suitable powers, to hear and determine the claims of our citizens, for the causes herein before expressed, and binding France to pay or secure payment of the sums which shall be awarded.
2. That the treaties and consular convention, declared to be no longer obligatory by act of Congress, be not in whole or in part revived by the new treaty; but that all the engagements, to which the United States are to become parties, be specified in the new treaty.
3. That no guaranty of the whole or any part of the dominions of France be stipulated, nor any engagement made, in the nature of an alliance.
4. That no aid or loan be promised in any form whatever.
5. That no engagement be made inconsistent with the obligations of any prior treaty; and, as it may respect our treaty with Great Britain, the instruction herein marked XXI. is to be particularly observed.
6. That no stipulation be made granting powers to consuls or others, under color of which tribunals can be established within our jurisdiction, or personal privileges be claimed by Frenchmen, incompatible with the complete sovereignty of the United States in matters of policy, commerce, and Government.
7. That the duration of the proposed treaty be limited to twelve years, at furthest, from the day of the exchange of the ratifications, with the exceptions respecting its permanence in certain cases, specified under the instruction marked XXX.

TIMOTHY PICKERING.

DEPARTMENT OF STATE, *October* 22, 1799.

List of books and papers, delivered to Governor Davie for the use of the Envoys to the French republic.

1. Chalmers's collection of treaties between Great Britain and other Powers, 2 vols.
2. Complete copy of the laws of the United States, 4 vols.
3. Correspondence between Mr. Jefferson, Secretary of State, and the French minister, Mr. Genet, 1 vol.
4. Letter from T. Pickering, Secretary of State, dated January 16, 1797, to General Pinckney, minister from the United States to the French republic, with an appendix, containing correspondences with the French ministers, Fauchet and Adet, 1 vol.
5. Documents (including General Pinckney's information of his mission,) laid before Congress, the 16th of May, 1797, 1 pamphlet.
6. Instructions to, and proceedings of, the late envoys, Pinckney, Marshall, and Gerry, 3 copies.
7. Mr. Gerry's letter of October 1, 1798, and correspondence with M. Talleyrand, 3 copies.
8. French originals of Mr. Talleyrand's communications, 3 copies.
9. Report of T. Pickering, Secretary of State, on Mr. Gerry's letter and communications, 3 copies.
11. Report of T. Pickering, Secretary of State, on French spoliations, laid before Congress, February 27, 1797, 1 copy.
12. Report of further spoliations, received September 6, 1798, from General Pinckney, manuscript.
13. Letter dated 12th May, 1799, from M. Talleyrand to Mr. Murray, containing *the assurances.*
14. Letter of credence to the French Directory, sealed with the seal of the United States.
15. One copy of the letter of credence.
16. Three sets of instructions for negotiating with the French republic.
17. Form of the passport, or sea-letter, annexed to the treaty of February 6, 1798.
18. Printed sea-letter in four languages, as now used in the United States.
19. Papers on the affairs of St. Domingo.
    (1) Letter from General Toussaint, to the President of the United States, dated November 6th, 1798.
    (2) Answer to ditto, from the Secretary of State, March 4, 1799.
    (3) Letter of instructions to Edward Stevens, Esq. Consul General, and marked No. 1. March 7, 1799.
    (4) Letter to Edward Stevens, Esq. No. 2. April 20, 1799.
    (5) Heads of regulations and points understood between the Governments of Great Britain and the United States.
    (6) Letter to Edward Stevens, Esq. No. 3. May 9th, 1799.
    (7) Letter to do. do. " No. 4, June 1.
    (8) Letter to do. do. " No. 5, July 5.
    (9) President's proclamation for opening trade with St. Domingo.
20. Letter to General Desfourneaux, agent of the French Directory at Guadaloupe, declaring the terms on which trade might be opened with that island.
21. Letter of instructions to Samuel Cooper, Esq. sent to the Isle of France to propose terms for opening trade with that island.
22. Letter from Fulwar Skipwith, late Consul General of the United States at Paris, dated January 23, 1799, enclosing a letter from Mr. Talleyrand, dated 12th December, 1798, on the *rôle d'équipage.*
23. A cipher, for secret correspondence with the Department of State.
24. Personal passports for Judge Ellsworth and Governor Davie.
25. Passport for the frigate the United States.
26. Letter to Judge Ellsworth and Governor Davie, mentioning the names of consuls and agents of the United States in Spain, Portugal and France.

Mr. Ellsworth and Mr. Davie sailed from Newport, Rhode Island, on the 3d of November, having agreed to touch at Lisbon, before they made any port of France: arrived there on the 27th of November. Information of the revolution at Paris of the 18th Brumaire had just been received, and it was therefore thought expedient to remain long enough at that place, to form some judgment of the consequences of that change in the French Government: upon a conference on the 6th of December, the envoys resolved on the measures detailed in the following letter to the Secretary of State:

LISBON, *December* 7, 1799.

SIR:

We arrived at this place on the 27th ult. The late change in France, the circumstances of which we are informed will be fully detailed in Mr. Smith's despatches, and our desire to obtain a more accurate knowledge of the features and effects of this revolution before we entered that country, would have induced us to land in Holland, where we might join Mr. Murray, and be in a better situation to govern ourselves by circumstances: but Captain Barry apprehends it would hazard the frigate to attempt any port in Holland at this season of the year: we have, therefore, determined to sail immediately for L'Orient.

From L'Orient we shall probably proceed to Paris, if we can be satisfied that our present letters of credence will avail us. You will doubtless consider, sir, of the expediency of sending us, with your first despatches, other letters of credence addressed to the supreme executive of France, or in a manner more particular, which may introduce us, if necessary, or sanction the progress we may have made.

We have the honor, &c.

OLIVER ELLSWORTH,
W. R. DAVIE.

The Hon. TIMOTHY PICKERING, Esq. *Secretary of State.*

Mr. Ellsworth and Mr. Davie, being detained nine days by contrary winds, sailed on the 21st of December for L'Orient: a succession of heavy gales and continued bad weather then rendering it apparently impracticable to reach that place, they authorized Captain Barry to make any port in France or Spain, and arrived at Corunna on the 16th of January, and the next day sent the following letter to Ch. M. Talleyrand, Minister of the Exterior Relations of the French republic, by a special courier:

CORUNNA, *January* 17, 1800.

The undersigned, envoys extraordinary and ministers plenipotentiary of the United States of America to the French republic, have the honor to inform you of their arrival at this port, after a lapse of ten weeks since their leaving America, and the loss of four in a fruitless attempt to get from Lisbon, (where they touched) to L'Orient. From hence they will proceed immediately to the confines of France by land.

As they left the United States early in November, their letters of credence are, of course, addressed to "the Executive Directory of the French republic". This circumstance being a matter of mere formality, they are induced to suppose that no objection will arise out of it, and that their letters of credence will have the same effect as they would have under an address adapted to the present distribution of the powers of the French republic. Should the Government view this circumstance in the same light with the undersigned, they then request that passports may be granted for them and their suite to Paris, and that they may be forwarded by the courier charged with these despatches; and also that there may be granted, and that you would have the goodness to transmit, together with their letter to him, a like passport to William Vans Murray, Esq. at the Hague, who is joint envoy extraordinary and minister plenipotentiary, as before mentioned, with them.

They pray you, sir, to accept the assurances of their high respect,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

To the MINISTER OF FOREIGN RELATIONS *of the French republic.*

The following is the letter forwarded to William Vans Murray, Esq. mentioned in the above:

CORUNNA, *January* 17, 1800.

DEAR SIR,

We enclose to you a copy of our note to the Minister of Foreign Relations of the French republic, from which you will learn our situation, and the steps we have taken to facilitate your progress and ours to Paris, where we hope soon to meet you for the accomplishment of a business which we all have so much at heart. Your letter of credence and your instructions are with us.

With much respect and esteem, we are, dear sir, your obedient servants,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

WILLIAM VANS MURRAY, Esq.

The above envoys, in pursuance of the plan which they had adopted, of going to Paris by land, left Corunna on the 24th of January, and arrived at Burgos on the 9th of February, where they met the courier returning from Paris, with the following answer from the Minister of Exterior Relations:

PARIS, *le* 11 *Pluviose, an* 8 *de la république Française.*

MESSIEURS:

J'ai reçu la lettre datée de la Corogne, que vous m'avez fait l'honneur de m'écrire. Je regrette vivement qu'une navigation longue et penible ait retardé si longtemps votre arrivée en France. Vous êtes attendus avec impatience, vous serez reçus avec empressement. La forme donnée à vos lettres de créance ne sera point un obstacle à l'ouverture des négociations, dont j'ose prevoir l'heureux succès. Je n'ai rien eu de plus pressé, que de transmettre à Mr. Murray la lettre que vous m'aviez addressée pour lui, en y joignant les passeports nécessaires: de même que je joins ici ceux dont vous avez besoin. Je confie ce paquet, suivant vôtre désir, au courier que vous m'avez expédié.

Reçevez, Messieurs, l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

Messieurs ELLSWORTH et DAVIE, *Envoyés Extraordinaires et Ministres Plénipotentiaires des Etats Unis.*

[TRANSLATION.]*

PARIS, 11*th Pluviose*, (30*th January*,) 8*th year of the French republic.*

GENTLEMEN:

I have received the letter dated at Corunna, which you have done me the honor to write. I regret exceedingly that an unpleasant and protracted voyage has so long delayed your arrival in France. You are expected

* In the journal of the American envoys, the several notes of the French ministers are inserted in the French language. The translations which are added were made under the direction of the Secretary of the Senate.

with impatience, and will be received with warmth. The form which has been given to your letters of credence will occasion no obstacle to the opening of a negotiation, from which I dare anticipate the happiest results. No time will be lost in transmitting to Mr. Murray the letter intrusted to my care, to which will be added the necessary passports. The requisite passports will also be forwarded to you. Agreeably to your desire, I confide this packet to the courier whom you have despatched.

Receive, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

Messrs. ELLSWORTH AND DAVIE,
Envoys Extraordinary and Ministers Plenipotentiary of the United States.

Captain Barry having received directions from the envoys to wait the return of the courier to Corunna, in order to take their despatches for the Government, the following letter was written to the Secretary of State:

SIR: BURGOS, *February* 10, 1800.

We have the pleasure to enclose to you a copy of our letter No. 1. dated at Lisbon, and forwarded from St. Ubes. We were detained in the Tagus by contrary winds till the 21st of December, when we sailed for L'Orient, under the expectation of making that port in seven or eight days; but, on the 24th, we encountered a severe gale, which blew with little intermission until the 2d of January, at which time it was ascertained that we had drifted as far as latitude 50, and to the west of Cape Clear. Observing that Captain Barry was extremely apprehensive of approaching any part of the French coast, on the Bay of Biscay, in bad weather, and as so much time had been already lost, we directed him to land us in any port of France or Spain that he could make with safety and convenience: he thought proper to choose the port of Corunna, and anchored in the Bay of Ares, a few leagues from that place, on the 11th of January. Being anxious to make the necessary preparations for our journey to Paris, and the wind continuing unfavorable for the sailing of the frigate to Corunna, we landed at the village of Puente d'Eume, and, immediately after our arrival at Corunna, despatched a courier to Paris, with a letter addressed to the Minister of Foreign Relations, desiring the necessary passports, (a copy of which is inclosed, marked A.) covering also a letter to Mr. Murray, a copy of which (marked B.) you will receive under this enclosure.

The necessary arrangements were made to meet the courier at Burgos, or Victoria, and he fortunately reached this place yesterday, a few hours before our arrival, charged with the despatches (marked C.) from Ch. M. Talleyrand, Minister of Exterior Relations, enclosing the passports requested in our letter written at Corunna.

We regret exceedingly the time that must be consumed in a long and tedious journey by land, in the most rigorous and unfavorable season of the year; but after the ineffectual attempt to go to L'Orient by water, this measure appeared indispensable, notwithstanding any difficulties with which it might be connected. We expect to leave this place to-morrow, and flatter ourselves with the hope of arriving in Paris about the first of March.

We have the honor to be, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE.

The Honorable TIMOTHY PICKERING, Esq. *Secretary of State.*

The envoys set out from Burgos on the 11th of February, and, taking the route by Bayonne, arrived in Paris on the 2d of March, where Mr. Murray had also arrived the preceding day.

The following was delivered by Mr. Murray, as an extract from his journal.

Mr. Semonville, the French minister at the Hague, called on me on the 4th February, and delivered to me a packet from Mr. Talleyrand, containing a passport, a letter from my colleagues Mr. Ellsworth and Mr. Davie, dated at Corunna, and the following letter:

PARIS, *le* 11 *Pluviose, an* 8 *de la république Française.*

MONSIEUR:

Je reçois la nouvelle, qu'après une navigation longue et difficile, les plénipotentiaires des Etats Unis sont arrivés à la Corogne. Ils m'ont fait passer la lettre cy incluse que je m'empresse de vous envoyer. Je prends soin d'y joindre le passeport qui vous est nécessaire pour vous rendre à Paris, espérant que vous ne differiez pas à vous mettre en route pour vous réunir à vos collègues, et me felicitant de voir enfin arriver le moment où une discussion franche et approfondie va mettre un terme à toutes difficultés entre la république Française et les Etats Unis, et rendre aux rapports des deux nations l'harmonie parfaite qu'ils n'eussent jamais du perdre.

Reçevez, Monsieur, l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

P. S. J'ai l'honneur de vous annoncer, Monsieur, que je fais partir aujourd'hui même par le courier extraordinaire que MM. Ellsworth et Davie m'avaient expédié les passports qu'ils me demandent. Vous serez à même de calculer le moment de leur arrivée à Paris.

A MONSIEUR MURRAY, *Envoye Extraordinaire des Etats Unis, à la Haye.*

[TRANSLATION.]

PARIS, 11*th Pluviose*, (30*th January*,) 8*th year of the French Republic.*

SIR:

I have received information that the plenipotentiaries of the United States, after a long and difficult voyage, have arrived at Corunna. They have forwarded to me the enclosed letter, which I hasten to transmit to you. I avail myself of this occasion to enclose a passport, which may be necessary on your repairing to Paris. While indulging the hope that you will speedily join your colleagues, I felicitate myself upon the prospect that the time will soon arrive, when, by a frank and full discussion, a termination will be put to the difficulties existing between the republic of France and the United States, and when the two nations will be restored to that friendly and harmonious intercourse which ought never to have been suspended.

Receive, sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

P. S. I have the honor to inform you that I have to-day despatched, by the courier who arrived with the note from Messrs. Ellsworth and Davie, the passports which they required. You may, therefore, calculate the time when they will arrive at Paris:

To Mr. MURRAY, *Envoy Extraordinary of the United States at the Hague.*

To which I returned the following answer:

THE HAGUE, 4*th February*, 1800.

CITIZEN MINISTER:

Mr. Semonville, the minister plenipotentiary of the French republic, had the goodness to-day to deliver to me himself the letter of the 31st ultimo, which you did me the honor to write, enclosing passports for myself, family, and baggage, and a letter from my colleagues Mr. Ellsworth and Mr. Davie: accept my thanks for this communication.

I shall immediately prepare for my new destination, one from which I now permit myself to hope a restoration of that harmony which certainly ought not to have been so cruelly interrupted.

May I ask a repetition of an act of politeness in requesting that the enclosed may be delivered to my colleagues, who I hope will be in Paris immediately. Accept, citizen minister, the assurance of my high consideration.

W. V. MURRAY.

To CITIZEN TALLEYRAND, *Minister of the Exterior Relations of the French republic.*

On the 10th, I requested personally of Mr. Vemder Goes, the Minister of Exterior Relations, an audience of leave. This was fixed for the 13th, when I took a temporary leave of the Batavian Directory, and on the 17th set out for Paris.

The severity of the season, and a two days' illness of Mrs. Murray on the road, prevented me from making a journey, generally made in five days, in less than thirteen. On Saturday evening, the 1st March, I arrived at Paris, and the next day had the pleasure of seeing Mr. Ellsworth and Mr. Davie arrive.

MARCH 3*d*.

The following note was addressed to the Minister of Exterior Relations:

PARIS, 3*d March*, 1800,
and of the Independence of the United States of America the 24th.

CITIZEN MINISTER:

The undersigned, envoys extraordinary and ministers plenipotentiary of the United States of America to the French republic, have just met at this city, and request the favor of you to inform them at what time it may be convenient to you to receive a visit from them.

Accept, citizen minister, the assurance of their high consideration.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To Citizen TALLEYRAND, *Minister of Exterior Relations, &c.*

The following notes were received from the minister, in answer to the above, and the demand verbally made by the envoys of being formally received by the Premier Consul:

RELATIONS EXTERIEURES.

LIBERTE. EGALITE.

PARIS, *le* 13 *Ventose, de l'an* 8
de la république Française, une et indivisible.

Le Ministre des Relations Extérieures à Messieurs Ellsworth, Davie, et W. Murray, Ministres Plénipotentiaires et Envoyés Extraordinaires des Etats Unis d'Amérique.

MESSIEURS:

C'est avec une véritable satisfaction que je reçois l'information que vous venez de me donner de vôtre arrivée à Paris: si vous voulez vous donner la peine de passer chez moi demain à midi et demie, je serai charmé d'avoir l'honneur de vous recevoir. Agréez, Messieurs, l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

[TRANSLATION.]

EXTERIOR RELATIONS.

LIBERTY. EQUALITY.

PARIS, 13*th Ventose, (3d March,) year* 8 *of the French republic.*

The Minister of Exterior Relations to Messrs. Oliver Ellsworth, W. R. Davie, and W. V. Murray, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

GENTLEMEN:

The information which you have just communicated, of your arrival at Paris, has given me real satisfaction. If you will take the trouble to call upon me at half past twelve to-morrow, I will be exceedingly gratified at having the honor to receive you.

Accept, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

RELATIONS EXTERIEURES.

LIBERTE. EGALITE.

PARIS, *le* 14 *Ventose, de l'an* 8
de la république Française, une et indivisible.

Le Ministre des Relations Extérieures à Messieurs Ellsworth, Davie, et Wm. Murray, Ministres Plénipotentiaires et Envoyés Extraordinaires des Etats Unis d'Amérique.

MESSIEURS:

J'ai l'honneur de vous prévenir que le Premier Consul de la république vous donnera son audience le 17 du courant: en conséquence, je vous prie de vouloir bien vous trouver ce jour aux Tuileries, à la salle des ambassadeurs, un peu avant une heure.

Agréez, Messieurs, l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

[TRANSLATION.]

EXTERIOR RELATIONS.

LIBERTY. EQUALITY.

PARIS, 14*th Ventose,* (4*th March,*)
8*th year of the French republic, one and indivisible.*

The Minister of Exterior Relations to Messrs. Ellsworth, Davie, and Murray, Ministers Plenipotentiary and Envoys Extraordinary of the United States of America.

GENTLEMEN:

I have the honor to inform you that the First Consul of the republic will give you an audience the 17th instant; I pray you, therefore, to be so obliging as to attend on that day at the Tuileries, in the hall of the ambassadors, a little before one o'clock.

I beg you to accept the assurance of my high consideration.

CH. MAU. TALLEYRAND.

MARCH 8th, (17th *Ventose.*)

The envoys were received by the Premier Consul, in the manner required by their instructions.

Citizens Joseph Bonaparte, Fleurieu, and Rœderer, being appointed by the Premier Consul, on the 13th Ventose, ministers plenipotentiary for the purpose of negotiating with the ministers plenipotentiary and envoys extraordinary of the United States, upon the differences existing between the two states, this event was announced to the envoys of the United States, by the Minister of Exterior Relations, in the following letter, under date of the 18th Ventose, (8th of March.)

RELATIONS EXTERIEURES.

LIBERTE. EGALITE.

PARIS, *le* 18 *Ventose, de l'an* 8
de la république Française, une et indivisible.

Le Ministre des Relations Extérieures à Messieurs Ellsworth, Davie, et Murray, Envoyés Extraordinaires et Ministres Plénipotentiaires des Etats Unis d'Amérique.

MESSIEURS:

J'ai l'honneur de vous prévenir que le Premier Consul de la république vient de nommer les citoyens Joseph Bonaparte, ex-ambassadeur à Rome, Fleurieu, ancien Ministre de la Marine, et Rœderer, conseiller d'état, ministres plénipotentiaires pour traiter avec vous des différences qui existent entre les deux nations, operer entre'lles le rapprochement qu'elles desirent, et remplir le vœu que les deux Gouvernements ont montré de faire cesser une mésintelligence qui s'accorde aussi peu avec leurs intérêts qu'avec leurs sentiments.

Recevez, Messieurs, l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

[TRANSLATION.]

EXTERIOR RELATIONS.

LIBERTY. EQUALITY.

PARIS, 18*th Ventose*, (8*th of March*,)
8*th year of the French Republic, one and indivisible.*

The Minister of Exterior Relations to Messrs. Ellsworth, Davie, and Murray, Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

GENTLEMEN:

I have the honor to inform you that the First Consul of the republic has just appointed citizens Joseph Bonaparte, ex-ambassador at Rome, Fleurieu, late Minister of Marine, and Rœderer, counsellor of state, ministers plenipotentiary, to treat with you concerning the differences existing between the two nations, to effect the accommodation which they mutally desire, and to fulfil the wish, expressed by the two Governments, to remove a misunderstanding which comports as little with their interests as with their sentiments.

Receive, gentlemen, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

PARIS, *March* 9, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Minister of Exterior Relations of the French republic.

CITIZEN MINISTER:

The undersigned, envoys extraordinary of the United States, have the honor to acknowledge your letter of yesterday, announcing to them that the Premier Consul of the republic had named the citizens Joseph Bonaparte, ex-ambassador at Rome, Fleurieu, late Minister of Marine, and Rœderer, counsellor of state, as ministers plenipotentiary to treat with them on the differences existing between the French republic and the United States of America.

The Government of the United States, being always assured that the interests of both nations would be essentially promoted by the re-establishment of confidence and harmony between the two countries, is sincerely desirous to adjust all existing differences, and to restore between them that understanding and friendly intercourse so congenial to her wishes, and so essential to their mutual prosperity.

The agreeable and interesting task of effecting these great objects has been committed, on the part of the United States, to the undersigned, and they will be ready to enter upon that business as soon as the ministers plenipotentiary of the French republic shall signify that they are ready to commence the negotiation.

Accept, citizen minister, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The envoys of the United States having thus informed the Minister of Exterior Relations of their readiness to enter on the business of the negotiation, as soon as it would be convenient for the ministers plenipotentiary of the French republic, they waited until the 14th for some intimation from them on that subject: none, however, being then received, they agreed to address the following note to Messieurs Joseph Bonaparte, Fleurieu, and Rœderer, the ministers announced in the above communication:

PARIS, *March* 15, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

MINISTERS:

The undersigned had the pleasure to be informed of your appointment as ministers plenipotentiary to treat with them on the differences existing between the French republic and the United States, by a letter from the Minister of Exterior Relations, under the date of the 18th Ventose.

The necessary previous measures appearing now to be taken by both Governments, it remains with their ministers to have their wishes fulfilled: and the undersigned permit themselves to hope that the strange phenomenon of a misunderstanding between the French republic and the United States of America will soon disappear. They will have the honor to meet the ministers plenipotentiary of the French republic at such time and place as they may prefer, for the exchange of powers, and to learn how soon it will be convenient for them to commence the negotiation.

Accept, ministers, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

MARCH 27*th*.

The envoys had received no answer to their note of the 15th, but had been informed, verbally, that the delay was much regretted by the French Government and the ministers, and that it was occasioned by the indisposition of Mr. Joseph Bonaparte, president of the French commission, who, in a note to the envoys, of this date, announced his recovery. The French ministers, however, continuing silent, the envoys addressed the following note to them, on the morning of the 29th: and, in the afternoon of the same day, received the note under date of the 8th Germinal, (same date.)

PARIS, *March* 29, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to citizens J. Bonaparte, Fleurieu, and Rœderer, Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned are happy to learn that the indisposition of Mr. Bonaparte, which has so unfortunately retarded the commencement of the negotiation, is at length removed: and, impressed as they are with the importance

of their mission, and the urgency of existing circumstances, they take again the liberty to express their solicitude that an early day may be named, at which it will be convenient for you to honor the undersigned with an interview, for the purpose of effecting the object of their last note. Accept, citizen ministers, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

PARIS, *le* 8 *Germinal, an* 8.

Les Ministres Plénipotentiaires de la république Française à Messieurs l'Envoyés Extraordinaires et Ministres des Plénipotentiaires Etats Unis d'Amérique.

MESSIEURS:

Nous partageons bien sincèrement le vœu que vous nous manifestez pour le prompt rétablissement de la bonne harmonie entre les Etats Unis d'Amérique et la république Française; et c'est pour en hâter le moment que nous vous proposons de nous réunir l'onzième ou le douzième du courant, à l'heure que vous conviendra davantage, chez le citoyen J. Bonaparte, l'un de nous.

Recevez, Messieurs, l'assurance de nôtre haute considération.

BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 8*th Germinal, year* 8, (27*th March*, 1800.)

The Ministers Plenipotentiary of the French republic to the Envoys Extraordinary and Ministers Plenipotentiary of the United States of America.

GENTLEMEN:

We participate, very sincerely, in the wish which you have expressed for the speedy re-establishment of friendly relations between the United States of America and the French republic: and it is for the purpose of hastening its accomplishment that we propose a conference the 11th or 12th instant, at whatever hour may be most convenient to you, at the house of citizen J. Bonaparte, one of us.

Receive, gentlemen, the assurance of our high consideration.

BONAPARTE,
FLEURIEU,
RŒDERER.

PARIS, *March* 30, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The underwritten envoys extraordinary and ministers plenipotentiary of the United States have the pleasure to acknowledge the receipt of your note of the 8th Germinal, proposing a meeting on the 11th or 12th following, at such hour as might be convenient.

The underwritten will have the honor to meet the ministers plenipotentiary of the French republic at the house of the citizen Joseph Bonaparte, on the 12th Germinal, (2d April,) at one o'clock in the afternoon; a time which they hope will be agreeable.

Receive, citizen ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

On the 2d of April, (12th Germinal,) the envoys of the United States met the French ministers at the house of Joseph Bonaparte, where the following powers were exchanged, and the mode of conducting the negotiation adjusted.

Extrait des Registres des arrêtés du Premier Consul de la république.

PARIS, *le* 13 *Ventose,*
l'an 8 *de la république Française, une et indivisiblr.*

Au nom du Peuple Français: Bonaparte, Premier Consul de la République, sur le rapport du Ministre des Relations Extérieures, *arrête:*

ART. 1. Les citoyens Joseph Bonaparte, ex-ambassadeur de la république Française, Fleurieu et Rœderer, conseillers d'état, sont nommé ministres plénipotentiaires, à l'effet de négocier avec les ministres plénipotentiaires et envoyés extraordinaires des Etats Unis, sur les différends survenus entre les deux états.

ART. 2. Les ministres Français seront présidés par le citoyen Joseph Bonaparte.

BONAPARTE.

Par le Premier Consul: le Secrétaire d'Etat,
HUGUES MARET.

Pour copie conforme: le Ministre des Relations Extérieures,
CH. MAU. TALLEYRAND.

Pour copie conforme: les Ministres Plénipotentiaires,
BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

Extract from the Registers of the Decrees of the First Consul of the republic.

PARIS, 13*th Ventose*, (3*d March*)
year 8 *of the French republic, one and indivisible.*

In the name of the French People: Bonaparte, First Consul of the republic, upon the report of the Minister of Foreign Relations, *decrees:*

ARTICLE 1. Citizens Joseph Bonaparte, ex-ambassador of the French republic, Fleurieu, and Rœderer, counsellors of state, are appointed ministers plenipotentiary, for the purpose of negotiating with the ministers plenipotentiary and envoys extraordinary of the United States, upon the differences existing between the two nations.

ART. 2. Citizen Joseph Bonaparte shall preside over the French ministers.

BONAPARTE.

By the First Consul: the Secretary of State,
HUGUES B. MARET.

A true copy: the Minister of Exterior Relations,
CH. MAU. TALLEYRAND.

A true copy: the Ministers Plenipotentiary,
BONAPARTE,
FLEURIEU,
RŒDERER.

JOHN ADAMS, *President of the United States of America. To all to whom these presents shall come, greeting:*

Whereas, by letters patent under the seal of the United States, and dated on the 26th day of February last, I did, by and with the advice and consent of the Senate of the United States, appoint Oliver Ellsworth, Chief Justice of the United States, Patrick Henry, late Governor of Virginia, and William Vans Murray, minister resident of the United States at the Hague, to be envoys extraordinary and ministers plenipotentiary of the United States to the French republic, thereby giving and granting to them full powers, for and in the name of the United States, to meet and confer with the minister or ministers of the French republic, who should be appointed and commissioned with equal powers, and with such minister or ministers to discuss and settle by a treaty all controversies between the United States and France, transmitting such treaty to the President of the United States of America, for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given; and whereas, the said Patrick Henry did signify to me that, from his bodily infirmities, being unable to execute his said appointment, he declined accepting the same: now know ye, that reposing especial trust and confidence in the integrity, prudence and abilities of William Richardson Davie, late Governor of the State of North Carolina, I have nominated, and, by and with the advice and consent of the Senate, do appoint him an envoy extraordinary and minister plenipotentiary of the United States to the French republic, in the room of the said Patrick Henry, hereby giving and granting to him, and to the said Oliver Ellsworth and William Vans Murray, full powers for and in the name of the United States, to meet and confer with the minister or ministers of the French republic, who shall be appointed and commissioned with equal powers, and with such minister or ministers to discuss and settle by a treaty all controversies between the United States and France, transmitting such treaty to the President of the United States of America for his final ratification, by and with the advice and consent of the Senate of the United States, if such advice and consent shall be given.

In testimony whereof, I have caused these letters to be made patent, and the seal of the United States of America to be hereunto affixed. Given under my hand, at the city of Philadelphia, the tenth day of December, in the year of our Lord, one thousand seven hundred and ninety-nine, and of the independence of the United States the twenty-fourth.

JOHN ADAMS.

By the President:

TIMOTHY PICKERING, *Secretary of State.*

The envoys, after withdrawing, proceeded immediately to consider the copy of the powers delivered by the French ministers; and, as they appeared to them not sufficiently full and explicit to authorize them to commence the negotiation, under the limitation of their own powers, they addressed the following note to the French ministers on the next day.

PARIS, *April* 3, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned envoys, having conferred on the copy delivered to them yesterday of the powers granted to you to negotiate with them concerning the existing differences between the French republic and the United States, feel themselves compelled to represent to you the doubts they entertain whether the terms in which those powers are expressed are sufficiently full and explicit. You will please to observe that the powers with which the undersigned are invested, authorize them to discuss and settle by a treaty all controversies between the United States and France, and they suppose it may be considered as questionable, at least, whether the same latitude of power may be given by the expression, "*à l'effet de négocier avec les ministres, &c. sur les différends survenus entre les deux états;*' and if it could be inferred from any construction of the terms used in the commission, that to *negotiate respecting the existing differences* implied a power to settle them also by treaty, yet the undersigned conceive that it would not be advisable to act upon powers deduced by implication from terms in their own nature indefinite, in the same manner as if they had been fully and explicitly expressed. Upon examining the copy of the commission, which the undersigned had the honor to deliver to you yesterday, you will observe the nature and extent of their powers, and that they can only negotiate with ministers of the French republic, who may be commissioned with equal powers. This circumstance, it is hoped, will satisfy the ministers of the French republic, that the undersigned have not attached to this objection an unnecessary importance, and evince to them the propriety of procuring from their Government powers commensurate with those granted by the Government of the United States.

While the undersigned regret any trouble or delay that this circumstance may occasion, they are happy that the situation of the ministers of the French republic will enable them to remove the difficulty without any considerable inconvenience to the negotiation.

The envoys of the United States have the highest confidence in the upright views and frank disposition of the French Government, and hope it will do them the justice to believe that they are actuated only by a respect to that duty which their commission and instructions prescribe. Accept &c.

OLIVER ELLSWORTH,
WM. R. DAVIE,
WM. V. MURRAY.

APRIL 8.

Received the following letter from the French ministers, under the date of the 17th Germinal, (7th April) enclosing a copy of the new powers, and a copy of a letter from the Minister of Exterior Relations.

PARIS, *le* 16 *Germinal, an* 8.

Le Ministre des Relations Extérieures aux Ministres Plénipotentiaires chargés de négocier avec les Envoyés des Etats Unis.

J'ai réçu, citoyens, vos lettres de 13 et 14 de ce mois, (No. 1 et 2,) avec les pièces qui y sont annoncées.

Par la première, vous m'informer de l'échange que vous avez fait de vos pouvoirs avec MM. les ministres Américains; et dans la séconde, vous me faites part de la note qui ces ministres vous ont adressée sur l'insuffisance qu'ils croyent trouver dans les pouvoirs qui vous leur avez remis.

Pour donner à Messieurs les ministres des Etats Unis une preuve non équivoque de l'esprit dans lequel il désire conduire la négociation, le Premier Consul, à qui j'ai soumis vos dépêches, a cru devoir vous donner des pouvoirs plus spéciaux et plus explicites que ne le sont ceux de son premier arrêté. Vous voudriez bien les remettre à ces ministres, toutefois, en leur faisant observer que dans nos usages diplomatiques depuis la révolution, nos négociateurs ont presque toujours été accrédités et autorisés par des simples arretés, comme celui dont vous avez fait l'échange, et que dans ces arrêtés toujours l'expression *négocier* a emporté l'autorisation de conclure. D'après celà, j'aurais pu me borner à vous donner ministériellement cette explication, et Messieurs les ministres Américains, comme ils l'ont eux mêmes témoignés, l'auraient acceptée. Mais le Premier Consul a préféré l'autre voye, afin comme je vous l'ai dit plus haut, de léver toutes les difficultés de formes qui pourraient jetter du délai ou de l'embarras dans la marche de la négociation. Salut et fraternité,

CH. MAU. TALLEYRAND.

Copie conforme:

Les ministres plénipotentiaires de la république Française,

J. BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 16 *Germinal*, (*April* 6) *year* 8.

The Minister of Exterior Relations to the Ministers Plenipotentiary appointed to negotiate with the Envoys of United States.

I have received, citizens, your letters of the 13th and 14th of this month, (Nos. 1 and 2,) with the copies therein referred to.

By the first, you inform me of the exchange which you have made of your powers with the American ministers: and, in the second, you communicate an extract of the note which these ministers have addressed to you, respecting the insufficiency which they suppose to exist in the powers you have exchanged with them.

The First Consul, to whom I have submitted your despatches, in order to present to the ministers of the United States an unequivocal proof of the spirit in which he desires to conduct the negotiation, has thought proper to furnish you with powers still more special and explicit than those contained in his first decree. In transmitting them, however, to the American ministers, you will be pleased to apprize them that, in our diplomatic usages, since the revolution, our negotiators have almost always been accredited and empowered by simple decrees, similar to the one which you have placed in their hands; and that in these decrees the expression "*to negotiate*" has always imported an authority "*to conclude.*" I might have confined myself, indeed, to giving you, officially, this explanation; and the American ministers, as they have themselves declared, would have been content with receiving it. But the First Consul has preferred the other mode, for the purpose, as I have already stated, of removing all the obstacles of mere form which could delay or embarrass the progress of the negotiation.

Safety and fraternity.

CH. MAU. TALLEYRAND.

An exact copy: the ministers plenipotentiary of the French republic:

J. BONAPARTE,
FLEURIEU,
RŒDERER.

PARIS, *le* 17 *Germinal, an* 8.

Les ministres plénipotentiaires de la république Française, soussignés, ont l'honneur d'accuser à Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis d'Amérique, la reception de la lettre qu'ils leur ont adressée sous la date du 13 de ce mois.

Les ministres François ont attendu pour y répondre l'issue du référé qu'ils se sont empressés de faire de cette note à leur Gouvernement. Ils en ont reçu la réponse; et les nouveaux pouvoirs dont ils ont l'honneur d'adresser la copie ci-jointe aux ministres des Etats Unis, Messieurs les ministres Américains verront, dans la manière dont le Premier Consul de la république a lévé les doutes, et dans les explications contenues dans la lettre du Ministre des Relations Extérieures, de nouveaux motifs de confiance. Les ministres de la république, présumant que rien n'entravera plus l'ouverture de la discussion, attendent le mémoire qui leur a été annoncé dans la conférence du 12 de la part de Messieurs les ministres des Etats Unis.

Ils les prient de vouloir bien recevoir l'assurance de leur haute considération.

J. BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, the 17*th Germinal*, (7*th April*) *year* 8.

The undersigned, ministers plenipotentiary of the French republic, have the honor to inform the envoys extraordinary and ministers plenipotentiary of the United States, that their letter, dated the 13th of this month, has been received.

In order to reply to this letter, the French ministers have awaited the result of its reference to their Government, which they hastened to make. The answer which they received is enclosed. In the new powers, of which they have the honor to transmit the subjoined copy, the American ministers will perceive the manner in which the First Consul of the republic has removed the doubt which they expressed; and in the explanations contained in the letter of the Minister of Exterior Relations, they will not fail to discover new motives of confidence. The ministers of the republic, presuming that no obstacle will now oppose the opening of the negotiation, expect to receive, on the part of the ministers of the United States, the memorial which was announced at the conference of the 12th instant.

They pray them to receive the assurance of their high consideration.

J. BONAPARTE,
FLEURIEU,
RŒDERER.

Extrait des Registres des arrêtés du Premier Consul de la république.

PARIS, *le* 15 *Germinal,*
l'an 8 *de la république, une et indivisible.*

Au nom du Peuple Français: Bonaparte, Premier Consul de la république, arrête ce que suit:

Les citoyens Joseph Bonaparte, Rœderer, et Fleurieu, nommés par arrêté du treize Ventose dernier ministres plénipotentiaires pour négocier avec les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis d'Amérique sur les différends existans entre les deux etats, sont autorisés à négocier avec les dits ministres, sur tout ce qui concerne ces différends, ainsi qu'à signer et conclure, au nom de la république, tout ce qui leur paraitra nécessaire pour parvenir au rétablissement parfait de la bonne harmonie. En conséquence, les citoyens Joseph Bonaparte, Rœderer, et Fleurieu, reçoivent par le présent arrêté, pleins et entiers pouvoirs à cet effet.

BONAPARTE.

Par le Premier Consul: le Secrétaire d'Etat,

HUGUES B. MARET.

Pour copie conforme: le Ministre des Relations Extérieures,

CH. MAU. TALLEYRAND.

Pour copie conforme: les ministres plénipotentiaires de la république Française,

J. BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

Extract from the Register of the Decrees of the First Consul of the republic.

PARIS, 15*th Germinal* (5*th March,*)
Year 8*th of the republic, one and indivisible.*

In the name of the French People: Bonaparte, First Consul of the republic, decrees as follows:

Citizens Joseph Bonaparte, Rœderer, and Fleurieu, appointed, by the decree of the 13th Ventose, (3d March) last, ministers plenipotentiary, to negotiate with the envoys extraordinary and ministers plenipotentiary of the United

States of America upon the differences existing between the two nations, are authorized to negotiate with the said ministers upon all that concerns these differences; as well as to sign and conclude, in the name of the republic, whatever shall to them appear necessary to effect a perfect re-establishment of good harmony. To this end, therefore, citizens Bonaparte, Rœderer, and Fleurieu receive, by this decree, full and complete powers.

BONAPARTE.

By the First Consul: the Secretary of State,
HUGUES B. MARET.

An exact copy: the Minister of Exterior Relations,
CH. MAU. TALLEYRAND.

An exact copy: the ministers plenipotentiary of the French republic,
J. BONAPARTE,
FLEURIEU,
RŒDERER.

The following answer was returned to the above communication, accompanied by a note under the same date, sketching the plan on which the envoys proposed to open the negotiation. This proposition produced a discussion detailed in the following correspondence up to the 17th April, inclusive; when the envoys considered the way sufficiently prepared to authorize them to offer some details in the form of articles of a treaty, respecting the claims of individuals.

PARIS, *April* 7, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America, to the citizens Joseph Bonaparte, Fleurieu, and Rœderer, Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned have great pleasure in acknowledging the receipt of the note which you did them the honor of addressing to them to day, covering the arrêté of new powers, and the copy of the letter to you from the Minister of Exterior Relations. That minister, they are happy to see, has done them justice upon the interpretation which they had presumed to be the correct one of the terms in question; and as they unite with you in the wish to press forward the negotiation, they believe that, in transmitting the note which accompanies this, and which was promised on the 12th of Germinal, they at once meet the frankness of your views, and give to you a certain demonstration of the confidence with which the justice and principles of the Government of the French republic have inspired them.

Accept, citizen ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
WM. R. DAVIE,
WM. V. MURRAY.

PARIS, *April* 7, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America, to the citizens Joseph Bonaparte, Fleurieu, and Rœderer, Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly on the great object of their mission, an object which they believe may be best obtained by avoiding to retrace too minutely the too well known and too painful incidents which have rendered a negotiation necessary. To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries, which must essentially contribute to their mutual advancement. Should this general view of the subject be approved by the ministers plenipotentiary, to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken.

Accept, &c.

OLIVER ELLSWORTH,
WM. R. DAVIE,
WM. V. MURRAY.

PARIS, *le* 19 *Germinal, an* 8.

Les ministres plénipotentiaires de la république Française ont lû attentivement la proposition du plan de négociation, qui leur est communiqué par Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis d'Amérique.

Ils pensent que le premier objet des négociations doit être la détermination des règles et la marche à suivre pour l'appréciation et l'indemnité des dommages, à raison desquels, l'une des deux nations peut avoir des réclamations à former pour elle-même, ou pour quelqu'un de ses citoyens.

Et que le sécond objet est d'assurer l'exécution des traités d'amitié et de commerce, faits entre les deux nations, et l'accomplissement des vues d'avantages réciproques qui les ont dictés.

Les soussignés observent, au reste, que la république Française n'autorisant aucune mésure qui puisse fournir prétexte d'inquiétude au commerce Americain, un préliminaire très favorable à la négociation serait que Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis voulussent bien faire connoître aux ministres plénipotentiaires de la république Française les ordres qui, sans doute, ont été donnés par le Président des Etats Unis pour faire cesser l'effet des actes du Congrès, qui sont sortis de termes de la bonne intelligence, dont les deux nations ont un égal désir.

Les soussignés prient les ministres plénipotentiaires d'Amérique de recevoir l'assurance de leur haute considération.

BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 19*th Germinal*, (9*th April*,) *year* 8.

The ministers of the French republic have perused with attention the plan proposed by the envoys extraordinary and ministers plenipotentiary of the United States for conducting the negotiation.

They are of opinion that the first object should be, to determine the rules, and the mode of procedure, for the valuation and indemnification of those injuries for which the two nations, respectively, may have demands against each other, whether these demands are founded on national injuries or individual claims.

And that the second object is, to ensure the execution of the treaties of friendship and commerce, now existing between the two nations, and the accomplishment of those views of reciprocal advantage which first dictated them.

The undersigned have only, in addition, to observe, that, as no measures are authorized by the Government of France affording the least ground of inquietude to the American commerce, they would consider it a preliminary favorable to the negotiation, if the envoys extraordinary and ministers plenipotentiary of the United States will be

pleased to communicate the orders, no doubt issued by the President of the United States, to discontinue the operation of the acts of Congress, the enforcement of which must be viewed as repugnant to that good understanding for which both nations have expressed an equal desire.

The undersigned pray the ministers plenipotentiary of America to receive the assurance of their high consideration.

BONAPARTE,
FLEURIEU,
RŒDERER.

PARIS, *April* 11, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned have seen with pleasure in your note which they had the honor to receive yesterday, an acquiescence in the principle of compensating equitable claims of citizens on both sides; though you have proposed to include also claims which either nation might have for herself.

This description of claims was omitted in the proposition of the undersigned, not from the apprehension of an unfavorable balance, but because in their nature they were difficult to define and limit, because their discussion might be unpleasant and dilatory, and because, also, to insist on pecuniary compensation for themselves, would be incompatible with that magnanimity which it was presumed both nations would prefer in an act of accommodation, so auspicious to their future prosperity. If, however, after considering these objections, and others which will suggest themselves, the ministers of the French republic shall deem it necessary to provide pecuniary compensation for such claims, the undersigned will be ready further to consider the question at a convenient stage of the negotiation, which they apprehend will be after it shall be seen what arrangement would be acceptable for the claims of citizens.

The expectation of the undersigned, with regard to commerce, is not to renew or amend the former treaty, but to propose a new one, which shall have fewer difficulties of construction and execution; shall more extend the provisions for intercourse, and better adapt them to the existing state of things; and they trust that, when the negotiation shall have sufficiently progressed to take up this branch of it more particularly, their expectation will be shown to be reasonable.

Any recent acts of the French republic, having for their object to remove from the American commerce causes of disquietude, will be duly estimated in America, and be perceived to have strengthened the ground for returning confidence, when there shall have been time for it.

With respect to the acts of the Congress of the United States, which the hard alternative of abandoning their commerce to ruin imposed, and which, far from contemplating a co-operation with the enemies of the republic, did not even authorize reprisals upon her merchantmen, but were restricted simply to the giving of safety to their own, till a moment should arrive when their sufferings could be heard and redressed: of these acts the undersigned do not know that the President of the United States has suspended their effect, except in the instance of saving St. Domingo from famine. But, without doubt, their effects will wholly cease as soon as it can be well assured that the necessity which imposed them no longer exists: of which the undersigned hope their mission will be regarded as a sufficient pledge.

Should it appear to the ministers of the French republic, from these explanations, made with a frankness equal to the candor with which they are sure to be examined, that the way is prepared to bring forward an arrangement for the claims of citizens, the undersigned will soon have the honor to offer for their consideration some details on that subject. Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

PARIS, *le* 23 *Germinal, an* 8.

Les ministres plénipotentiaires de la république Française ne voyent aucun obstacle qui s'oppose à ce que Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis fassent connoitre les considérations auxquelles ils se sont arrêtés, au sujet des arrangements, à prendre sur les réclamations des particuliers d'une nation à l'egard de l'autre. Ces réclamations ne pouvant être appréciés de part ou d'autre que par la discussion des principes du droit des gens, ou les dispositions des traités, les réclamations nationales seront pour la plupart implicitement appréciés quand celles des particuliers le seront. Les stipulations nationales ne seront que des conséquences ultérieures des mêmes principes.

La question de savoir s'il convient de faire un nouveau traité ne pourra être resolue qu'après que les discussions qui auront eu lieu rélativement aux réclamations individuelles et nationales auront determinés l'application qu'il convient de faire des principes du droit des gens, et fixés avec précision le sens des anciens traités. Ce sera seulement après avoir eclairci les doutes élevés à cet égard, qu'il sera possible aux ministres plénipotentiaires des deux nations de reconnoitre si les anciens traités suffisent ou non à leurs intérêts.

Au reste, les ministres plénipotentiaires de la république Française ne peuvent voir sans peine que Messieurs les ministres plénipotentiaires des Etats Unis ignorent si leur Gouvernement a fait cesser l'état hostile où il s'est mis à l'égard de la France.

Le Gouvernement Français ayant rapporté divers réglemens qui avaient inquiété le Gouvernement Fédéral en ayant public plusieurs autres dans la vue de rétablir la bonne harmonie, étant prêt à faire encore tout ce que la justice pourra demander pour faire cesser tout souvenir irritant, il etait en droit d'attendre, entre autres témoignages de réciprocité, que les vaisseaux armées des Etats Unis ne continueraient pas plus longtemps à attaquer les bâtimens de la république, et que l'effusion du sang humain ne serait pas à craindre.

Ainsi pour que la négociation ne puisse être troublée par des incidens fâcheux, il serait nécessaire que Messieurs les ministres plénipotentiaires des Etats Unis voulussent bien donner aux ministres plénipotentiaires de la république l'assurance que leur Gouvernement fera cesser sans rétard l'état hostile où il se maintient à l'égard de la France. Cette assurance, fortement provoqué par les actes du Gouvernement Français à qui il promettroit une juste réciprocité, ne serait qu'un légitime échange de celle qui est contenue dans les présentes.

Les soussignés prient Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis d'agréer l'assurance de leur haute considération.

BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

The Ministers of France to the American Envoys.

PARIS, 23*d Germinal,* (14*th April,*) *year* 8.

The ministers plenipotentiary of the French republic do not perceive, from the considerations suggested rather than developed by the envoys extraordinary and ministers plenipotentiary of the United States, any obstacle to arrangements which it may be proper to make, on the subject of the individual claims of one nation upon the other. It being impossible, on the part of either, to estimate these claims except by the discussion of the principles of the law of nations and the obligations of treaties, the national claims will, for the most part, be impliedly estimated by

the value affixed to those of individuals. National stipulations will be only the ulterior consequences of admitted principles.

The question, therefore, whether it is expedient to form a new treaty, cannot be answered until after a discussion, in which the meaning of ancient treaties shall be determined, the principles of the laws of nations unfolded, and the application of these principles to the claims brought forward, whether national or individual, clearly shown. It is only when the doubts thus raised shall be removed, that the ministers plenipotentiary of the two nations will be able to determine whether the ancient treaties will suffice to their interests or not.

Finally, the ministers of the French republic cannot see without concern that the ministers plenipotentiary of the United States are uninformed of any revocation of the hostile measures which their Government has adopted with regard to France. The French Government, after rescinding several regulations which had given inquietude to the Federal Government; after publishing many others for the purpose of re-establishing perfect harmony; after professing, also, a readiness to do all that justice shall demand, in order to efface every irritating remembrance; had a right to expect, with other evidences of reciprocity, that the armed vessels of the United States should cease to attack the vessels of the republic, and that the effusion of human blood should no longer be feared.

To prevent the interruption of the negotiation by vexatious incidents like these, it is necessary that the ministers plenipotentiary of the United States shall give an assurance to the ministers plenipotentiary of the republic, that their Government will terminate, without delay, the hostile condition which it now maintains in relation to France. This assurance, strongly demanded by the acts of the French Government, to which a just reciprocity has been promised, can only be considered a legitimate exchange for that herein contained.

The undersigned pray the envoys extraordinary and ministers plenipotentiary of the United States to accept the assurances of their high consideration.

BONAPARTE,
FLEURIEU,
RŒDERER.

PARIS, *April* 17, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned have been favored with your note of the 23d of Germinal.

With respect to the assurances desired of them that measures of the United States, which had been resorted to for the protection of their commerce, should immediately cease, they must explicitly declare that they are not authorized to give assurances, otherwise than by incorporating them in a treaty, it having been expected by their Government that, in that way, every necessary assurance on both sides would so soon be given as to render preliminary provisions of little use; and which expectation the undersigned yet confidently trust will not be disappointed.

Should they, however, be favored with copies of recent repeals of regulations, which had given disquietude to the United States, and of other regulations lately adopted with a view of re-establishing harmony, it would be as well their pleasure as their duty to transmit the same in the most favorable manner to their Government, which would be sure, in the conciliatory temper it has evinced, to receive from them very fully the correspondent impressions they are adapted to make. Penetrated as the undersigned are with the interests which both nations have in returning to a good understanding, they receive with sensibility a pledge of that event in the declaration, that the French republic is ready to do all that justice can require to obliterate every irritating remembrance.

The undersigned, conceiving that the way is now prepared, have the honor to offer for consideration some details respecting the claims of individuals. They have preferred to offer them at once in the form of articles of the treaty, as containing a full and frank expression of their views; and as a mean by which the principles can be discussed connected directly with their application; as the most probable way of fixing the attention of the ministers on both sides upon the points of difference of opinion, if any such exist; and as affording the most certain prospect of progressing in the business. And they have no doubt that in those articles or propositions will be seen a spirit of accommodation as well as of justice. Accept, &c.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

ARTICLE 1. There shall be a firm, inviolable, and universal peace, and a true and sincere friendship, between the French republic and the United States of America, and between their respective countries, territories, cities, towns, and people, without exception of persons or places.

ART. 2. Whereas complaints have been made by divers merchants and others, citizens of the United States, that, during the course of the war in which the French republic is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations of their vessels and other property, and by reason of irregular or illegal seizures or detentions of their vessels and other property in ports and places within the jurisdiction or dominions of the said republic, all under color of authority or commissions from the same; for which losses and damage they have failed, without manifest neglect or wilful omission on their part, to obtain adequate compensation: it is agreed that, in all such cases, full and complete compensation shall be made by the Government of the French republic.

And whereas complaints have also been made by divers merchants and others, citizens of the French republic, that

under color of authority or commissions from the United States; for which losses and damage they have failed, without manifest negligence or wilful omission on their part, to obtain adequate compensation: it is agreed that, in all such cases, full and complete compensation shall be made by the Government of the United States.

That, for the purpose of ascertaining the amount of any such losses and damage sustained either by citizens of the United States or of the French republic, five commissioners shall be appointed and authorized to meet and act in the following manner, viz:

When the five commissioners thus appointed shall first meet, they shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other; which oath or affirmation, being so taken and duly attested, shall be entered on the records of their proceedings, viz:

I, A. B. one of the commissioners appointed in pursuance of the second article of the treaty of ——, between the French republic and the United States of America, do solemnly swear or affirm that I will honestly, diligently, impartially, and carefully examine all such complaints as, under the said article, shall be preferred to the said commissioners, and the same will decide to the best of my judgment, according to the rules and principles of decision expressed and contained in the said treaty of ——. I will also, in like manner, examine all such complaints as, under the fifth article of said treaty, shall be preferred to the said commissioners, and will decide them to the best of my judgment, according to justice and equity; and that I will forbear to act as commissioner in any case in which I am personally interested.

Two years, from the day on which the commissioners shall form a board, and be ready to proceed to business, are assigned for receiving complaints and applications; but the commissioners are nevertheless authorized, in any particular case in which it shall appear to them reasonable and just, to extend the said term of two years for any term not exceeding six months after the expiration thereof. The commissioners shall be appointed, and meet at

——, within six months from the ratifications of this treaty by the respective Governments, and as much sooner as may be.

The commissioners, in examining the complaints and applications so preferred to them, shall have power to examine all such persons as shall come before them, on oath or affirmation, touching the premises; and also to receive in evidence, according as they may think most consistent with justice and equity, all written depositions, or books, or papers, or copies, or extracts thereof; every such deposition, or book, or paper, or copy, or extract, being duly authenticated, either according to the legal forms now existing in the two countries, or in such other manner as the said commissioners shall see cause to require or allow. They shall not, in examining claims under this article, be concluded either as to law or facts, by any judicial decision, sentence, or decree, which has been had or rendered therein. And they shall decide the claims in question according to the original merits of the several cases, and to justice, equity, and the law of nations; and in all cases of complaint existing prior to the 7th of July, 1798, according to the treaties and consular convention then existing between France and the United States.

The award of said commissioners, or any board of them, as hereinbefore provided for, shall be final and conclusive as to the justice of the claim, and the amount of the sum to be paid to the creditor or claimant. And they shall comprehend, when in favor of a claimant, a reasonable allowance of interest on the original losses or damage, computed up to the time when the award is to be performed.

And it is also further agreed, that not only the now existing cases, of all the descriptions before named, but all such as shall exist at the time of exchanging the ratifications of this treaty, shall be considered as being within the provisions, intent, and meaning of this article.

ART. 3. The French republic, desirous, in an adjustment of differences with the United States, to give them a proof of her liberality, by waiving formal exceptions, and narrowing the ground of discussion, does agree that such claims of the citizens of the United States for compensation as shall be in other respects fair and equitable, shall not be prejudiced by reason of not having on board their vessels, when captured, any other passport or sea-letter than such as had been usually furnished by their Government prior to the 2d day of March, 1797, or any other ship's *rôle d'équipage*, or other shipping paper, than had been generally used by the citizens of the United States prior to that date; nor shall their claims be prejudiced by reason of having on board their vessels, when captured, merchandise, the manufacture or production of any particular country or place.

ART. 4. Any sum which shall be awarded by the said commissioners, pursuant to the second article of this treaty, in favor of a claimant, a citizen of the United States, the Government of the French republic will, on the condition of such releases or assignments, to be given by him, as the said commissioners may direct, cause to be paid to such claimant, in silver or gold coin, without deduction, at Paris, within three months after the date of the award; or will then cause the sum so awarded to be converted into transferable stock or capital, bearing an interest at the rate of six per cent. per annum; which interest and principal the said Government will cause to be paid in silver or gold coin, without deduction, to such claimant, or his transferee at Paris, viz: the interest annually, and the principal by three equal instalments, viz: one-third in three years, one-third in five years, and the remaining third in seven years from the date of the award. The form of the security or securities and the mode of transfer to be such as the said commissioners shall prescribe. And any sum which shall be so awarded in favor of a claimant, a citizen of the French republic, the Government of the United States will, within six months after the date of the award, upon like condition, and in like manner and time, cause to be paid, or secure to be paid, to such claimant, or his transferee, at the city of Washington.

ART. 5. And whereas complaints have been made by divers merchants and others, citizens of the United States, that the French Government is indebted to them, by contract, in considerable sums, for provisions and other property received from them in France and other places within the jurisdiction or dominions of the said republic, and for freight and use of their vessels to transport provisions and other property and prisoners, all since the commencement of the war in which the French republic is now engaged, for a part of which debts they hold certificates and bills, issued and drawn by officers and agents of the republic, payable in France and in other places; and that, although they have used due diligence, it has never been in their power to obtain payment of said debts, certificates, or bills: it is agreed that, in such cases, the claimants may, if they see fit, prefer their claims to the commissioners provided in the second article, who are authorized to proceed respecting the same as to the time of their reception, mode of examination, and admission of evidence, and, generally, in other respects, as is prescribed for the claims there specified; and they shall decide them according to justice and equity.

The award of the commissioners, in such cases, or any board of them, as is provided in the second article, shall be final and conclusive, both as to the justice of the demand, and the amount of the sum to be paid to the creditors or claimants. And, when in favor of claimants, they shall comprehend interest from the times, respectively, at which the debts ought, according to the tenor or nature of the contract, to have been paid, at the rates respectively stipulated therein; or, where none was specially stipulated, at such rate, in each case, as the commissioners shall judge to be just. But it is understood that no person, by omitting to prefer such, his claim, to the said commissioners, shall thereby impair his right to seek and obtain payment by any other means.

Whatever sum shall be awarded in favor of any claimant under this article, the Government of the French republic will, in three months after the date of the award, on condition of such releases or assignments to be given by him as the said commissioners may direct, cause to be paid to him, without deduction, in gold or silver coin, at Paris, or will then convert the same into transferable stock or capital, bearing an interest at the rate of six per cent. per annum; which interest and principal the said Government will cause to be paid, without deduction, in gold or silver coin, to such claimant, or his transferee at Paris, viz. the interest annually, and the principal by three equal instalments, viz. one-third in two years, one-third in four years, and the remaining third in six years from the date of the award. The form of the security or securities and the mode of transfer to be such as the said commissioners shall prescribe.

ART. 6. It is further agreed that the commissioners mentioned in this and the preceding articles shall be respectively paid in such manner as shall be agreed between the two nations; such agreement being to be settled at the time of the exchange of the ratifications of this treaty. And all other expenses attending the said commissioners shall be defrayed jointly by the two parties; the same being previously ascertained and allowed by a majority of the commissioners. And in case of death, sickness, or necessary absence, the place of every such commissioner, respectively, shall be supplied in the same manner as such commissioner was first appointed; and the new commissioner shall take the same oath or affirmation, and do the same duties.

Explanatory Note.

The ministers plenipotentiary of the French republic will please to observe that a blank is left for the insertion of such claims of the citizens of the republic on the United States as the ministers may think proper to bring forward. A blank is also left for the mode of selecting the five proposed commissioners, and another for the manner in which they shall be organized; for the filling of which two last the envoys of the United States are preparing propositions, which will be sent in a day or two. A blank is also left for the title of the treaty, of which the proposed articles, if agreed to, may form a part.

APRIL 18.

The views of the French Government being in some measure developed in the preceding correspondence, and the negotiation having now assumed some form, it was thought proper to advise the Government of the United States of the progress and state of the business. The following letter was therefore written to the Secretary of State; duplicates and triplicates were also afterwards forwarded.

SIR: PARIS, *April* 18, 1800.

Your despatches of the 6th and 20th of January reached us some time since, as did also their duplicates and triplicates.

We all met here the 2d of March, Mr. Murray having arrived the evening before. The papers marked from A to V, which we have the honor to enclose, trace the circumstances connected with our mission, which have since taken place.

On the 5th of March, we waited on the Minister of Exterior Relations, delivered copies of our letters of credence, and requested to be informed at what time we should have an audience of the Premier Consul. He observed that, in cases like ours, it was usual to postpone the audience till the negotiation was finished. We replied that, should we be honored with one before the negotiation commenced, we thought its effects would be favorable. Mr. Talleyrand then said that he supposed there would be no difficulty on that point, and that he would speak to the Premier Consul about it.

On the 8th of March, agreeably to the notification which we had in the meantime received, we attended, and had an audience of the Premier Consul at the palace of the Tuileries, and delivered him our letters of credence. We were received with the respect due to the character which we had the honor to bear. The audience was a public one, and was attended by the two other consuls, the Ministers of the Government, members of the council of state, general officers, and the ministers of foreign Powers. After the compliments usual on such occasions had passed, Mr. Talleyrand informed us that a commission of three ministers plenipotentiary had been appointed to negotiate with us, and that we should receive a note from him officially notifying us of that appointment; which we accordingly received in the evening of the same day.

The illness of Mr. Joseph Bonaparte, president of the French commission, prevented our meeting with them for the exchange of powers till the 2d instant; and the time till the 7th was also lost in obtaining such further powers, as were satisfactory to us. Since that day, you will perceive that the negotiation has made some progress; and will doubtless also perceive, that there has been, on our part, due solicitude to give it facility.

Our note of yesterday, sent to day, was accompanied with six articles covering the whole ground of individual claims, and formed for a treaty; but there has not been time to prepare a copy for this despatch. It is understood that the campaign has opened between Austria and France, on the side of Italy.

We have the honor to be, sir, with high respect, your obedient humble servants,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

P. S. We shall be hard pressed to revive the old treaty, so far, at least, as to save its anteriority.

APRIL 21.

The envoys being extremely desirous of forming the Board of Commissioners for adjusting the claims in some manner that might avoid the inconveniences which have resulted from the mode prescribed in the sixth and seventh articles of the treaty of amity and commerce between the United States and Great Britain, had retained that part of the subject under consideration till the 21st of April; when, after the discussion of several projects, they finally agreed that, under all circumstances, the mode adopted in the above treaty was the least exceptionable, and transmitted the following note to the French ministers:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French Republic.

CITIZENS MINISTERS: PARIS, *April* 21, 1800.

The undersigned requests that the blanks in the articles which they had the honor to send you under the date of the 17th May, be filled as follows, viz: that left for the mode of selecting the five commissioners with these words: "Two of them shall be appointed by the Premier Consul of the French republic, two of them by the President of the United States, by and with the advice and consent of the Senate thereof, and the fifth by the unanimous voice of the other four; and, in case they should not agree in such choice, the commissioners named by the two parties shall respectively propose one person; and of the names so proposed, one shall be drawn by lot in the presence of the four original commissioners." That left for the organization of a board, with these words: "Three of said commissioners shall constitute a board, and shall have power to do any act pertaining to said commission, provided that one of the commissioners on each side, and the fifth commissioner, shall be present."

And that the sentence which contains a blank for the place of their meeting, may be so completed as to read thus: "The commissioners shall be appointed, and meet at Paris, within six months from the ratification of this treaty by the respective Governments, and as much sooner as may be; but they shall have power to adjourn from place to place as they shall see cause."

Accept, &c.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

PARIS, *le* 3 *Floreal*, *an* 8.

Les ministres plénipotentiaires de la république Française ont reçu la note que Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis d'Amérique leur ont fait l'honneur de leur adresser le 17 Avril, ainsi que la note supplémentaire du 21.

Ils travaillent dès ce moment à répondre à ces deux notes, et ils s'empresseront d'adresser leurs observations à Messieurs les ministres Américains aussitôt qu'elles auront pu être rédigées.

Ils prient Messieurs les ministres plénipotentiaires des Etats Unis d'agréer l'assurance de leur haute considération.

J. BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 3*d Floreal* (22 *April*) *year* 8.

The ministers plenipotentiary of the French republic have received the note which the envoy extraordinary and ministers plenipotentiary of the United States have done them the honor to address to them the 17th of April, as well as the supplementary note of the 21st.

They have been engaged, since that time, in preparing a reply; and, as soon as their observations shall be reduced to writing, they will hasten to transmit them to the American ministers.

They pray the ministers plenipotentiary of the United States to accept the assurance of their high consideration.

J. BONAPARTE,
FLEURIEU,
RŒDERER.

MAY 6, 1800.

The following note was received to-day from the French ministers:

PARIS, *le* 16 *Floreal*, *an* 8.

Les ministres plénipotentiaires de la république Française regardent ainsi que Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis la communication de leur projet de traité comme une manière franche d'amener la discussion des principes qui doivent eclairer la négociation et d'en rappeller le but.

Le but de cette négociation est d'operer le rapprochement et de cimenter l'ancienne amitié des deux nations.

Les principes d'où les soussignés croient nécessaire départir sont ceux qui peuvent déterminer le véritable sens des obligations mutuelles, dont l'inexécution, réelle ou présumée, a causée la mésintelligence des Gouvernemens respectifs.

La liquidation et l'acquittement des dommages qui ont pu resulter pour les deux nations ou leurs citoyens de cette mésintelligence passagère ne peuvent être considérées que comme une suite de l'interprétation qui sera donnée d'une commune accord aux traités, et comme le gage d'un retour sincère aux rélations primitives des deux nations, et de l'oubli des evènemens qui les ont troublées.

La communication du projet proposé par Messieurs les ministres des Etats Unis tend, donc, à l'applanissement des difficultés qui peuvent se rencontrer entre le but où il se convient d'arriver, et des principes d'où il convient départir.

Il n'y a point de doute sur le but où tendent les vœus et les intérêts communs.

Les ministres respectifs sont d'accord aussi sur la convenance d'une compensation.

La discussion se borne donc maintenant a deux points, savoir: 1. Quels sont les principes qui ont du et doivent gouverner les relations politiques et commerciales des deux nations? 2. Quelle est la manière la plus convenable aux intérêts respectifs de liquider, et solder les indemnités qui pourront être dues.

L'éxamen des principes paroit devoir préceder celui des moyens d'indemnité, puisque d'une part l'indemnité ne peut résulter que d'une contravention avouée, d'une obligation reconnue; et que de l'autre c'est l'accord sur les principes qui peut seul assurer la paix et entretenir l'amitié.

En conséquence, les ministres plénipotentiaires de la république Française s'empresseraient en ce moment de s'expliquer sur les divers interpretations données respectivement aux traités depuis plusieurs années, si à la lecture de l'article 2 du projet de traité qui leur a été communiqué, ils n'auraient été frappé d'une interpretation, dont ils ne conçoivent ni la cause ni l'objet, et sur laquelle une explication leur a paru nécessaire. Les mots qui la renferment concernant les Arbitres qui seront nommés pour la liquidation des dommages; "ils decideront (porte le projet) les réclamations d'après leur mérite intrinsique et originale, conformément à la justice et au droit des gens, et dans toutes les causes des plaintes antérieures au 7 Juillet 1798, ils prononceront conformément aux traités, et à la convention consulaire alors existant entre la France et les Etats Unis.

Les ministres plénipotentiaires de la république Française ne connaissent aucun e raison qui autorise à distinguer entre le temps antérieur au 7 Juillet, 1798, et le temps postérieur, pour appliquer aux dommages qui ont eu lieu durant les premiers, les dispositions des traités, et seulement les principes du droit des gens à ceux qui ont eu lieu durant les autres.

La mission des ministres plénipotentiaires de la république Française leur a indiqué les traités d'alliance, d'amitié, et de commerce, et la convention consulaire, comme les seules bases de leurs négociations. C'est sur ces actes qui s'est élevée la mésintelligence; c'est sur ces actes qui paroit devoir se retablir l'union et l'amitié.

Quand les soussignés se sont empressés à reconnaître le principe de la compensation c'a été pour donner un témoignage non équivoque de la fidélité du Gouvernement Français à ses anciens engagemens; toute stipulation pécuniaire lui paraissant convenable, comme la suite d'anciens traités, et non comme les préliminaires d'un nouveau.

Les soussignés prient, &c.

BONAPARTE,
FLEURIEU,
RŒDERER.

P. S. Nous avons l'honneur de vous adresser cy-joint des actes qui constatent l'empressement du Gouvernement pour faire cesser les causes d'irritation qui ont pu subsister quelquestems.

[TRANSLATION.]

PARIS, 16*th Floreal*, (6*th May*) *year* 8.

The ministers plenipotentiary of the French republic coincide with the envoys extraordinary and ministers plenipotentiary of the United States, in viewing the communication of their project of a treaty as a frank mode of leading to the discussion of principles, which should guide the negotiation and promote its object.

The object of the negotiation is to restore the harmony and cement the friendship formerly subsisting between the two nations.

The principles, with which the undersigned conceive it necessary to commence, are those which can determine the true sense of the mutual obligations, the real or supposed infraction of which has caused a misunderstanding between the respective Governments.

The liquidation and discharge of the damages which may have resulted, either to the two nations or to their citizens, from this momentary misunderstanding, can only be considered as a consequence of the interpretation which, by common consent, shall be given to ancient treaties, as a proof of a sincere return to the primitive relations of the two nations, and as a pledge for the oblivion of those events by which the former relations have been disturbed.

The communication of this project, by the ministers of the United States, has, therefore, a tendency to remove the obstacles which lie in the way between the object to which it is proposed to arrive and the principles with which it is proper to set out.

No doubt exists respecting the object to which the desires and interests of both nations are directed.

The ministers, respectively, are also agreed on the expediency of providing a suitable indemnity.

The discussion, then, is now restricted to two points, viz: 1st. What are the principles which ought to have governed, and which ought still to govern, the political and commercial relations of the two nations? 2d. What is the mode, the best adapted to their respective interests, by which the ascertained indemnities shall be liquidated and discharged?

The examination of the principles ought to precede the consideration of the mode of indemnification: since, on the one hand, an indemnity cannot result except from an admitted contravention of an acknowledged obligation; and, on the other, it is only an agreement founded upon principles that can ensure peace and maintain friendship.

The ministers of the French republic would, for this reason, have seized the present moment to develop their views respecting the various interpretations which, for years past, have been given to the treaties, if, upon reading the 2d article of the project, which has been submitted, they had not been struck with an interpretation of which they can conceive neither the cause nor the object, and which, therefore, seems to require explanation. The words which contain it relate to the arbitrators to be appointed for the liquidation of damages. "They shall decide (says the project) the claims in question, according to the original merits of the several cases, and according to justice, equity, and the law of nations; and, in all cases of complaint, existing prior to the 7th July, 1798, according to the treaties and consular convention then existing between France and the United States."

The ministers plenipotentiary of the French republic are not aware of any reason which can authorize a distinction between the time prior to the 7th of July, 1798, and the time subsequent to that date, in order to apply the stipulations of treaties to the damages which have arisen during the first period, and only the principles of the laws of nations to those which have occurred during the second.

The commission of the ministers plenipotentiary of the French republic has designated the treaty of alliance, and of friendship and commerce, and the consular convention, as the sole basis of their negotiations. Upon these acts

the misunderstanding has arisen; and upon these acts it seems proper that union and friendship should be re-established.

In hastening to recognize the principle of compensation, it was the intention of the undersigned to exhibit an unequivocal proof of the fidelity of France to her ancient engagements; all pecuniary stipulations appearing to her proper as results from ancient treaties, not as preliminaries to a new one.

The undersigned pray, &c.

BONAPARTE.
FLEURIEU,
RŒDERER.

P. S. We have the honor to transmit herewith the acts which show the earnestness with which the Government desires to remove the causes of irritation which have heretofore existed.

MAY 7.

A conference was held to-day for the purpose of agreeing upon the draught of an answer; and, as the French ministers had acceded to the general proposition of mutual compensation and indemnity, in their note of the 19th Germinal, (9th of April,) and had again recognized the principle in their note of the 16th Floreal, (6th of May,) connected with certain discussions, and the ulterior adjustment of the existing differences in a treaty, the envoys were of opinion that they would facilitate the arrangements as to the preliminary object, and avoid the waste of time, in the discussion of general abstract principles, by sending the entire project of a treaty which they had then prepared. By these means, they hoped to fix the attention of the French ministers to the real objects of difference, and press the business forward with a degree of certainty that would mark the progress of the negotiation; and, therefore, the next day, the 8th of May, forwarded the answer which follows, of that date, accompanied by the remaining part of their project of a treaty, from article 7 to article 36, inclusive.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZENS MINISTERS: PARIS, *May* 8, 1800.

The undersigned have been honored with your note of the 16th of Floreal. They readily assign the reason why it was proposed by them that the treaties and consular convention, made between France and the United States, should be the rule of decision on the claims of their respective citizens, only with respect to causes of complaint which arose prior to the 7th July, 1798, leaving their subsequent causes of complaint to rest upon the law of nations; and also the reason why they cannot regard those treaties as the basis of the present negotiation for any other purpose than that of giving a rule by which causes of complaint, prior to the period above mentioned, are to be tested.

It was not till after the treaty of amity and commerce, of February, 1778, had been violated to a great extent on the part of the French republic, nor till after explanations and an amicable adjustment, sought by the United States, had been refused, that they did, on the 7th day of July, 1798, by a solemn public act, declare that they were freed and exonerated from the treaties and consular convention which had been entered into between them and France. Nor would such declaration, though justified by the law of nature and of nations, have even then been made, if it had been possible for the United States, while continuing the treaties and consular convention as the rule of their conduct, to guard against injuries which daily increased, and threatened their commerce with total destruction. That declaration cannot be recalled; and the United States must abide by its effects, with respect to the priority of treaties, whatever inconveniences may result to themselves. Their Government, it was understood, could not, with good faith, give to the undersigned powers to change or effect such priorities, and they do not possess them.

The undersigned deem it unnecessary, at present, to enumerate the acts of the French Government which produced the above measure. The principles of those decrees are as well understood, and now as fully acknowledged, as the mischiefs they have generated: and, as the object of this negotiation is to produce the reconciliation, and to cement the ancient friendship of the two nations, such a painful recapitulation would, at this time, answer no valuable purpose. They are, therefore, still of opinion that the views of the respective ministers should be directed to the object of terminating their differences in such a manner as, without a specific and detailed discussion on the merits of the respective complaints, might, by the adoption of plain and acknowledged principles of justice, produce mutual satisfaction and a permanent good understanding.

The undersigned recognize the principle that a right to indemnification can result only from the violation of a known obligation; and they conceive it to be equally incontrovertible that the law of nations constitutes such an obligation where treaties do not exist. They have not understood that the principle of compensation, proposed by them, was admitted without a supposition that the other points would be satisfactorily arranged: yet they trust that satisfying the demands of justice will always be considered as the wisest of political expedients.

The questions what are to be the political, and what the commercial relations of the two countries, have had the consideration, so far as the undersigned have been able to bestow it, which questions of such high and extensive import deserve.

For an answer to the first, they refer to their project of a treaty; and it is scarcely necessary to add that the interest of the United States, while it prompts them strongly to cultivate a good understanding with France, forbids them to wish such relations to any Power as might involve them in the contests with which Europe is so often scourged. They wish not even to afford in their ports, beyond the rights of hospitality, an asylum for privateers, which obstructs their commerce, and too easily entangles them in the conflicting passions and interests of the belligerent Powers.

It is true, however, that the engagements of the United States do not, as yet, permit them to pursue their policy, with respect to privateers, to its full extent. Those of one nation have a right of asylum in their ports, but it is a right which may cease in two years after the present war with Great Britain. Nor is it conceived to be very interesting to the French republic during the present war, which is presumed to draw near to an honorable termination, to whose prizes and privateers the ports of the United States may, in the meantime, be most open, as few or none of her merchantmen now pass that coast to be exposed, and as few or none of her enemies pass it without convoys too strong for privateers.

For an answer to the other question, what is to be the commercial relation of the two nations, the undersigned refer particularly to the thirteenth article of their project, which they have endeavored to accommodate, not only to the existing circumstances, but to the future hopes of both nations.

It is seen that this article goes further than the colonial and monopolizing systems of Europe have admitted an experiment of; but it is hoped that the period approaches when nations will cease to interpose those barriers and restraints upon commerce, which, besides checking industry and enterprise, diminish the value of every thing they have to sell, and enhance the price of every thing they purchase.

As to an unembarrassed intercourse between the United States and the French West India islands, in particular, nothing could more happily, or perhaps more justly, efface from the recollection of the former their sufferings in that quarter; and, certainly, nothing would sooner restore the latter to productiveness and utility. They need only, in addition, to order, facility of supplies and sales for a few years for their complete re-establishment, and even to carry them to a height of prosperity which the neighboring islands could not rival.

Reserving to the republic, exclusively, her coasting trade, and the direct trade between France and her colonies, and to the United States their coasting trade, and leaving each nation to encourage also, by a reduction of duties to a limited extent, the use of their own ships, is presumed sufficient so to raise the marines of both, (which, fortunately, can rise without being objects of mutual jealousy,) as to ensure a reasonable share of the privileges of the ocean.

And, lastly, it will not be an objection to this article, that, while it proposes to invigorate the commerce of France, it promises also extension and activity to that of the United States: because, it is well understood, that

every depression which the commerce of the latter feels, and every risk to which it is subjected, profit only the enemies of the former, by augmenting their carrying trade, and increasing their naval power.

With this note, the undersigned have the honor to transmit the remaining part of a project, which, together with what has been transmitted, discloses fully their views, and will, as they hope, facilitate the progress of the negotiation. Accept, &c.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

P. S. The envoys of the United States have not had the pleasure to receive the copies referred to in the postscript of the note to which the above is an answer.

ART. 7. All citizens and inhabitants of either nation, detained within the jurisdiction of the other, for any cause, except for debt or crimes committed within the same, shall be immediately set at liberty. All ships of war, or other public ships, which either nation has taken from the other, and detains, shall be given up; or where that cannot, without difficulty, be done, the full value of them shall be restored; and the value, if not agreed between the parties, shall be ascertained by the commissioners mentioned in the second article.

And it is further agreed that, if the armed ships of the United States have retaken and set free from the ships of war or other public ships of the French republic, any prizes which they had captured from her enemies, the United States will make compensation to the French republic for the prizes so liberated. Claims for the same may be preferred to the said commissioners, who shall decide them according to justice and equity, and any sum or sums which they may award in satisfaction of such claims, the Government of the United States will cause to be paid, or secured in the same manner as is provided in the second article in the case of claims of the citizens of the French republic. And, as well all cases of either of the descriptions aforesaid which shall exist at the time of exchanging the ratifications of this treaty, as those which now exist, shall be considered within the intent and meaning of this article.

ART. 8. The citizens and inhabitants of the United States shall be exempted in the French republic from the *droit d'aubaine*, or other similar duty, under whatever name: and the citizens and inhabitants of both nations, may, by testament, donation, or otherwise, dispose of their real estates already acquired, and of their goods and effects; and their heirs or representatives, being citizens of one of the parties, and residing in either nation, or elsewhere, may succeed to them, even *ab intestato*, without being obliged to obtain letters of naturalization, and without having the effect of this provision contested or impeded under any pretext whatever: and their heirs or representatives shall receive such estate or goods and effects, either in person, or by attorney or substitute; and if the heirs or representatives, to whom such succession or devise and goods and effects may have fallen, shall be minors, the guardian, tutor, curator, or executor established by the testament or by the domiciliary laws of the country, whereof such minor shall be a citizen or inhabitant, may direct, administer, and alienate the estate or goods so fallen to such minors; and, in general, in relation to such estate and goods, use all the rights and fulfil all the functions, which belong by the disposition of the laws to such guardian, tutor, curator, or executor. The inheritances, as well as the goods and effects which the said citizens or inhabitants, in changing their abode, shall be desirous of removing from the place of their abode, shall be exempted, with respect to each, from all duty whatever. But it is at the same time agreed, that this article shall in no manner derogate from the laws which either State may have now in force, or may hereafter enact, to prevent emigration. Provided, also, that if the laws of either country should at any time be incompatible with the inheritance or devise of real estate by and to aliens, it is agreed that such real estate may be sold, or otherwise disposed of, to citizens or inhabitants of the country where it may be.

ART. 9. Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in public funds, or in the public or private banks, shall ever, in any event of war, or national difference, be sequestered or confiscated.

ART. 10. And whereas, debtors may flee from the territories of one of the contracting parties to those of the other, it is agreed that the creditors, being citizens or inhabitants of either nation, may pursue such debtors, whether they be citizens or inhabitants, or not, of either country, and shall have the benefit of the laws of the country to which such debtors may flee, on the one side and on the other in the same manner as if the debt or cause of action had arisen or been therein contracted.

ART. 11. And it is further agreed that the Governments of both nations, on requisitions by them respectively made, or by their respective ministers, consuls, or other officers authorized to make the same, will deliver up to justice all persons, who, being charged with murder or forgery committed within the territories of the party making the requisition, shall seek an asylum within any of the territories or dependencies of the other: provided, that this shall only be done on such evidence of criminality, as, according to the laws of the nation where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had been there committed: the expense of such apprehension and delivery shall be borne and defrayed by those who make the requisition and receive the arrested fugitive.

ART. 12. To favor commerce on both sides, it is agreed that, in case a war should break out between the two nations, (which God forbid!) the term of six months, after the declaration of war, shall be allowed to the merchants and other citizens and inhabitants, respectively, on one side and the other, in order that they may withdraw with their effects and moveables, which they shall be at liberty to send, carry away, or sell, where they please, without the least obstruction; nor shall their effects, much less their persons, be seized during such term of six months; on the contrary, passports, which shall be valid for a time necessary for their return, shall be given to them for their vessels and the effects which they shall be willing to send away or carry with them; and such passports shall be a safe conduct against all insults and prizes, which privateers may attempt against their persons or effects. And if any thing be taken from them, or any injury done to them or their effects, by one of the parties, their citizens, or inhabitants, within the time above prescribed, full satisfaction shall be made to them on that account.

ART. 13. And for the purpose of more effectually maintaining a good correspondence, and facilitating commerce between the citizens of the two nations, it is agreed, on the part of the United States, that the merchant ships and vessels of the French republic may freely enter, lade and unlade, at such convenient port or ports in each of the United States, situate on the ocean, as shall for that purpose be designated by the laws of the United States, and until such designation shall be made, at any of the ports of the same where foreign ships and vessels are now permitted to enter; and may, at all times, enter, lade, and unlade at any port in the said States, at which ships and vessels of the most favored nation shall be permitted to do the same.

The citizens of the French republic may import in such ships and vessels, and freely dispose of all merchandises, without exception, of the manufacture, growth, or produce of any part of the territories or dominions of the French republic, or of the produce of her fisheries, and also all merchandises of the manufacture, growth, or produce of any foreign country or place, the importation of which shall not be prohibited in ships and vessels of the United States; and they may export in such ships and vessels to any country or place out of the United States, all merchandises, the exportation of which shall not be prohibited in ships and vessels of the United States. There shall be paid on such ships and vessels in the ports of the United States, no other or higher duty than shall be paid on the ships and vessels of the most favored nation, nor any other or higher duty than a tonnage duty, not exceeding fifty cents per ton of the ship or vessel; and such duties or fees, on papers obtained from any office of the port, as the citizens of the United States shall pay in like cases.

No duties shall be paid on the exportation in such ships and vessels of any merchandise whatever; nor shall any other or higher duty be paid on the importation in such ships and vessels, of any merchandise, than the most favored nation shall pay in like cases; nor any other or higher duty than shall be paid on the importation of like merchandise in the ships and vessels of the United States; except that there may be exacted a duty less, by any proportion not exceeding one-eleventh part, on importations in their own ships and vessels than on importations in any other ships or vessels whatever; and except, also, that there may be exacted such duties on teas imported in the

ships and vessels of the French republic, as shall be paid on teas imported in the ships and vessels of the most favored nation.

The ships and vessels of the French republic shall be permitted, when it shall be convenient for them, both to lade and unlade by parcels, at different ports in the United States, conforming to such regulations as the laws of the country shall prescribe, to prevent frauds in the revenue. But they shall not unlade in any port of the United States, what they have laded in any other port of the same, except in cases of distress, and shall then only be permitted to sell so much of what they so laded, as may be necessary for the repairs of the ship or vessel, and the prosecution of the voyage.

And it is also agreed, on the part of the French republic, that the merchant ships and vessels of the United States may freely enter, lade and unlade at such convenient port or ports in every part of the territories or dominions of the French republic in any quarter of the world, as shall, for that purpose, be designated by the laws of the republic; and until such designation shall be made at all the ports in the said territories or dominions where the ships or vessels of the French republic are now permitted to enter from the sea; and they may at all times enter, lade, and unlade at any ports within the said territories or dominions, at which ships or vessels of the most favored nation shall be permitted to do the same.

The citizens of the United States may import, in such ships or vessels, to every part of the said territories or dominions, and freely dispose of all merchandises, without exception, of the manufacture, growth, or produce of the United States, and of the produce of their fisheries; and also all merchandises of the manufacture, growth, or produce of any foreign country or place, the importation of which shall not be prohibited in ships and vessels of the French republic. And they may export in such ships and vessels, from every part of the said territories or dominions, to any country or place out of the same, all merchandises whatever, the exportation of which shall not be prohibited in ships and vessels of the said republic.

There shall not be paid on such ships and vessels, in any port in the territories or dominions of the French republic, any other or higher duty than shall be paid at such port on the ships and vessels of the most favored nation; nor any other or higher duty than a tonnage duty of fifty-three sols per ton of the ship or vessel, and such duty or fees on papers obtained from any office of the port as the citizens of the French republic shall pay in like cases.

No duties shall be paid on the exportation in such ships and vessels from any port in the said territories or dominions, of any merchandise whatever; nor shall any other or higher duty be paid on the importation in such ships and vessels, to any part of the said territories or dominions, of any merchandise whatever, than the most favored nation shall pay in like cases; nor any other or higher duty than shall be paid on the importation of like merchandises in ships and vessels of the French republic, except that there may be exacted a duty less, by any proportion not exceeding one-eleventh part, on importations in ships and vessels of the said republic, than on importations in any other ships and vessels whatever; and except, also, that there may be exacted such duties on teas imported in ships and vessels of the United States as shall be paid on teas imported in the ships and vessels of the most favored nation.

The ships and vessels of the United States shall be permitted, when it shall be convenient for them, both to lade and unlade, by parcels, in different ports throughout the territories or dominions of the French republic, conforming to such regulations as the laws of the country shall prescribe to prevent frauds in the revenue; but they shall not unlade in any port within the said territories or dominions what they have laded at any other port within the same, except in cases of distress; and shall then only be permitted to sell so much of what they had so laded as may be necessary for the repairs of the ship or vessel, and for the prosecution of the voyage.

ART. 14. The citizens of each party, respectively, shall have free admission into the dominions of the other, with liberty to reside there, to hire houses and warehouses, for the purposes of trade and commerce; and complete protection and security for the merchants and traders, citizens of either party, with their goods and effects, whether in going to, residing in, or retiring from the dominions, or from one part thereof to another of the other, shall be given. It shall be lawful for them, on either side, to employ such advocates, attorneys, notaries, solicitors, factors, brokers, and interpreters, without being obliged to employ either, as they shall think proper; and it shall be wholly free for all merchants, commanders of ships and vessels, citizens of either party, in every place subject to the jurisdiction of the other, to direct and manage their own affairs and business; and, in relation to the loading or unloading of their vessels, and every thing which has relation thereto, they shall not be obliged, though they may, if they please, to employ any persons but those of the crew of the vessel.

ART. 15. The ships of the citizens of the respective countries coming upon any of the coasts belonging to either of the parties, but not willing to enter into port, or, being entered into port, and not willing to unlade their cargoes or break bulk, shall not be obliged to give an account of their lading, unless they are suspected, upon sure evidence, of carrying prohibited goods, called contraband, to the enemies of either of the two contracting parties; but shall be subject, nevertheless, to such regulations in the port as may be prescribed by the government of the place.

ART. 16. In case the citizens of either party, with their shipping, whether they be public, and equipped for war, or private, and employed in commerce, be forced, through stress of weather, pursuit of pirates or enemies, or any other urgent necessity for seeking of shelter and harbor, to retract and enter into any of the rivers, creeks, bays, ports, roads, or shores belonging to the other party, they shall be received with all humanity and kindness, and enjoy all friendly protection and help; and they shall be permitted to refresh and provide themselves, at reasonable rates, with victuals, and all things needful for the sustenance of their persons, or reparation of their ships; and they shall be allowed to break bulk, and unlade and sell, conformably to the orders and regulations of the government of the place, so much of the cargo as may be necessary to defray their expenses, without being obliged to pay any duties whatever, except only on such articles as they may be permitted to sell for the purposes aforesaid; and they shall no ways be detained or hindered from returning out of the said ports or roads, but may remove and depart when and whither they please, without any let or hindrance.

ART. 17. If any ship belonging to either of the parties, or their citizens, shall be wrecked, foundered, or otherwise damaged, the same protection and assistance shall be given to the persons shipwrecked, or such as shall be in danger thereof, or be otherwise distressed, as would be afforded in like cases to the inhabitants of the country on whose coasts such misfortune may happen; and letters of safe conduct shall likewise be given to them, when required, for their free and quiet passage from thence, and their return to their own country.

ART. 18. It is likewise agreed that deserters from the public and private vessels of either nation shall be arrested and delivered up, on application made, according to the orders and regulations of the government of the place where such deserters shall be, by the consul, vice consul, or agent of the nation of which such deserter may be a citizen; and suitable provisions shall be made by law, in each country, for that purpose; and not only the original enlistment, shipping paper, or *rôle d'équipage*, but a copy or extract, certified to be conformable to the original, by a judge of the country in which the vessel may be, or from which she may have departed, shall also be admitted in proof of desertion; and such extract or copy shall have in all the ports of the respective Powers the same force with the original, for six months: And it is further agreed that the masters and commanders of vessels, public and private, of one nation, in the country of the other, may engage and receive on board seamen and others, natives or inhabitants of the country to which the vessels belong: *Provided*, That, either on one side or the other, they shall not be at liberty to take into their service such of their countrymen (deserters excepted) as may have already engaged in the service of the other party, whether they meet them by land or by sea, unless the captains or masters under whose command such persons may be found will voluntarily discharge them from their service.

ART. 19. Neither of the said parties shall permit the ships or goods belonging to the citizens of the other to be taken within cannon shot of the coast, nor in any of the bays, ports, or rivers of their territories, by ships of war, or others having commissions from any foreign state or Prince; but, in case it should so happen, the party whose territorial rights shall thus have been violated, shall use his utmost endeavors to obtain from the offending party full and ample satisfaction for the goods and vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ART. 20. It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade

with their ships and merchandise with perfect security and liberty, from the countries, ports, and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever; and to pass, not only directly from the places and ports of the enemy aforementioned, to neutral ports and places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same Power, or under several; unless such ports or places shall be actually blockaded, besieged, or invested.

And whereas, it frequently happens that vessels sail for a port or place belonging to an enemy, without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless after notice she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel of either, that may have entered into such port or place, before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her return cargo; nor, if found therein after the reduction or surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners or proprietors thereof.

Art. 21. In order to regulate what is in future to be esteemed contraband of war, it is agreed that, under the said denomination, shall be comprised gunpowder, saltpetre, petards, match, ball, bombs, grenades, carcasses, cartridge-boxes, pikes, halberds, swords, belts, pistols, holsters, cavalry saddles and furniture, cannon, mortars, their carriages and beds, and, generally, all kinds of arms and instruments fit for the use of troops. All the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same or a different owner.

Art. 22. It is agreed that in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port of the country to which the captor belongs; and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy, or which consists of articles contraband of war, destined as aforesaid, shall be made prize, and the vessel shall be at liberty to proceed with the remainder, without any impediment; and a reasonable freight shall be paid by the captor on such property of the enemy as shall be made prize. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification adjudged or agreed to be paid to the masters or owners of such ship: Nevertheless, it is agreed that such effects and merchandises, even though the property of an enemy, as were put on board before the declaration of war, or —— months after it, shall not be in any manner subject to confiscation, but shall be faithfully and specifically restored to be carried to their place of destination: *Provided*, *notwithstanding*, That if such merchandise be contraband, destined as aforesaid, it shall not be in anywise lawful to carry them afterwards to a port belonging to an enemy; and, also, that if there shall be found on board the vessel of an enemy, captured by either party or its citizens, any property of the other party, or of its citizens, the same shall not be confiscated, but freely restored to the owners or proprietors thereof.

Art. 23. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that, in case either of the parties should be engaged in a war, the ships and vessels belonging to the citizens of the other shall be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship, as also the name and place of habitation of the master or commander of the said ship, that it may appear thereby that the ship really and truly belongs to the citizens of one of the parties; which sea-letter or passport shall be made out and granted according to the form annexed to this treaty; they shall likewise be renewed every year, that is, if the vessel should return home within the space of a year. It is likewise agreed that such ships, being laden, are to be provided not only with passports, as above mentioned, but also with certificates containing the several particulars of the cargo, the place from whence the vessel sailed, and whither she is bound, that so it may be known whether she carries any of the contraband goods specified in the twenty-first article of this treaty; which certificates shall be made out in the accustomed form of the country from whence the vessel sailed; and neither party shall require the exhibition of any papers or documents (the sea-letter and certificates aforementioned excepted) not required by the laws or usages of the party to whose citizens the vessels and their cargoes belong, nor in any other form than the laws and usages of such last mentioned party shall prescribe. And it is expressly stipulated and agreed, that, when the quality of the ship, goods, and master sufficiently appear from the passport and certificates aforesaid, it shall not be lawful for the commanders of armed vessels to exact any further proof, under any pretext whatever; and that when any merchant ship shall not be provided with such passport and certificates, such case may be examined by a proper judge or tribunal; and if it shall be found from other documents or proofs that the vessel truly belongs to the citizens of one of the parties, it shall not be confiscated, but shall be released with its cargo, (enemy's property and contraband goods, as aforesaid, excepted) and be permitted to proceed on its voyage.

If the master of the ship named in the passport should happen to die, or be removed by any other cause, and another put in his place, the ship and goods laden thereon shall, nevertheless, be equally secure, and the passport remain in full force.

Art. 24. If the ships of the citizens of either of the parties shall be met with, either sailing along the coasts or on the high seas, by any ships of war, or by any privateers of the other, for the avoiding of any disorder, the said ships of war or privateers shall remain out of cannon shot, and may send their boats on board the merchant ship which they shall so meet with, and may enter her to the number of two or three men only, to whom the master or commander of such ship or vessel shall exhibit his passport concerning the property of the ship, made out according to the form annexed to this present treaty, and also the certificates aforesaid relative to the cargo; and, when the master or commander shall have exhibited such passport and certificates, and there shall not appear among the articles of the said cargo enemy's property, or any articles contraband of war, then such master or commander shall be at liberty to pursue his voyage, so as it shall not be lawful to molest or search his vessel in any manner, or to give her chase, or force her to quit her intended course: And it is expressly agreed that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other examination whatever.

Art. 25. It is agreed that, in all cases where vessels shall be captured, or detained by reason of their having on board enemy's property, or carrying to the enemy any of the articles which are contraband of war, the captor shall give a receipt for such of the papers of the vessel as he shall retain; which receipt shall be annexed to a descriptive list of the said papers, and the said vessel shall be brought to the nearest and most convenient port of the country to which the captor belongs; and it shall be unlawful to break up or open the hatches, chests, trunks, casks, bales, or vessels found on board such ship, or to remove even the smallest parcel of the goods, unless the lading be brought on shore in the presence of the officers of the Admiralty, and an inventory made by them of the said goods; nor shall it be lawful to sell, exchange, or alienate the same in any manner, unless, after due and lawful process shall have been had against such goods, and the Judge or Judges of the Admiralty, respectively, shall, by sentence pronounced, have confiscated the same, saving, always, as well the ship itself as the other goods found therein; and if, when only part of the cargo shall consist of contraband goods, the master of the ship shall agree, consent, and offer to deliver them to the captor who has discovered them, in such case the captor, having received those goods as lawful prize, shall forthwith release the ship, and not hinder her by any means from prosecuting her voyage to the place of her destination.

Art. 26. And that proper care may be taken of the vessel and cargo, and embezzlement prevented, it is agreed that it shall not be lawful to remove the master or commander of any captured vessel, or the supercargo thereof, from on board the same, neither during the time that the vessel may be at sea after her capture, nor pending the proceedings against her or her cargo, or any part thereof. And in all cases where a vessel of the citizens of either party shall be captured or seized, and held for adjudication, her officers, passengers, and crew shall be hospitably treated. They shall not be imprisoned, nor deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding, for the captain, supercargo, and mate, five hundred dollars each; and, for the sailors and passengers, one hundred dollars each.

ART. 27. If it shall appear that the captor bribed, or attempted to bribe, any of the ship's crew or passengers to give any evidence, or make any declaration or disclosure whatever respecting the vessel, her lading, or destination, or make use of any kind of torture upon the master of the ship, the crew, or others who shall be on board the same, in such case, whatever grounds there might otherwise be for condemnation, the ship and her lading shall, without delay, be acquitted and restored, with costs and damages; and, also, such as shall be guilty of any of the said crimes, as well as their accomplices, shall suffer the most severe punishment suitable to their offences. And, to ensure the observance of this article, provision shall be made by law in each country to carry the same into full effect.

ART. 28. It is further agreed that all prizes shall be conducted to a port of the party at war; and, in all cases, the established courts for prize causes, in the country to which the prizes may be conducted, shall alone take cognizance of them. And whenever such tribunal or court of either of the parties shall pronounce sentence against any vessel, or goods, or property claimed by the citizens of the other party, the reasons or motives of such judgment shall be entered in the sentence or decree, and a duly authenticated copy of all the proceedings in the cause, and of the said sentence, shall, if required, be delivered to the commander or agent of the said vessel without the smallest delay, he paying all legal fees and demands for the same.

ART. 29. When process shall be moved, in the first or second instance, between those that have taken the prizes at sea and the persons interested therein, and the said interested persons shall come to obtain a favorable judgment or decree, the said judgment or decree shall have its execution, upon security given, notwithstanding the appeal of him that took the prize: but the same shall not hold, on the contrary, where the sentence goes against the claimers.

ART. 30. The merchant ships belonging to the citizens of either of the two contracting parties, which intend to go to a port at enmity with the other, concerning whose voyage and the sort of goods on board there may be just cause of suspicion, shall be obliged to exhibit, as well on the high seas as in the ports and havens, not only their passports, but also their certificates expressing that the goods are not of the kind which are contraband, as specified in the twenty-first article of this treaty.

ART. 31. And that more abundant care may be taken for the security of the respective citizens of the contracting parties, and to prevent their suffering injuries by the men of war or privateers of either party, all commanders of ships of war and privateers, and all others the said citizens, shall forbear doing any damage to those of the other party, or committing any outrage against them; and, if they act to the contrary, they shall be punished, and shall also be bound in their persons and estates to make satisfaction and reparation for all damages, and the interest thereof, of whatever nature the said damages may be.

For this cause all commanders of privateers, before they receive their commissions, shall hereafter be obliged to give, before a competent judge, sufficient security, by at least two responsible sureties who have no interest in the said privateer; each of whom, together with the said commander, shall be jointly and severally bound in the sum of ——— dollars or ——— francs; or, if such ship be provided with above one hundred and fifty seamen or soldiers, in the sum of ——— dollars or ——— francs, to satisfy all damages and injuries which the said privateer, or her officers or men, or any of them, may do or commit, during their cruise, contrary to the tenor of this treaty, or to the laws and instructions for regulating their conduct: and further, that in all cases of aggressions, the said commissions shall be revoked and annulled.

ART. 32. It shall not be lawful for any foreign privateers, who have commissions from any other Prince or state in enmity with either nation, to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same, nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or state from whom they obtained their commissions.

ART. 33. It is further agreed that both the said contracting parties shall not only refuse to receive any pirates into any of their ports, havens, or towns, or permit any of their inhabitants to receive, protect, harbor, conceal, or assist them in any manner, but will bring to condign punishment all such inhabitants as shall be guilty of such acts or offences. And all their ships, with the goods or merchandises taken by them, and brought into the port of either of the said parties, shall be seized, as far as they can be discovered, and shall be restored to the owners, or their factors or agents duly deputed and authorized in writing by them, (proper evidence being first given in the Court of Admiralty for proving the property,) even in case such effects should have passed into other hands by sale, if it be proved that the buyers knew, or had good reason to believe or suspect, that they had been piratically taken.

ART. 34. Neither party will intermeddle in the fisheries on the coasts of the other, nor disturb the other in the exercise of the rights which it now holds or may acquire of fishing on the banks of Newfoundland, in the gulf of St. Lawrence, or elsewhere on the American coast northward of the United States of America; but the whale and seal fisheries shall be free to both in every quarter of the world.

ART. 35. It shall be free for the two contracting parties, respectively, to appoint consuls for the protection of trade, to reside in the dominions and territories of each party. Either of the parties may except from the residence of consuls such particular places as such party shall judge proper to be excepted. Before any consul shall act as such, he shall be, in the usual forms, approved and admitted by the party to whose territory he is sent; and the said consuls shall enjoy those liberties and rights which belong to them by reason of their function. And it is agreed that the admission of a consul by the Government of a colony, shall be deemed such a provisional admission as to entitle him to act as such until the will of the Government to which such colony belongs shall be formally made known. And it is hereby declared to be lawful and proper, that, in case of illegal or improper conduct towards the laws or Government, a consul may be either punished according to law, or dismissed, and even sent back; the offended Government assigning to the other their reason for the same.

ART. 36. It is agreed that the first twelve articles of this treaty shall be permanent, and that the subsequent articles shall be limited to twelve years, to be computed from the day on which the ratifications of this treaty shall be exchanged.

Nothing in this treaty shall be construed to operate contrary to former and existing public treaties with other Sovereigns or states.

MAY 16.

The following letter was received from the Secretary of State, and, on the next day, the letter under date of the 17th, was prepared, and forwarded with the several enclosures mentioned; duplicates and triplicates of this last despatch were also soon afterwards sent by different routes.

GENTLEMEN: DEPARTMENT OF STATE, PHILADELPHIA, *February* 14, 1800.

In your commissions containing your full powers, you are named "envoys extraordinary and ministers plenipotentiary of the United States to *the French republic;*" and you are authorized "to meet and confer with the minister or ministers of the French republic, who shall be appointed and commissioned with equal powers, and with such minister or ministers to discuss and settle by a treaty all controversies between the United States and France." Consequently, the circumstance of your letters of credence being addressed to the late "Executive Directory," need not prevent or impede the proposed negotiation, provided the existing Government in France are inclined to enter upon it, and to conclude a treaty. This is the President's opinion, and, by his direction, I now communicate it to you. Indeed, the idea must have occurred to you, it being obvious that a satisfactory treaty, however negotiated, which shall be approved and ratified by the President, by and with the advice and consent of the Senate, will be alike valid as if conducted with the most minute attention to customary formalities.

I am, with great respect, gentlemen, your most obedient servant,

TIMOTHY PICKERING.

OLIVER ELLSWORTH, WILLIAM R. DAVIE, WILLIAM V. MURRAY,
Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the French Republic.

PARIS, *May* 17, 1800.

SIR: We had the honor to write to you on the 18th ultimo, covering all the communications between us and the ministers plenipotentiary of the French republic up to that date, and a duplicate and triplicate of that despatch have also been forwarded. The quadruplicate of your letter, (No. —,) arrived some time ago, and your letters of the 14th of February and 7th of March were received last evening.

The enclosed copies, marked W. X. will give you the necessary information respecting the progress and present state of the negotiation. As the French ministers entered on the business of their commission soon after their appointment, and at the seat of their Government, it seems to have been so arranged that they were to receive their instructions on important points as they might become necessary in the course of the negotiations. This duty was naturally attached to the office of Exterior Relations; and our progress has suffered some delay by the sickness of M. Talleyrand, who has been confined by a severe illness from about the 15th of April to the 14th or 15th of this month. You will observe, however, that, even during this period, the business has been pressed forward on our part the whole length of the proposed treaty, with a view of avoiding all useless discussion, of fixing the attention of the ministers to the real points of difference, and of marking with certainty the progress of the negotiation.

The situation of the army of Italy, commanded by General Massena, has been extremely critical, and has attracted the particular attention of the Premier Consul; and the army of reserve, amounting to about sixty thousand men, has marched to its relief. The French are, however, very successful on the Rhine, and the Government is as yet unshaken; it professes justice and moderation, and appears to be desirous of peace, which, there is some reason to believe, may be the result of the present campaign.

Our success is yet doubtful. The French think it hard to indemnify for violating engagements, unless they can thereby be restored to the benefits of them. Very few American vessels have been brought into European ports since our arrival at Paris, and, for some time past, we have heard of none. We know not, however, of any orders of this Government for the restraining of captures, except such as may have been the consequence of the enclosed law, repealing that of the 29th Nivose. Prisoners have been generally released, on a receipt being given by the American agents, promising the discharge of as many French seamen from confinement in the United States.

The court lately established for deciding questions of prize *administratively*, as it is called, and before which there are many American appeals, has not yet made any decisions.

We enclose, also, the copy of the law repealing the 1st article of the law of the 29th Nivose, and the arrêté of the consuls respecting their new court, called "le conseil des prises."

We have the honor to be, sir, with great respect, your most obedient servants,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

TIMOTHY PICKERING, Esq., *Secretary of State.*

MAY 17.

The following note was received, covering two acts of the French Government:

Les ministres plénipotentiaires de la république ont l'honneur d'adresser à Messieurs les ministres plénipotentiaires des Etats Unis les pièces annoncées par le P. S. de leur dernière note, et qui ont été oubliées.

Ils prient Messieurs les ministres plénipotentiaires des Etats Unis d'agréer l'assurance de leur haute considération.

RŒDERER,
FLEURIEU,
BONAPARTE.

Le 26 FLOREAL.

[TRANSLATION.]

The ministers plenipotentiary of the republic have the honor to transmit to the ministers plenipotentiary of the United States the documents announced in the postscript to their last note, which had been accidentally omitted.

They pray the ministers of the United States to accept the assurance of their high consideration.

RŒDERER,
FLEURIEU,
BONAPARTE.

The 26th FLOREAL, (16*th April.*)

PARIS, *May* 19, 1800.

The envoys extraordinary of the United States have the pleasure to acknowledge the receipt of two acts of the French Government, mentioned in the postscript of the note of the ministers of the republic. These papers have been forwarded to the Government of the United States, who, as late as the 7th of March, had received no advices respecting the acts or measures of the present Government of France.

They request the ministers of the republic to accept the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

MAY 23.

The French ministers had frequently mentioned, in conversation, the insuperable repugnance of their Government to yield its claim to the anteriority assumed to it in the treaty of amity and commerce of 1778; urging the equivalent alleged to be accorded by France for this stipulation; the meritorious ground on which they generally represented the treaty stood; denying strenuously the power of the American Government to annul the treaties by a simple legislative act, and always concluding that it was perfectly incompatible with the honor and dignity of France to assent to the extinction of a right in favor of an enemy, and much more so to appear to acquiesce in the establishment of that right in favor of Great Britain. The priority with respect to the right of asylum for privateers and prizes, was the only point in the old treaty on which they had anxiously insisted, and which they agreed could not be as well provided for by a new stipulation. They had, however, transmitted no answer to the note of the envoys, covering the remaining part of the project of a treaty; and only indirect intimations had been received, that difficulties had arisen, from the limited nature of the instructions of the French ministers. But, at an interview to-day, the envoys were officially informed that the negotiation was at a stand on the part of France; that no further progress could be made until other powers* were procured from the Premier Consul, as the tenor of their instructions made the acknowledgment of former treaties the basis of negotiation and the condition of compensation; that the French commission was working upon a report which would be delivered in a day or two to the Minister of Exterior Relations, and forwarded immediately by a courier to the Premier Consul, who had left Paris the 6th of May, and was supposed to be at this time in Switzerland or Italy.

MAY 24.

The envoys held a conference to-day for the purpose of taking into consideration the information received yesterday, and the critical state of the negotiation; and, considering that the judgment of the Premier Consul would probably be formed upon the impressions made by the report; that the instructions which would be the result might

* Speaking on this subject, the French ministers always used the words "powers" and "instructions" synonymously.

possibly be conclusive; and that, in any event, there might be some difficulty, and certainly delay, in procuring any alteration, it was deemed expedient to transmit the note following, under date of the 25th, with a view to obviate any apprehension that our Government contemplated further grants to their prejudice, and as containing an intermediate ground, conciliatory to the pride of the French Government, without sacrificing the honor or interests of the United States.

PARIS, *May* 25, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned having bestowed the most mature consideration upon the subject so often mentioned with so much interest by the ministers of the French republic, and being desirous of guarding against any misapprehension on that head, have thought it expedient to propose the clause enclosed, as an addition to the thirty-second article of their project of a treaty.

Accept, citizen ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To be added to the thirty-second article.

Nor will either of the said parties, while they continue in amity, make a treaty with any foreign Sovereign or state, stipulating for the privateers and prizes of such Sovereign or state an asylum in the ports of either, unless they shall have assured to each other such right of asylum for the privateers and prizes of each in the ports of the other.

MAY 26.

The following letter was received from the Secretary of State:

DEPARTMENT OF STATE, PHILADELPHIA, *April* 9, 1800.

GENTLEMEN:

On the 3d instant Captain Barry arrived here with your letter, dated at Burgos, on the 10th of February, covering copies of your letters of December 7th from Lisbon, and January 17th from Corunna, and your correspondence with Mr. Talleyrand. These are the first and only despatches received from you since you left the United States. We are happy you escaped the perils of the sea in your attempting a voyage from Lisbon to L'Orient.

The answer of Mr. Talleyrand confirms the opinion expressed in your letter to him, that the circumstance of your letters of credence being addressed to the Directory of the French republic could be viewed merely as a formality of no moment to the object of your mission. Your powers are full to negotiate and settle by treaty all differences between the United States and the French republic, and to make commercial arrangements. The person or persons vested with the executive power of the nation, if really desirous of such an adjustment, could not possibly make any serious objection to the address of your letters of credence, which was perfectly correct at their date. For these reasons, and because no official notice has been received of any change in the form of the Government of France, or in the person administering it, the President does not think it necessary to send any new letters of credence. Mr. Talleyrand having said that "the form of your letters of credence would be no obstacle to the opening of negotiations, of which he ventured to foresee the happy success," must indeed be considered as removing all doubt on the subject.

The ship Portsmouth, Captain M'Neil, goes with this letter to Havre de Grace, whence he will send one of his officers to Paris, and receive your orders. The President supposes that by the time of her arrival, your negotiations will be concluded, and that Judge Ellsworth and Governor Davie will take their passage in her to America. Should your negotiations be still pending, and any reason satisfactory to yourselves, (according to the latitude given in your instructions,) determine you to wait longer in France, you will, at your discretion, either detain or send back the Portsmouth, as you shall think expedient for the public good.

I have the honor to be, with great respect, gentlemen, your obedient servant,

TIMOTHY PICKERING.

OLIVER ELLSWORTH, WILLIAM R. DAVIE, WILLIAM V. MURRAY, Esquires,
Envoys Extraordinary, &c. to the French republic.

JUNE 1.

As the French ministers had yet made no answer to the notes of the 8th and 25th of May, covering the remaining details of the project of a treaty, the American ministers thought it would be proper to press them for an answer, or at least an explanation on the cause of their silence; and sent them the following note, which was answered by the note under date of the 16th Prairial.

PARIS, 1*st June*, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

Solicitous as are the undersigned, citizen ministers, to terminate happily and with promptitude a negotiation which is calculated to promote the interests of the two nations, they invite your attention to their notes of the 8th and 25th of May, and hope to be honored with as early an answer as the state of the business will admit of.

They trust that, while they avow a strong disposition to hasten the great object in view, they will not be chargeable with impatience: the frank development of their views will have been properly estimated.

Accept, citizen ministers, the assurances of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

PARIS, *le* 16 *Prairial, an* 8.

Les ministres plénipotentiaires de la république Française, soussignés, partagent tout l'empressement que Messieurs les ministres plénipotentiaires et envoyés extraordinaires des Etats Unis témoignent dans leur note du 12ème de ce mois, de voir terminer favorablement et promptement la négociation confiée à leurs soins respectifs. Les ministres Français, en accusant à Messieurs les ministres Américains la reception de leur note du 18ème Floreal dernier, ont eu l'honneur à leur annoncer que l'examen de son contenu pourrait entrainer quelque délai. Cette note a été l'objet de la plus sérieuse attention de leur part, et d'après une mûre délibération il leur a paru que les propositions qui s'y trouvent renfermées etoient de nature à être soumise à la décision du Gouvernement de la république. Les ministres plénipotentiaires ont, en conséquence, transmis cette note au Ministre des Relations Extérieures; ce ministre informe qu'il a du lui-même prendre les ordres du Premier Consul de la république. Aussitôt que les soussignés auront reçu les instructions qu'ils attendent, ils seront très empressés de faire parvenir leur réponse a Messieurs les ministres plénipotentiaires et envoyés extraordinaires des Etats Unis. Les soussignés, en attendant, prient Messieurs les ministres Américains d'agréer l'assurance de leur parfaite considération.

BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 16 *Prairial, (5th June,) year* 8.

The undersigned, ministers of the French republic, participate with the envoys extraordinary and ministers plenipotentiary of the United States, in the desire which they express, in their note of the 12th of this month, that the negotiation with which they are respectively charged should be brought to a speedy and favorable issue. The ministers of France, in acknowledging the receipt of the note which the ministers of the United States were pleased to address to them, the 18th Floreal, have had the honor to state that the examination of its contents would occasion some delay. That note has been since that time the subject of their most serious attention. After mature deliberation, they considered the propositions which it contained of a nature to require submission, for ultimate decision, to the Government of the republic. The ministers plenipotentiary have, therefore, transmitted it to the Minister of Exterior Relations, by whom they are informed that he has himself deemed it necessary to take the direction of the First Consul. As soon as the undersigned shall have received the expected instructions, they will hasten to transmit their answer to the envoys extraordinary and ministers plenipotentiary of the United States.

Meanwhile, the undersigned pray the American ministers to accept the assurance of their perfect consideration.

BONAPARTE,
FLEURIEU,
RŒDERER.

JULY 5th.

The following letter was received from C. Lee, Esq. acting as Secretary of State:

DEPARTMENT OF STATE, PHILADELPHIA, 22*d May*, 1800.

GENTLEMEN:

Since the letter at Burgos, 10th February, which was received early in April, the President has not had the pleasure of receiving a letter from any of the envoys to the French republic. But by various European gazettes, intelligence has reached him of your safe arrival in Paris, in the beginning of March, and, before many days shall elapse, he hopes to receive information from you upon the subject of your mission.

The unexpected and unavoidable delays after you left Lisbon may possibly have the consequence of your retarding your return home so long that this letter will find you at Paris; and, in contemplation of such a possibility, it is written.

Congress adjourned on the 14th instant. The most material acts of the session were the following:

An act on the subject of bankruptcies.

An act authorizing the President to borrow three millions and a half of dollars.

Sundry acts continuing the system of maritime defence, and the prohibitions of commerce in regard to the French republic, and her dominions, as they stood at the commencement of the session.

And an act for disbanding the additional twelve regiments, excepting the artillerists, and engineers, part thereof, on or before the 15th of June next.

Whatever may be the result of your negotiation, in the present state of France and the United States, this part of the military establishment was not deemed indispensably necessary. A considerable saving of money would be the immediate consequence; and if your negotiation should fail to restore peace and harmony between the two countries, a greater portion of the resources of the United States would remain to be expended more advantageously than in the support of an army. This alteration in the defensive system was very generally approved in the Senate and House of Representatives, just before the session was closed.

The judicial system remains as it stood. Our country is at present blessed with the prospect of a most plentiful harvest of wheat and rye, and the losses of our merchants, arising from depredations, are considerably diminished. I am instructed to express the President's hope that your reception at Paris has been agreeable, and that your mission has been accomplished in a manner entirely satisfactory, or, if not accomplished, that the negotiation is near a happy conclusion; and, at the same time, to add his wishes that you may soon return in health and happiness to the bosom of our beloved country.

I have the honor to be, &c. &c.

CHARLES LEE,
Now executing the office of Secretary of State.

The American ministers having been officially advised that their notes of the 8th and 25th of May, with the details accompanying them, had been submitted to the Minister of Exterior Relations, were also soon afterwards confidentially informed that the whole business was referred to the decision of the Premier Consul, who was then in Italy; and about the —— of June, Joseph Bonaparte, president of the commission, set out for the head-quarters of the army. The object of his journey to the Premier Consul was not publicly known, nor was his departure announced to the American ministers. The battle of Marengo took place on the 14th day of June, and the Premier Consul returned to Paris the 3d of July; Joseph Bonaparte also arrived a few days afterwards. While the American ministers sincerely regretted the delay occasioned by the above unexpected circumstances, they supposed it probable that the Premier Consul might not have had sufficient leisure, amidst the active operations of the armies, to determine upon the several matters respecting the treaty, and that his decision and instructions might have been postponed until his return to Paris. At a meeting, however, on the 6th of July, they were of opinion that they had then made a proper allowance for all circumstances that might have countenanced delay on the part of the French ministers, and addressed to them the following note:

PARIS, *July* 6, 1800.

CITIZEN MINISTERS:

Presuming, as the undersigned envoys extraordinary and ministers plenipotentiary of the United States do, that you are now acquainted with the ulterior views of your Government, respecting the negotiation between the United States and the French republic, they request the honor of a conference on that subject, at such time and place as may be most convenient for you. They trust that the unfortunate delays, which have hitherto attended the business, will justify their hopes of bringing it to a speedy close.

Accept, citizen ministers, the assurance of their high consideration,

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

To Messieurs JOSEPH BONAPARTE, FLEURIEU, AND RŒDERER,
Ministers Plenipotentiary of the French republic.

The next day the American ministers were invited to dine on the 11th with the president of the French commission; and, as no answer had been received to the note of the 6th, it was agreed that the 11th should be considered by them as the time appointed for the conference; the object of which, on their part, was to ascertain the difficulties which seemed to have arrested all progress on the part of the French ministers; to designate, with more precision, the real grounds of difference; and, if possible, to adopt some arrangement that would accelerate the negotiation. On the 11th, before dinner, M. Bonaparte informed them that the whole business of the treaty was now under the consideration of the Premier Consul, and that his decisions and instructions were expected in the course of a few days, when the notes and propositions received would be immediately answered. The American ministers repeated their regret at the long delay which had taken place; and, upon their expressing the desire that a conference should be held that

evening, the French ministers readily consented. After the objects of requesting an interview were stated, the president of the French commission said they would frankly state the difficulties which had arisen with their Government: although they had not received officially its determination or instructions, they believed they were possessed of its present sentiments and opinions, and could not avoid adding that they accorded with those of the commission. He then declared that it was the decided opinion of the Premier Consul that the ancient treaties ought to be the basis of negotiation: that compensation could only be a consequence of the existence of the treaties, and the re-establishment under them of the former privileges and relations; and that he would never consent to make a treaty which would surrender the exclusive rights of France, in effect, in favor of an enemy; or, in any event, make a treaty with the United States, which would not place France on a footing of equality at least with Great Britain. He thought it would be derogatory to the present Government to make a treaty, less advantageous and less honorable that that made by the royal Government. Discussions of some length took place on the most important points: but, as the whole business, on the part of the French ministers, was under reference to their Government, no point could of course be settled; and the conference closed with the request of the French ministers that all they had said should be considered merely as confidential.

After several deliberations on the difficulties which had now completely arrested the progress of the negotiation, and the selection of some expedient which might remove them, the American ministers at length determined to request an early interview, and make a proposal to the effect that the payment of the indemnities should be suspended until the Government of the United States should have offered to France an article, re-establishing her in the exclusive privileges she claimed, under the treaty of 1778. It was considered that the American Government might or might not perform this condition, after a further view of the political state of Europe, and the possession of more ample means to estimate a promise of indemnity. It was also clearly perceived that, unless the indemnities were secured by some means under the present negotiation, they would be forever lost.

JULY 15.

At an interview to-day with the French ministers, the following proposition was delivered to them in writing:

"Indemnities to be ascertained and secured in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article, stipulating free admission into the ports of each for the privateers and prizes of the other, and the exclusion of those of their enemies; nor unless the article be offered within seven years: such article to have the same effect, in point of priority, as a similar provision had in the treaty of 1778.

"JULY 15, 1800."

The circumstances which motived the proposition and its principle were briefly explained on the part of the American ministers, who concluded by adding, that an answer was not expected at that interview. There was, however, no difficulty in perceiving, that the first impression was not perfectly satisfactory to the French ministers; their observations took the same course they had done the preceding conference, and were answered on the same principles. Upon the American ministers expressing their wish to receive an answer to this and their former propositions as speedily as possible, the French ministers repeated their professions on that head; adding, that the observations they had made in these interviews were to be considered as merely hypothetical and unofficial.

JULY 20.

Meeting the French ministers to-day at M. Rœderer's, it was agreed to press them again officially for an answer. An interview took place after dinner, and M. Bonaparte said that he had seen the Minister of Exterior Relations that morning, on the business of the negotiation; and that he was assured that in a few days they should receive the decision and instructions of their Government.

JULY 23.

The American ministers, having taken into consideration the importance of the discussions which took place at the late interviews, thought it expedient to address the following note to the French ministers:

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

PARIS, *July* 23, 1800.

CITIZEN MINISTERS:

The envoys of the United States being apprehensive lest possibly their remarks to the ministers of the French republic, in the two last conferences which led to and accompanied their written proposition, may not have been fully comprehended, from being expressed in a language but imperfectly understood, they have thought proper to reduce the substance of them to writing.

As to the proposition of placing France, with respect to an asylum for privateers and prizes, upon the footing of equality with Great Britain, it was remarked, that the right which had accrued to Great Britain, in that respect, was that of an asylum for her own privateers and prizes, to the exclusion of those of her enemies; wherefore, it was physically impossible that her enemies should at the same time have a similar right.

With regard to the observation, that by the terms of the British treaty the rights of France were reserved, and, therefore, the rights of Great Britain existed with such limitation as would admit of both nations being placed on a footing which should be equal, it was observed by the envoys of the United States, that the saving in the British treaty was only of the rights of France resulting from her then existing treaty; and that that treaty having ceased to exist, the saving necessarily ceased also, and the rights, which before that event were only contingent, immediately attached and became operative.

With respect to the supposition that the treaties with France yet continued to exist, it was remarked, that a treaty being a mutual compact, a palpable violation of it by one party did, by the law of nature and of nations, leave it optional with the other to renounce and declare the same to be no longer obligatory, and that, of necessity, there being no common tribunal to which they could appeal, the remaining party must decide whether there had been such violation on the other part as to justify its renunciation. For a wrong decision it would doubtless be responsible to the injured party, and might give cause for war; but, even in such case, its act of public renunciation, being an act within its competence, would not be a void but a valid act; and other nations, whose rights might thereby be beneficially affected, would so regard it: that it had become impossible for the United States to save their commerce from the depredations of French cruizers, but by resorting to defensive measures; and that as, by their constitution, existing treaties were the supreme law of the land, and the judicial department, who must be governed by them, is not under the control of the executive, or legislative, it was also impossible for them to legalize defensive measures, incompatible with the French treaties, while they continued to exist. Then it was that they were formally renounced, and from that renunciation there resulted necessarily a priority in favour of the British treaty, as to an exclusive asylum for privateers and prizes. A right, indeed, which she has made little use of, and with respect to which it would be unconsequential, during the remainder of the present war, whether she or France possessed it; but as it was a vested right, neither the Government of the United States nor their ministers could, with good faith, stipulate to France a right inconsistent with it.

To the still further suggestion that the law of nations admitted a dissolution of treaties only by mutual consent or war, it was remarked by the undersigned, that their conviction was clearly otherwise; and that Vattel, in particular, the best approved of modern writers, not only held that a treaty violated by one party might for that reason be renounced by the other, but that, when there were two treaties between the same parties, one might be rendered void in that way, and the other remain in force: whereas, when war dissolves, it dissolves all treaties existing between the parties at the time.

It appearing, however, to be the ultimate opinion of the French ministers that it did not comport with the honor of France to be deprived of that right, and at the same time to be called upon for compensation, the undersigned, solicitous for the honor of France as well as that of America, devised and offered, as their last effort, the written proposition alluded to, which, it was conceived, did essentially remove the difficulty. Its object was to suspend the payment of compensation, a consideration of much weight in the estimate of the United States, until France could be put into complete possession of the privilege she contended for; and, at the same time, to give that security, which a great pecuniary pledge would amount to, for her having the privilege, as soon as it could be given with good faith, which might, perhaps, be in a little more than two years, and at any rate within seven.

Accept, citizen ministers, the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

JULY 27.

The following answer was received:

PARIS, *le* 8 *Thermidor, an* 8.

Les ministres plénipotentiaires de la république Française ont reçu la note du 23 Juillet, 1800, (4 Thermidor, an 8) que Messieurs les envoyés extraordinaires et ministres plénipotentiaires des Etats Unis d'Amérique ont pris la peine de leur adresser.

Cette note a deux objets:

Le premier est de résumer les réponses qui ont été faites par Messieurs les ministres plénipotentiaires des Etats Unis à quelques unes des réflexions présentées par les ministres plénipotentiaires de France, dans deux conférences antérieures, au sujet du droit d'asile dans les ports des Etats Unis et de la France, qui a été réciproquement et exclusivement assuré aux corsaires de chacune des deux nations, pour leurs bâtimens et leurs prises, par le traité de 1778; droit que Messieurs les ministres plénipotentiaires des Etats Unis ont pretendu être abrogé entre la France et les Etats Unis, et établi au préjudice de la France, entre les Etats Unis et l'Angleterre.

Le deuxième objet de la note est de motiver la proposition faite par Messieurs les ministres Américains dans la dernière conférence, et tendante à stipuler que les indemnités qui pourraient être dues aux Etats Unis, "ne seront payées que lorsque les Etats Unis auront offert à la république Française un article stipulant la libre admission dans les ports de chacun des deux etats des corsaires et des prises des deux parties, à l'exclusion de leurs ennemis; et même que ces indemnités ne seront point payées, à moins que l'article ne soit offert dans sept ans: cet article devant avoir le même effet sur le point de la priorité que la stipulation semblable avait dans les traités de 1778."

Relativement au premier objet, les ministres Français sont obligés de répéter que leurs instructions portant entièrement sur la reconnoissance parfaite des anciens traités, ils se voient dans l'impossibilité de souscrire à l'anéantissement du privilége assuré par le traité de 1778 aux corsaires de chacune des deux nations dans les ports de l'autre, et surtout à l'établissement de ce privilége dans les relations mutuelles des Etats Unis et de la Grande Bretagne.

Mais, convaincu que le véritable intérêt de la France est étroitement lié à la prospérité des Etats Unis, et la prospérité des Etats Unis à leur parfaite indépendance; convaincu, aussi, que le droit exclusif accordé par une nation aux corsaires d'une autre d'amener leurs prises dans ses ports, est de nature à compromettre sa tranquillité, et, par là, son indépendance, soit parcequ'il doit en nombre de cas donner de justes griefs, ou au moins de l'ombrage aux Puissances sur qui sont faites les prises; ils s'empressent de répéter, en même tems, à Messieurs les ministres Américains, qu'en cas de rapprochement, ils se feront un devoir d'insister près de leur Gouvernement sur la proposition qu'ils lui ont déjà faite d'abolir tout droit exclusif d'entrée dans les ports respectifs pour les corsaires des deux nations, avec leurs prises, et de se réduire pour eux au droit d'amener leurs prises en concurrence avec les nations les plus favorisées. Ils croyent que le Gouvernement Français s'honorera par le sacrifice d'un privilége, qui pourrait être préjudiciable à son allié; mais qu'il s'avilirait en s'en depouillant au profit de son ennemi, et sans avantage pour l'indépendance Américaine. Les ministres Français n'ont trouvé dans la note du 23 Juillet, 1800, aucune raison qui les déterminat à regarder les traités faits entre la France et les Etats Unis comme rompus.

L'acte du Congrès du 9 Juillet, 1798, est la déclaration de l'une des deux parties; mais les traités etaient l'ouvrage de deux. Une seule ne peut pas détruire autrement que par la guerre et la victoire ce qui est l'engagement de deux.

Quand le Congrès déclare d'un côté que la France a contravenu aux traités, et qu'il s'en exhonère, et que de l'autre le Gouvernement François déclare qu'il s'est conformé aux traités, que les Etats Unis les ont seuls enfreints, et qu'il en veut l'exécution; où est la loi, où est le tribunal qui autorise l'exonération plutot que l'exécution?

Tant qu'il y a contestation entre deux parties contractantes sur l'existance ou l'anéantissement d'un traité, il ne peut résulter, de l'anéantissement prétendu par l'une de ces parties, aucun droit au profit d'un tiers.

Si la France avait déclaré les traités annullés, et que les Etats Unis eussent soutenus qu'ils étaient entiers, l'Angleterre n'aurait pas été fondée à dire à l'Amérique, *j'entre dans les droits de la France*. Cela est hors de doute. La déclaration de rupture faite par une des parties n'opère donc pas la rupture.

Ces réflexions sont conformes à la doctrine de tous les publicistes.

L'opinion de Vattel ne peut s'entendre que de la nullité de droit, mais non de la nullité de fait; et c'est la nullité de fait qui seule peut donner ouverture aux droits d'un tiers pour l'antériorité.

Ces reflexions découlent d'ailleurs de la nature des choses. S'il est libre à une partie contractante de se dégager quand il lui plait, en vertu de son propre jugement sur les faits, sur les hommes, sur les choses, il n'y a plus d'engagement attaché aux traités; il faut rayer de toutes les langues le mot *traité*.

Si un droit d'antériorité pourrait être détruit au préjudice de la nation qui le possède, par le fait seul de la partie qui l'a reconnu, et si par ce seul fait ce droit passait à un tiers, il faudrait reconnaitre comme principe, qu'une nation qui fait un second traité, suscite un ennemi à celle avec qui elle en a fait un premier, et qu'elle assure sa dépouille à cet ennemi pour le moment où elle voudra s'entendre avec lui.

Les ministres plénipotentiaires de la république Française ne pousseront pas plus loin leurs observations. Celles qu'ils viennent de reproduire suffisent pour établir les droits de la France; et lui assurer l'honneur du sacrifice qu'elle ferait en renonçant au droit exclusif d'entrée dans les ports d'Amérique pour les corsaires Français, accompagnés de leurs prises.

Passant au second objet de la note, les ministres de France observent que la proposition de Messieurs les ministres Américains offre à la république, pour un tems éloigné, l'espérance d'avantages exclusifs dont ils croyent qu'elle ne doit point être jalouse, et pour le moment présent, et peut-être pour sept années consécutives, une déchéance humiliante de ses droits et une infériorité honteuse à l'égard d'un état sur lequel elle avait acquis des privilèges par les services qu'elle a rendu à l'Amérique pendant qu'il lui faisait la guerre. Quand les ministres de France pourraient souscrire à une condition indigne de la nation Française, le prix qu'ils voudraient mettre à son humiliation ne serait pas la prorogation d'un assujettissement qu'ils regardent comme contraire à l'intérêt des Etats Unis. La dépendance de ses alliés ne peut être pour elle l'indemnité d'une souffrance nationale. Les ministres Français croyent devoir insister près de leur Gouvernement pour l'abdication actuelle d'un privilége bien acquis; il serait contradictoire qu'ils en ménagassent le retour pour des tems éloignés.

Les ministres plénipotentiaires de la république Française ne peuvent donc qu'attendre la détermination definitive de leur Gouvernement. Ils s'empresseront d'en faire part à Messieurs les ministres plénipotentiaires des Etats Unis qu'ils l'auront reçue.

Ils ont l'honneur d'assurer Messieurs les ministres plénipotentiaires des Etats Unis de leur haute considération.

J. BONAPARTE,
FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, *8th Thermidor*, (*26th August*,) *year* 8.

The ministers plenipotentiary of the French republic have received the note dated 23d July, 1800, (4th Thermidor, year 8,) which the envoys extraordinary and ministers plenipotentiary of the United States of America have been pleased to address to them.

That note has two objects:

The first, to recapitulate the answers which had been given by the ministers plenipotentiary of the United States, at two former conferences, to the remarks then made by the ministers plenipotentiary of France, on the subject of the right of asylum, in the ports of the United States and France, which had been assured to the privateers and prizes of both nations, reciprocally, and exclusively, by the treaty of 1778: a right which the ministers plenipotentiary of the United States maintained had been annulled between France and the United States, and established, to the injury of France, between the United States and England.

The second object of the note is, to explain the proposition, made by the American ministers, at the last conference, by which they offered to stipulate that the indemnities which may be due to the United States, "shall not be paid, until the United States shall have offered to the French republic an article stipulating free admission, in the ports of each, for the privateers and prizes of the other, and the exclusion of those of their enemies; and, moreover, that these indemnities shall not be paid unless the article shall be offered within seven years: such article to have the same effect, in point of priority, as a similar provision in the treaty of 1778."

As to the first object, the ministers of the French republic are compelled to repeat, that their instructions, predicated on the complete recognition of the ancient treaties, leave them no power to consent to the extinguishment of a right, confirmed by the treaty of 1778, by which the privateers of the two nations, respectively, are allowed to enter the ports of each other; and, least of all, to consent to the incorporation of that right with the existing relations between the United States and Great Britain.

But being convinced that the true interest of France is closely connected with that of the United States, and that the prosperity of the United States mainly depends on their complete independence; being convinced, also, that an exclusive right, conferred by one nation upon another, to bring prizes into her ports, has a tendency to compromit tranquillity, and by that means endanger independence: inasmuch, as, in a number of cases, causes either of complaint or of distrust must be given to the Power from whom prizes have been taken; the undersigned hasten to repeat to the American ministers the proposition already made, that, in the event of a reconciliation being effected, they will consider it their duty to urge upon their Government to abolish the exclusive right to enter the ports of each other, with privateers and their prizes; and to limit this privilege to that enjoyed by the most favored nation. They believe that France would do herself honor by the voluntary sacrifice of a privilege prejudicial to her allies; but that, to consent to be despoiled of that privilege, for the benefit of an enemy, without thereby contributing to American independence, would exhibit to the world a striking instance of self-degradation.

The ministers of France cannot discover, in the note of the 23d July, 1800, any reason to incline them to the supposition that the treaties between France and the United States* are abrogated.

When, on the one hand, Congress declare that France has contravened these treaties, and that the United States are released from their stipulations; and when, on the other, the Government of France declares that she has conformed to these treaties, that she desires their execution, and that the United States alone have infringed them; where is the tribunal or the law to enforce the exoneration, in preference to the execution?

So long as a difference exists between two contracting parties, respecting the existence or abrogation of a treaty, no right or benefit can result to a third party from the abrogation contended for by one.

If France had declared the treaties annulled, and the United States had maintained their validity, England would have no ground for saying to America, "*We succeed to the rights of France.*" There is no foundation, even for a doubt, whether a treaty is cancelled by the declaration of its abrogation made by one only of the parties.

These reflections are in conformity with the doctrines advanced by all writers upon the laws of nations.

The opinion of Vattel can only be understood of a nullity in point of right, not of a nullity in fact: and it is only a nullity in fact that can give an opening, respecting the claims of anteriority, to rights resulting to a third party.

These reflections, moreover, arise from the very nature of things. If one of two contracting parties is at liberty, whenever he may please, to cancel his obligations, in virtue of his own judgment concerning facts, or men, or things, no binding force can be attached to treaties, and the term itself should be erased from every language.

If the right of anteriority can be destroyed, to the prejudice of the nation that possesses it, by the sole act of one of the parties by whom that right has been recognized, it must be acknowledged as a principle, that the nation making the second treaty converts the one with whom she had first contracted into an enemy; and that she may be certain of being despoiled by that enemy whenever the time may be propitious for an open explanation.

The ministers plenipotentiary of the French republic refrain from pursuing these observations. What has been said already will suffice to establish the rights of France, and to ensure to herself the honor of a sacrifice which she would make by renouncing the exclusive right under which the privateers of France, together with their prizes, are entitled to enter the American ports.

Passing to the second object of the note, the ministers of France observe, that the proposition of the American ministers offers to the republic, at a remote period, the hope of enjoying exclusive advantages, of which, in the mean time, they think that France should not be jealous; and at the present moment, perhaps for seven years to come, it tenders the humiliating forfeiture of privileges acquired by effective services to America in time of war, and a degrading inferiority to a rival Power, at whose expense these privileges were first obtained. When the ministers of France shall subscribe to a condition so unworthy of the French nation, the price of her humiliation will assuredly not be the simple postponement of a state of subjugation, which she regards as inconsistent with the interests of the United States. The dependence of her allies will never be considered a suitable indemnity for the wrongs she may endure. The ministers of France, believing it their duty to recommend to their Government the surrender of a privilege honorably acquired, might be charged with inconsistency if they should prudently provide for its restoration at a distant period.

The ministers plenipotentiary of the French republic can, therefore, only await the final determination of their Government; and, whenever received, they will hasten to transmit it to the ministers plenipotentiary of the United States.

They have the honor to assure the ministers plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
FLEURIEU,
RŒDERER.

AUGUST 11.

The following note was received from the French ministers:

PARIS, 23 *Thermidor*, *an* 8.

Les ministres plénipotentiaires de la république Française ont reçu de leur Gouvernement les nouvelles instructions qu'ils se sont cru obligés de demander lorsqu'ils ont appris, par la note inattendue de Messieurs les ministres plénipotentiaires d'Amérique, que les Etats Unis tenaient leurs traités avec la France pour annullés, et qu'il leur etait impossible de les reconnaitre avec tous les avantages attachés à leur date. Les ministres Français s'empressent de présenter à Messieurs les ministres Américains les réflexions et les ouvertures que l'état actuel de la négociation leur a paru exiger.

* The act of Congress of July 9, 1798, is the declaration of one of two parties; but the treaties were the work of two. A compact formed by two can be destroyed by one in no other way except by war and victory.

D'abord ils insisteront sur le principe déjà établi dans leur précédente note, savoir: que les traités qui ont uni la France et les Etats Unis ne sont point rompus; que la guerre même n'aurait pu les rompre; mais que l'état de mésintelligence qui a regné quelque tems entre la France et les Etats Unis, par le fait de quelques agens plutot que par la volonté des Gouvernemens respectifs, n'a nullement été un état de guerre, au moins du côté de la France.

Si les réflexions présentées à ce sujet dans la note des ministres Français du 8 du présent mois suffisent pour amener Messieurs les ministres des Etats Unis à la reconnaissance des traités, la première conséquence qui en résultera, et que les ministres de France s'empresseront de reconnaitre de nouveau, c'est que de part et d'autre les parties doivent s'indemniser du dommage qu'elles ont pu se causer mutuellement par leur mésintelligence. Les anciens traités étant maintenus dans leur intégrité et dans leur antériorité, il sera juste et convenable de faire cesser jusqu'au souvenir des altercations survenus dans le cours des relations qu'ils ont établies.

Ainsi, la première proposition des ministres de France est de stipuler une reconnaissance pleine et entière des traités, et l'engagement réciproque d'indemnités pour les dommages résultants de part et d'autre de leur infraction.

Si Messieurs les ministres Américains persistaient à croire qu'ils se sont mis dans l'impossibilité de reconnaitre les traités avec l'avantage de leur date, s'il etait prouvé que mal àpropos la France s'est flattée d'une amitié non interrompue avec les Etats Unis, qu'inutilement elle consacrerait sa fidelité à ses engagements en souscrivant à réparer les infractions commises par quelques agens et quelques corsaires, le Gouvernement Français consentirait à l'abolition des traités avec d'autant moins de répugnance que Messieurs les ministres d'Amérique paraissent en regarder quelques dispositions comme peu compatible avec la parfaite indépendance des Etats Unis. Telle est celle dont ils parlent dans la note du 18 Floreal, (8 Mai) lorsqu'ils expriment le désir de réduire les corsaires des nations étrangeres à la simple hospitalité dans les Etats Unis, afin d'affranchir leur commerce de toute gêne, et leur politique de tout rapport avec les intérets et les passions des Puissances belligérantes. Le Gouvernement Français est convaincu que la plus parfaite indépendance est nécessaire aux Etats Unis, pour les élever à leurs hautes destinées, et il ferait volontiers le sacrifice des avantages qui pourraient la compromettre, quelque bien acquis qu'ils soient, de quelque réciprocité et de quelques services qu'ils ayent été payés.

En conséquence, ils déclarent que la réclamation des traités, et l'offre d'en réparer l'inexécution, s'il y en avait lieu, réclamation dictée uniquement par une scrupuleuse fidelité à ses engagemens, d'ailleurs avantageux aux Etats Unis, ferait aisément place à des vues conformes à l'intérêt d'indépendance et de sécurité qui les occupe; ils déclarent notamment que la France ne refuserait pas de se départir du privilège exclusif dont jouissaient ses corsaires pour l'introduction de leurs prises dans les ports des Etats Unis. Toutefois les ministres de France, en acquiesçant à l'anéantissement des traités, ne pourraient se dissimuler que l'acte par lequel les Etats Unis en ont déclaré la nullité, a été une véritable provocation de guerre, que les actes hostiles qui ont suivi cette provocation, ceux qui ont été multipliée avec tant d'éclat même depuis que le Gouvernement Français ont fait cesser tout prétexte de plainte de la part des Etats Unis, ont été la guerre elle même; que la France s'est déguisée le véritable état de ses dernières relations avec les Etas Unis, lorsqu'elle les a regardées comme une simple mésintelligence réparable et passagère. En un mot, qu'un nouveau traité entre la France et les Etats Unis doit être, avant tout, un traité de paix; partant de cette observation il leur semble que les deux Gouvernemens n'auraient plus de ce moment à s'occuper de leurs pertes respectives, vu que le droit de la guerre dispense de réparer ses ravages, et que l'honneur des armes nationales défend même de s'en occuper, puisque celui des etats, qui aurait une balance à payer à l'autre, en l'acquittant reconnaitrait un vainqueur, et acheterait la paix.

Au reste, il doit être bien entendu qu'en acquiesçant à l'abolition des traités, le Gouvernement Français n'entendrait renoncer qu'au privilège qu'ils assuraient à la France, et qu'il ne souscrira jamais à se placer sur une ligne inférieure à celle d'aucune autre Puissance dans ses relations avec les Etats Unis. Il renoncerait, sans peine, à ses avantages exclusifs dont il jouissait, mais il ne peut consentir que d'autres en exercent à son préjudice. Il abdiquérait sans regret un droit qui lui était acquis, mais ne reconnaitra pas celui d'un autre fond sur la ruine du sien. Ce qu'il doit à sa dignité, il le doit et le veut même pour la prospérité des Etats Unis. S'ils se dégagent envers la France des liens qui pesaient peut-être à leur indépendance, ce doit être pour l'établir plus parfaite que jamais, et non pour le courber d'un côté opposé. La seconde proposition des ministres de France, dans le cas où celle qui précéde ne serait point acceptée, serait donc l'abolition des traités anciens, la formation d'un traité nouveau dans lequel la nation Française, laissant de côté un privilège désagréable aux Etats Unis, serait traitée pour ses rapports politiques et commerciaux comme la nation la plus favorisée, et où il ne serait pas question d'indemnités.

Ainsi la proposition que les ministres Français ont l'honneur de communiquer à Messieurs les ministres plénipotentiaires des Etats Unis, se réduit à cette alternative fort simple:

Ou les anciens traités, avec les priviléges résultant de l'antériorité et stipulations d'indemnité réciproque:

Ou un nouveau traité assurant l'égalité sans indemnité.

Messieurs les ministres Américains reconnaitront, sans doute, dans cette double ouverture, et dans l'exposé des motifs qui la determinent, le désir qu'a le Gouvernement Français de terminer la négociation d'une manière satisfaisante pour les Etats Unis.

Les ministres de France ont l'honneur d'assurer Messieurs les ministres plénipotentiaires des Etats Unis de leur haute considération.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 23 *Thermidor*, (11*th August*,) *year* 8.

The ministers plenipotentiary of the French republic have received from their Government the new instructions which they thought themselves obliged to ask, when they were informed, by the unexpected note of the ministers plenipotentiary of America, that the United States considered their treaties with France as annulled, and that the validity of these treaties could not be recognized, with all the advantages attached to their date. The French ministers hasten to present to the ministers of the United States the reflections and overtures which the actual state of the negotiation appears to demand.

In the first place, they insist upon the principle already established in their former note, viz: that the treaties by which France and the United States have been united are not annulled; that war itself could not have annulled them; and that the misunderstanding which, through the agency of individuals more than the intention of the respective Governments, has for some time existed between France and the United States, has not constituted a state of war, at least on the part of France.

If the reflections presented by the French ministers on this subject, in their note of the 8th instant, have been sufficient to induce the American ministers to admit the validity of these treaties, it would follow, as a necessary consequence, that the ministers of France would hasten to renew the declaration that the parties should be reciprocally indemnified for injuries mutually sustained during the existence of that misunderstanding. If the treaties are preserved unimpaired, as originally concluded, it would be just and proper to extinguish even the remembrance of the recriminations which have occurred during the period of their existence.

The first proposition, then, of the ministers of France is, to stipulate a full and entire recognition of the treaties, and a reciprocal promise of indemnities for the damages resulting, on the part of either, from their infraction.

If the American ministers shall continue to believe that they possess no authority to recognize the validity of the ancient treaties, with the advantage arising from their date; if it shall appear that France has been only deceiving herself with delusive hopes, while relying upon an uninterrupted friendship with the United States; and that, in consenting to indemnify the injuries committed by a few privateers and some unauthorized agents, she has made only a useless display of her sacred adherence to her own engagements; the Government of France will, nevertheless, consent to the abrogation of the treaties; and with the less reluctance, because the American ministers have appeared to consider some of their stipulations as incompatible with the perfect independence of the United States.

Such is the provision referred to in the note of the American ministers of the 18th Floreal, (8th May,) in which the desire is expressed to restrict the privateers of foreign nations, within the ports of the United States, to the rights of hospitality, in order to liberate the commerce of the United States from every restraint, and free their political relations from all connexion with the interests and passions of the belligerent Powers. The Government of France is convinced that it is only a complete independence that can advance the United States to the highest point of prosperity; and it agrees to make a willing sacrifice of advantages which may endanger that independence, however ample the equivalent by which they were acquired, and with whatsoever reciprocity or services it may have been repaid.

They, therefore, declare that the demands concerning the treaties, and the offer to repair the damages arising from their infraction, if an infraction has taken place, (a demand dictated by a scrupulous fidelity to engagements, and, at the same time, advantageous to the United States,) will now easily give place to the views, dictated by considerations of interest, independence, and security, with which they are now occupied: they especially declare, that they will not refuse to relinquish the exclusive privilege enjoyed by the privateers of France, to carry their prizes into the ports of the United States. Whilst, however, the ministers of France acquiesce in the nullity of the treaties, they cannot conceal from themselves that the act of the United States, by which their abrogation has been declared, has been an unequivocal provocation to war; that the hostile acts, by which this provocation has been followed, increasing in number and publicity, even after France had removed every just cause of complaint, were nothing less than war; that France had desired to be insensible to the real state of her extraordinary relations with the United States; in a word, that a new treaty between France and the United States ought to be preceded by a treaty of peace. If the correctness of these observations is admitted, it would seem that the two Governments ought to be occupied no longer with their respective losses: the rights of war acknowledge no obligation to repair its ravages: their consideration even is prohibited by national honor, since the State inflicting the greatest injury would, by making compensation, acknowledge a victor and purchase peace.

As to the rest, it must be perfectly understood that, in acquiescing in the annulment of these treaties, the French Government intends only to renounce the privileges which these treaties assured to France; and that France will never submit to be placed, in her relations with the United States, on a footing inferior to that of any other Power. She would renounce, without regret, the exclusive advantages she has enjoyed, but she cannot consent that other Powers shall enjoy the same advantages to her prejudice. She would relinquish freely the right she has acquired, but she will never acknowledge the right of another, founded on the destruction of her own. This she owes to her own character, and even to the prosperity of the United States. If it is the wish of the United States to be liberated from engagements which weigh, perhaps, too heavily on their national independence, they ought to desire the loosening of their fetters, in order to assume a more erect and imposing attitude, and not for the purpose of being bent with equal force in the opposite direction.

The second proposition of the ministers of France, in case the former shall not be accepted, will then be the abrogation of ancient treaties; the formation of a new treaty, in which the French nation, abandoning a privilege inconvenient to the United States, shall be placed, in her political and commercial relations, on an equal footing with the most favored nations; and an entire silence on the subject of indemnities.

Thus, the proposition which the ministers of France have the honor to communicate to the ministers plenipotentiary of the United States is reduced to this simple alternative:

Either the ancient treaties, carrying with them the privileges resulting from anteriority, together with stipulations for reciprocal indemnity;

Or a new treaty, promising equality, unattended with indemnities.

In this double overture, and the explanation accompanying it, the ministers of the United States will, without doubt, perceive the desire of the French Government to terminate the negotiation in a manner satisfactory to the United States.

The French ministers have the honor to assure the ministers plenipotentiary of the United States of their high consideration.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

AUGUST 15.

The following letter was written to the Secretary of State, and forwarded by the Franklin, sailing from Bourdeaux:

PARIS, *August* 15, 1800.

SIR:

Having ascertained, by an interview with the French ministers, soon after our note to them of the 8th of May, a copy of which you have doubtless received, that, as we refused to assume the former treaties, they could proceed no further without new instructions, and that a report on the state of the negotiation was preparing for the Minister of Exterior Relations, and ultimately for the Premier Consul; we judged it expedient, in order to obviate an apprehension that our Government contemplated further grants to the prejudice of France, and to diminish the hazard of sending off the business to the Premier Consul, then with the army in Switzerland, who, in a moment of agitation, might decide definitively upon it, to propose the following clause as an addition to the 32d article of our project, viz. "Nor will either of the said parties, while they continue in amity, make a treaty with any foreign Sovereign or state, stipulating for the privateers and prizes of such Sovereign or state, an asylum in the ports of each other, unless they shall have assured to each other such right of asylum for the privateers and prizes of each in the ports of the other:" and it was accordingly sent with the note marked A.

Embarrassing as the delay for new instructions was seen to be, it was nevertheless deemed inexpedient, in the then critical state of European affairs, to treat it as a studied delay.

On the 1st of June, we addressed the note marked B, and on the 5th, received an answer marked C.

Soon after the Premier's return from Italy, the note marked D was sent.

The requested interview took place on Friday, the 11th July; and although the French ministers declared that they had not received further instructions, yet, as they expressed a willingness to converse upon the subject, a conversation was entered upon, which had for its object to ascertain with more precision the grounds of difference between us. Their observations led to, and finally terminated in, this position: that, to be deprived of her former privileges in the ports of the United States, and that, too, in favor of an enemy, and at the same time to be called upon for compensation, was derogatory to the honor of France.

At a further interview, on the 15th July, we brought forward, in order to remove what seemed to be the difficulty at the interview on the 11th of July, a written proposal to suspend the actual payment of indemnities, on the condition of replacing France in the privileges she contended for. A condition which our Government might or might not perform, after it should have further seen the political state of Europe; and also been better able to estimate a promise of indemnity. The proposition was as follows, viz: "Indemnities to be ascertained and secured, in the manner proposed in our project of a treaty, but not to be paid until the United States shall have offered to France an article, stipulating free admission in the ports of each for the privateers and prizes of the other, to the exclusion of her enemies; nor unless the article shall be offered within seven years, such article to have the same effect, in point of priority, as a similar provision had in the treaty of 1778."

An immediate reply to the proposition was not pressed or wished; there was no difficulty, however, in perceiving that the impression was not perfectly satisfactory.

On the 23d of July, the note was sent, marked E, which throws some further light on the two preceding conferences.

The note marked G, purporting to be predicated on the new instructions, was received the 11th of August. This note is now under consideration, and will not be formally answered, till there has been an interview to ascertain some points.

It has, however, become manifest, that the negotiation must be abandoned, or our instructions deviated from. Should the latter be ventured upon, which, from present appearances, is not improbable, the deviation will be no greater than a change of circumstances may be presumed to justify.

The success of the French in Italy has produced an armistice, and has since opened with the Emperor a negotiation for peace, which is still pending. The result is daily and anxiously expected.

Captain McNeil, with the Portsmouth, arrived safe at Havre on the 23d of May, where he yet remains. The despatches sent by him were duly received.

We are, &c. &c.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

An interview took place with the French ministers on the subject of their note of the 23d Thermidor, for the purpose of ascertaining with more precision their views on some points which were supposed to be covered under the general terms of their note. The conference was opened, on the part of the American ministers, in a manner which they supposed would entitle them to the utmost candor and frankness. The French ministers were, however, extremely reserved, answering with great caution to every inquiry in the general terms of their note. The result of the conference was, of course, little satisfactory to the American ministers, who were consequently obliged to consider the French note in the general terms of its text. It now became necessary to decide whether the negotiation should be broken off, or the instructions departed from; whether the treaties should be revived, or the indemnities sacrificed; and, if the treaties were revived, whether, after considering the text of the French note, and the obstinacy with which the ministers adhered to it, an attempt should be made to effect a modification that might enable Government to extinguish the exclusive privileges of France under the treaty of amity and commerce, as well as her claims under the treaty of alliance. The following note became the result of several deliberations and discussions on these points, and was sent to the French ministers on the 20th of August:

PARIS, *August* 20, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The undersigned ministers have been honored with your note of the 23d Thermidor.

It adds to the regret, occasioned by three months' delay for further instructions, that they confirm the obstacles which had brought the negotiation to a stand.

To abandon indemnities would be illy to select the means of restoring France to the confidence of a nation, too long accustomed to revere and practise justice, ever to forget its demands. Nor could America ever conceive that, protecting from depredations her property which remains, had impaired a claim for that of which she has been despoiled. More difficult still of comprehension would it be, that she had aggressed by declaring the truth: for, doubtless, declaring that treaties ceased to bind her, which the other party had long and greatly infracted, was no more. If, however, that declaration, as necessary for judicial purposes as it was conformable to truth, had amounted to a cause of war, yet, as the wisdom of France reconciled it to peace, its application on the principle of war to the extinguishment of claims would be inexplicable. And even as to war itself, though it does by its rights, or rather by its usages enforced against weaker Powers, merge the injuries it operates, it does not cancel obligations prior to its existence. If war had actually commenced when it is suggested there was cause given, still, how could its rights be seen to extinguish the claims of America, as the mass of her sufferings was at a time when her conduct towards France was remarkable for nothing but the patience with which she endured, and the moderation with which she sought to remove them?

If, in applying the principle, or exercising the natural right of self-defence, in a state of things now mutually and equally lamented, certain events have taken place which might be regretted when considered in connexion with their cause; if these events have been attended with a sensation which the French ministers are pleased to term "éclat," they will have candor enough to admit that this sensibility was natural among men sore by repeated losses, and citizens who had thought their country degraded by her patience and long suffering. A mutual stipulation, however, of restoration or indemnity will save the honor of both nations, and efface with the hand of justice every irritating remembrance. It is but proper here to remark, that if the action, or the notice of it, to which the French ministers plenipotentiary have particularly alluded, be taken in connexion with dates and distances, the American Government cannot be charged with neglecting to avail itself of conciliatory measures.

In a word, while nothing would be more grateful to America than to acquit herself of any just claims of France, nothing could be more vain than an attempt to discover to her reasons for the rejection of her own.

It is time for the two nations to return from a state of things difficult to name, and more difficult to account for, to the correcter views of '78; to the confidence inspired by co-operating for an object equally interesting to both; to that spirit which disavowed the idea of founding pretensions on exertions; and, finally, to that friendship which knew not the alloy of purchase.

Too much concerned with that epoch not to recollect its professions, and too confident in the wisdom of those professions to despair of their fruits, the American ministers have persevered in efforts for a reconciliation. To remove obstacles interposed, they have developed their views and their doubts with more frankness than effect. To go further, they must take on themselves a high responsibility.

If, then, the dignity of one party cannot be satisfied without a recognition of former treaties, still less can the interests of the other dispense with a remodification of them.

The 17th article of the commercial treaty, which stipulated an exclusive admission for the privateers and prizes of each in the ports of the other, was but nominally reciprocal; not only because America would seldom be at war, but also by reason of the prior engagements of France under the treaty of Utrecht, then in force, and since renewed. The real reciprocity of that article was to be sought for in another, which made free goods in free ships—a stipulation greatly beneficial for the United States could they have enjoyed it. This stipulation, however, proved inconvenient to France, as appeared from her defeating the use of it so early in the present war; and for that reason, the undersigned ministers, in their project of a treaty, proposed to give it up, trusting that it would be deemed a full equivalent for abandoning, on the part of France, the first mentioned privilege stipulated to her.

The American ministers have shown, in their note of the 8th May, that the free admission of privateers is inconvenient to the United States, and the ministers plenipotentiary of France have reasoned, in a note of the 8th Thermidor, and assumed in others, that an exclusive admission of those of one nation compromits their independence. France, then, will not insist on that privilege for herself, exclusively and forever. She will not embarrass that progress to greatness, which, with so much reason and so much solicitude, she seeks to cherish; nor, least of all, compromit the independence she guaranties. Doubtless, upon a review of this claim, her ministers will be satisfied with the footing of the most favored nation; and, as to rights beyond that, will relinquish them gratuitously, or, at most, on terms not difficult to be complied with.

With respect to the 11th article of the treaty of alliance, it has produced mischievous apprehensions, and never can produce an effect which will not contravene its professed design. If France should not discern the utility of relinquishing this article, she will acquiesce in a specification which may render it less incompatible with her policy.

If the American ministers, in attending to the note before them, have avoided retracing the measures of the late French Government, which forced the United States to take the defensive position in which the present negotiation found them; if they have declined to renew former discussions, or have not availed themselves of the opportunity

of commencing others: it is because time has become precious with them, and because also they yet think it may be more useful to search for means of healing the breach than for the causes which produced it.

As a further effort on their part to ascertain those means, they make the following propositions, predicated on the adoption of the first alternative in the overture of the French ministers plenipotentiary.

1. Let it be declared that the former treaties are renewed and confirmed, and shall have the same effect as if no misunderstanding between the two Powers had intervened, except so far as they are derogated from by the present treaty.

2. It shall be optional with either party to pay to the other within seven years three millions of francs, in money or securities, which may be issued for indemnities, and thereby to reduce the rights of the other as to privateers and prizes, to those of the most favored nation; and, during the said term allowed for option, the right of both parties shall be limited by the line of the most favored nation.

3. The mutual guaranty in the treaty of alliance shall be so specified and limited, that its future obligation shall be, on the part of France, when the United States shall be attacked, to furnish and deliver, at her own ports, military stores to the amount of one million of francs; and on the part of the United States, when the French possessions in America in any future war shall be attacked, to furnish and deliver, at their own ports, a like amount in provisions.

It shall, moreover, be optional for either party to exonerate itself wholly of its obligations, by paying to the other, within seven years, a gross sum of five millions of francs, in money, or such securities as may be issued for indemnities.

4. The articles of commerce and navigation, except the seventeenth article of the treaty, shall admit of modifications, reserving for their principle the rights of the most favored nation, where it shall not be otherwise agreed, and be limited in their duration to twelve years.

5. There shall be a reciprocal stipulation for indemnities, and these indemnities shall be limited to the claims of individuals, and adjusted agreeably to the principles and manner proposed by the American ministers in their project of a treaty heretofore delivered, except where it shall be otherwise agreed. Public ships taken on either side shall be restored or paid for.

6. All property seized by either party, and not yet definitively condemned, or which may be seized before the exchange of the ratifications of the present treaty, shall be restored on reasonable, though it should be informal, proof of its belonging to the other, except contraband goods of the United States destined to an enemy's port. This provision to take effect from the signature of the treaty; and if any condemnations should take place contrary to the intent of this stipulation, before knowledge of the same shall be obtained, the property so condemned shall be paid for without delay.

The ministers of the United States pray the ministers of the French republic to accept the assurance of their high consideration.

OLIVER ELLSWORTH,
WILLIAM R: DAVIE,
WILLIAM V. MURRAY.

AUGUST 25.

The following note and propositions were received from the French ministers:

PARIS, 7 *Fructidor, an* 8 *de la république Française.*

Les ministres plénipotentiaires de la république Française ont reçu la note que Messieurs les ministres plénipotentiaires des Etats Unis leur ont fait l'honneur de leur adresser le 2 du présent mois.

Ils n'ont pu regarder les ouvertures qui y sont jointes comme tombant sur la première partie de l'alternative proposée. En effet, la première des propositions sur lesquelles ils ont offert l'option etait, que les Etats Unis reconnussent explicitement les traités passés avec la France, avec tous les avantages d'antériorité attachés à leur date. Dans la dernière conférence, qui a eu lieu le 25ème Thermidor dernier, il a été bien entendu, et même rédigé par écrit, que cette première partie de l'alternative excluait essentiellement toute idée de modification tombant sur quelqu'un des points litigieux de la négociation, et notamment sur les priviléges assurés à la nation Française relativement à d'autres Puissances. Néanmoins, la note de Messieurs les ministres Américains propose une modification capitale de l'article XVII, et dès lors il est évident que cette note tombe sur la seconde branche de l'alternative, qui a consisté à offrir un nouveau traité sans indemnité.

Les ministres de France pourraient donc insister sur la condition de mettre à l'écart toute stipulation d'indemnités. Néanmoins, la France donnera aux Etats Unis une nouvelle preuve de ses dispositions amicales, en consentant tout à-la-fois à la modification de ses traités, et au principe des indemnités de la manière exprimée dans la note ci-jointe, où les Etats Unis trouveront indubitablement le désir d'une réconciliation prompte et entière.

Les ministres de la république Française ont l'honneur d'assurer Messieurs les ministres plénipotentiaires des Etats Unis de leur haute considération.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

1. Les anciens traités seront continués et confirmés pour avoir leur exécution, comme s'il n'etait survenu aucune mésintelligence entre les deux nations.

2. Des commissaires seront nommés pour liquider les dommages respectifs.

3. L'article XVII du traité de commerce de 1778 sera conservé dans son integrité, avec une simple addition à la suite de ces mots, savoir: "Et, au contraire, ne sera donné asile ni rétraite dans leurs ports ou hâvres à ceux qui auront fait des prises sur les sujets de Sa Majesté, ou des Etats Unis;" il sera ajouté, "Si ce n'est en vertu de traités connus le jour de la signature du présent, et postérieur au traité de 1778, et ce pour l'espace de sept années."

Sur l'article XXII même réserve que sur l'article XVII.

4. Si dans l'espace de sept ans le rétablissement des articles XVII et XXII n'est offert et accepté dans sa plénitude, il n'y aura lieu à l'acquittement des indemnités résultantes du travail des commissaires.

5. La garantie stipulé par le traité d'alliance sera convertie en prestation de sécours de deux millions. Mais cette prestation ne sera rachetable que par un capital de dix millions.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, *7th Fructidor,* (*25th August,*) *year* 8.

The ministers plenipotentiary of the French republic have received the note which the ministers plenipotentiary of the United States have done them the honor to address to them the second of the present month.

They cannot regard the overtures therein contained as complying with the first part of the proposed alternative. In reality, the first of the propositions offered to the option of the American ministers was, that the United States should explicitly recognize the treaties they had concluded with France, with all the advantages attached to their date. In the last conference, which took place the 25th Thermidor, (13th August) it was well understood, and even reduced to writing, that this part of the alternative should particularly exclude every idea of a modification extending to the contested points of the negotiation, and especially to the privilege assured to the French nation, in relation to other Powers. Nevertheless, the note of the American ministers proposes an important modification of the seventeenth article: whence, it is evident that this note applies to the second branch of the alternative, which consisted in offering *a new treaty without indemnity.*

The French ministers might here insist upon the condition, that every stipulation on the subject of indemnities should be laid aside. Nevertheless, France will give the United States a new proof of her friendly disposition, in consenting to the modification of the treaties, and also to the principle of indemnities, in the manner expressed in the subjoined note: in which the United States will discover undoubted proofs of the desire of France to effect a speedy and complete reconciliation.

The ministers of the French republic have the honor to assure the ministers plenipotentiary of the United States of their high consideration.

J. BONAPARTE.
C. P. CLARET FLEURIEU,
RŒDERER.

1. The ancient treaties shall be continued and confirmed; and they shall be carried into execution, in the same manner as if no misunderstanding had taken place between the two nations.

2. Commissioners shall be appointed to liquidate the respective damages.

3. The seventeenth article of the treaty of commerce of 1778 shall be preserved inviolate, with the single addition, at the end of the following words: "on the contrary, no shelter or refuge shall be given in their ports or harbors to such as shall have made prize of the subjects, people, or property of either of the parties:" "*except in virtue of treaties known at the time of the signature of the present treaty, and subsequent to the treaty of* 1778; *and this for the space of seven years.*"

The twenty-second article to contain the same exception as the seventeenth.

4. If, in the space of seven years, the seventeenth and twenty-second articles shall not be offered and accepted in their original force, the indemnities awarded by the commissioners shall not be paid.

5. The guaranty, stipulated by the treaty of alliance, shall be converted into a promise of succor, to the amount of two millions; but this promise shall not be redeemable except by a capital of ten millions.

J. BONAPARTE.
C. P. CLARET FLEURIEU,
RŒDERER.

AUGUST 24.

As the French ministers dined to-day with Mr. Ellsworth and Mr. Davie, they were requested to attend a conference after dinner, for the purpose of giving some explanations of the propositions subjoined to their note. Mr. Bonaparte and Mr. Fleurieu, mentioning they had some urgent business at the council, went away, leaving Mr. Rœderer authorized to give any explanation required. After a conversation of some length, during which Mr. Rœderer discovered how unsatisfactory those propositions were to the American ministers, he suggested the following idea for consideration, viz: "that the option contained in the note of the American ministers, to extinguish by an equivalent of eight millions of francs certain claims of France under the former treaties, ought to be reciprocal; so that, if the offer should be made by either party, the other should be bound to accept it:" saying that this suggestion ought not to be considered official, as his colleagues were not consulted. The next day it was reduced into the form of an article, and shown to Mr. Rœderer, to know whether the principle of his proposition was correctly taken; and upon its being stated to him in the form it was supposed to be made the preceding evening, and upon the article being translated, he admitted that he was correctly understood; and then delivered another proposition, which he said had been approved by the Minister of Exterior Relations, to the following effect:

"Si, dans l'espace de sept ans, le rétablissement des articles XVII et XXII, dans toute leur valeur, n'est offert, il n'y aura lieu à l'acquittement des indemnités liquidées par les commissaires; et si le rétablissement des articles XVII et XXII, dans toute leur plénitude, est offert dans l'espace de sept années, la France aura l'option entre ce rétablissement, ou un indemnité de huit millions, qui leur sera payé en argent, ou obligations données pour acquittement des indemnités liquidées par les commissaires."

NOTA. (said to have been added by the Minister of Exterior Relations) "Il est entendu, et il sera stipulé, conformément à une note de Messieurs les ministres d'Amérique, que le privilége des prises étant aboli pour la France et pour l'Angleterre à l'expiration du traité, l'Amérique ni la France ne le donneront plus à personne."

[TRANSLATION.]

"If, in the space of seven years, the renewal of the 17th and 22d articles, in their full meaning, shall not be offered, the indemnities which the commissioners may award shall not be paid; and if the renewal of the 17th and 22d articles, in their full meaning, shall be offered within the space of seven years, France shall have the option, between this renewal and an indemnity of eight millions, which shall be paid to her in money, or in obligations given for the payment of indemnities which shall have been awarded by the commissioners."

NOTE, (said to have been added by the Minister of Exterior Relations.) "It is understood, and shall be stipulated, in conformity with a note of the American ministers, that, whenever the privilege respecting prizes shall be abolished, as to France and England, by the expiration of the treaty, neither the United States nor France shall again concede it to any Power whatever."

AUGUST 29.

The American ministers intended to avail themselves of another conference to-day with the French ministers; but the president of the French commission and Mr. Rœderer had gone into the country on the 27th, and were not returned this morning; therefore, with the expectation of attracting the earliest attention of the ministers to the business of the negotiation, the following note was addressed to them and sent to Mr. Fleurieu:

PARIS, *August* 29, 1800. 7 *o'clock, P. M.*

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Ministers Plenipotentiary of the French republic.

CITIZEN MINISTERS:

The envoys of the United States have given the most serious attention to the note and the propositions enclosed, which the ministers plenipotentiary of the French republic did them the honor to address to them under date of 7th Fructidor; and they regret that they have not been able to consider those propositions in the light they are presented by the French ministers, as connecting the justice of indemnity with a beneficial modification of the treaties.

The third and fourth propositions leave it optional with France to reject indemnities, while they secure to her, unconditionally, the treaty of commerce, with a minute exception, which is so limited by time and other circumstances as to render it of little consideration with either party. With respect to the other treaty, the option to reject indemnities produces no effect whatever; its inconveniences are only to be avoided by a purchase of ten millions; so that, by those propositions, indemnities may be sacrificed, and the treaties remain recognized and confirmed—a measure which, in its operation, would be a complete departure from the principle proposed as the basis of negotiation by the French ministers, and the abandonment of an object to which the American ministers are bound to adhere, and upon which their sentiments have never varied.

As to the fifth proposition, it is rendered inadmissible only by an augmentation of the sums proposed by the undersigned ministers, to extinguish the right of France under the mutual guaranty—a right, indeed, which, if France ever placed a value upon, she must have long since discerned that the abolition of it had become as essential to her interests as to those of the nation which she wishes not to embarrass. Confidently was it presumed by the American ministers, that, in the equivalent for that right offered by them, there would be seen a liberal regard to the

honor of the French republic, and a still further proof of that desire which has so much sought to facilitate to her an adjustment of existing differences.

The ministers plenipotentiary of the United States, having exhausted their efforts to discover, by a spirit of justice and accommodation, the means of accomplishing the desires and realizing the views of both nations, can only now hope to avail themselves of the better directed efforts of the ministers plenipotentiary, with whom they have the honor to treat.

The American ministers, willing to profit even of suggestions, remark that, in a late conference, which respected as well their note of the 20th of the present month as that of the French ministers plenipotentiary of the 7th Fructidor, it was suggested by one of the latter (though not officially, or as a matter upon which the sense of his colleagues had been taken) that the option contained in the first mentioned note, to extinguish, by an equivalent of eight millions of francs, certain claims of France under the former treaties, ought to be reciprocal; so that, if the offer should be made by either party, the other should accept it. That principle, if reduced to a form proper to give it effect, it is conceived, would be expressed as follows, viz:

If the United States shall, at any time, within seven years from the exchange of the ratifications of the present treaty, offer to the French republic an article of the tenor following, viz:

"It is agreed that the United States shall pay to the French republic, within seven years from the day of exchanging the ratifications of the treaty of ———, eight millions of francs, in money, or such securities as have been or may be issued to citizens of the United States for indemnities under the said treaty, together with interest hereafter, at the rate of —— per centum per annum, until the principal shall be discharged; and that, as a consideration of such engagement, the United States shall forever be exonerated of the obligation on their part to furnish succors or aid under the mutual guaranty of the 11th article of the treaty of alliance of the 6th of February, 1778; and the rights of the French republic, under the 17th and 22d articles of the treaty of amity and commerce, of the same date, shall be forever limited to such as the most favored nation shall in these respects enjoy:"

The French republic will accept the same; or, if the French republic shall, at any time within that term, offer such an article, the United States will accept the same; and, in either case, the article so offered shall become part of the present treaty.

To such a stipulation, in connexion with the first, fourth, fifth, and sixth propositions offered by the American envoys in their note of the 20th of the present month, they would agree, so great is their desire to terminate, without further loss of time, the present negotiation. They pray the ministers plenipotentiary of the French republic to accept the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 5.

The following propositions were delivered by Mr. Rœderer:

PARIS, *le* 17 *Fructidor*, *an* 8.

Pour Messieurs les Ministres Plénipotentiaires des Etats Unis d'Amérique à Paris.

Nous aurons le droit d'amener nos prises dans les ports d'Amérique.

Une commission réglera les indemnités dues par chacune des deux nations aux citoyens de l'autre.

Les indemnités qui seront dues par la France aux citoyens des Etats Unis seront acquittées par les Etats Unis; et, en compensation, la France fait l'abandon du privilége exclusif résultant des articles XVII et XXII du traité de commerce, et des droits de garantie résultant de l'article XI du traité d'alliance.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 17*th Fructidor*, (4*th September*,) *year* 8.

To the Ministers Plenipotentiary of the United States of America at Paris.

We shall have the right to carry our prizes into the American ports.

A commission shall regulate the indemnities due by each of the two nations to the citizens of the other.

The indemnities which shall be found due by France to the citizens of the United States shall be discharged by the United States; and, as an equivalent, France makes an abandonment of the exclusive privilege resulting from articles XVII and XXII of the treaty of commerce, and of the rights of guaranty resulting from the eleventh article of the treaty of alliance.

BONAPARTE.
C. P. CLARET FLEURIEU,
RŒDERER.

Mr. Rœderer delivered, at the same time, a paper unsigned, containing the following observations:

The ministers of the United States appear to have mistaken the sense of the last note of the French ministers. They imagine *that the indemnities may be sacrificed by the propositions of the 7th Fructidor, and the treaties notwithstanding remain completely acknowledged and confirmed.* It has always been the intention of the ministers of France to reserve to her the right of choice between the restoration of her privileges and the payment of indemnities which may be brought against her; so that they have never supposed that she would enjoy privileges without the payment of indemnities, or could pay indemnities without the enjoyment of privileges.

The American ministers have also misunderstood the private observations of one of the French ministers. Their sole object was to show that, during the terms of seven years, France should possess (agreeably even to the plan of the ministers of the United States) the right to choose between the re-establishment of the privileges resulting from the seventeenth and twenty-second articles of the treaty of commerce, and a sum of at least eight millions, since France regards those privileges as an advantage peculiar to her, and for the abandonment of which she may stipulate as she deems proper.

To avoid the uncertainty which might arise from such a stipulation, hastily reduced to a diplomatic style, the ministers of France have offered anew a naked draft of their final determination; and they observe that, if the American ministers agree to the substance of the note, they may settle the form of it in concert with the French ministers, and even modify the means of arriving at the same end.

SEPTEMBER 6.

The American ministers being unanimous in the opinion that they could not accede to the propositions under date of the 17th Fructidor, agreed to offer the following articles as the basis of negotiation, and as predicated upon the original overtures of the French ministers, referring only the determination of the question respecting the treaties and indemnities to the American Government, and postponing that determination no longer than to the time of ratification:

For the Ministers Plenipotentiary of the French republic.

PARIS, *Sept.* 6, 1800.

The American ministers consider the propositions received from the ministers plenipotentiary of France yesterday, under date of the 17th Fructidor, as altogether inadmissible. The nearest approach to them, which the American ministers can make, is,

1. The former treaties shall be renewed and confirmed.

2. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their third proposition of the 20th of August.

3. There shall be mutual indemnities, and a mutual restoration of captured property not yet definitively condemned, according to their fifth and sixth propositions of that date.

4. If, at the exchange of ratifications, the United States shall propose a mutual relinquishment of indemnities, the French republic will agree to the same; and, in such case, the former treaties shall not be deemed obligatory except that under the 17th and 22d articles of that of commerce, the parties shall continue forever to have for their public ships of war, privateers, and prizes, such privileges in the ports of each other as the most favored nation shall enjoy.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 8.

The above note was sent on the same day to the French ministers; no answer, however, being yet received, the following note requesting an interview was sent to-day:

To the Ministers Plenipotentiary of the French republic.

PARIS, *September* 8, 1800.

The envoys of the United States request the honor of an interview with the ministers plenipotentiary of the French republic to-morrow, at 12 o'clock, at such place as may be convenient to them, in order to learn whether the note of the undersigned of the 6th of the present month can serve as the basis of a treaty, or, if not, whether any further overtures are to be expected on the part of France. They pray the ministers plenipotentiary of the French republic to accept the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 9.

Mr. Rœderer informed the American ministers that the conference requested could not take place, owing to the absence of Joseph Bonaparte, the president of the commission.

SEPTEMBER 11.

The following note was received:

PARIS, *le* 24 *Fructidor*, *an* 8.

Demain, à deux heures après midi, les ministres plénipotentiaires de la république Française auront l'honneur de se rendre chez Messieurs les envoyés extraordinaires des Etats Unis d'Amérique, Hotel des Oiseaux.

Je les prie de vouloir bien agréer l'assurance de ma haute considération.

J. BONAPARTE.

[TRANSLATION.]

PARIS, 24*th Fructidor*, (*September* 11,) *year* 8.

The ministers plenipotentiary of the French republic will do themselves the honor to meet the envoys extraordinary and ministers plenipotentiary of the United States, at their residence, *Hotel des Oiseaux*, to-morrow, at two o'clock P. M.

I pray them to accept the assurance of my high consideration.

J. BONAPARTE.

SEPTEMBER 12.

The American ministers met this morning to settle the mode of conducting the expected conference, and resolved to press their last propositions to the utmost; and if the French ministers should finally disagree to them, without offering any admissible substitute, then, in that case, to offer the written proposition delivered by Mr. Rœderer on the 26th of August, in two forms, one connecting the 11th article of the treaty of alliance with the 22d and 17th of that of amity and commerce, in the option of an equivalent; the other pursuing strictly the original proposition, but connecting it with a modification of the guaranty. Some remarks were also prepared with respect to the operation and effect of a guaranty in the form of the 11th article, it being the object of the American ministers to discuss the business fully, and, if possible, to press it to a termination.

The French ministers attended at the hour appointed, and the propositions of the 6th of September were taken up and considered, article by article. The 1st and 3d were agreed to, with some modification of the 3d, as to rules of evidence, which did not vary its principle. The 2d and 4th were considered together, as in some measure connected; and, after considerable discussion, the French ministers said they were determined not to accede to these, unless an option, perfectly similar and reciprocal, was assured to the French republic, the operation of which enabled her to get rid of the indemnities, by an offer of abandoning the exclusive privileges. They now openly avowed that their real object was to avoid, by every means, any engagement to pay indemnities, giving as one reason the utter inability of France to pay, in the situation in which she would be left by the present war. The subject of the modification of the guaranty was now particularly pressed in the manner agreed. The conversation on this subject closed by a declaration of the president of the French commission, that such a modification could not be acceded to without new instructions; that they had no powers to assent to such a stipulation; but that, if the Government should think proper to instruct them to make a treaty on the basis of indemnities and a modified renewal of the old treaties, he would resign sooner than sign such a treaty; adding that, if the question could be determined by an indifferent nation, he was satisfied such a tribunal would say that the present state of things was *war* on the side of America, and that no indemnities could be claimed. The other two commissioners made similar declarations.

The American ministers retired a few minutes and agreed that it was now clearly in vain to make any further attempts on this ground, and, of course, useless to bring forward the proposition of Mr. Rœderer in any form.

The conference was, therefore, closed by the American ministers requesting a written answer to the note of the 6th of September.

Reflections of the American ministers on their overture respecting the guaranty delivered to the French ministers, at their conference, on the 12*th day of September.*

Adopting the universality of modern practice as a rule of exposition, a guaranty which omits to stipulate specific succors does not contemplate any to be furnished, and is only, on the part of the guarantor, a renunciation of interfering claims, an engagement not to countenance or admit such claims in favor of a third Power, and, generally, an assurance of good offices for the security of the object guarantied, which shall not be onerous to himself.

If, however, the guaranty between France and the United States did in fact contemplate succors, they must have been principally for the latter, who might need them, rather than for the former, who was evidently competent to protect herself; and the mutuality of the obligation to succor could have been intended for little more than to save appearances.

Again, if the ability to furnish succors was to be the measure of them, (and if they were contemplated at all, there could have been no other measure,) much less must have been expected from the scattered agriculturists of a new country than from a nation habitually prepared for war, and one of the most powerful in Europe.

The American ministers, however, have proposed, not only to render the guaranty specific, but to render the succors equal, and that without taking into the account that France will frequently receive, and but seldom have

occasion to furnish them. Their offer, it is presumed, in the view of the subject here given, will be sufficiently appreciated. The French ministers will see in this proposition only those motives of liberal policy, and that sincere spirit of accommodation which have continually actuated the United States towards France; there being no circumstance in the present juncture that would dictate a sacrifice to that object of their convenience or their interests, and nothing in the perspective of the future from which they might augur such a necessity. And the American ministers presume that France will not raise new obstacles to the progress of the negotiation, by placing a high and unexpected value upon what she really placed none heretofore: it would accord neither with her accustomed magnanimity, nor that conciliatory policy towards the United States which she professes to pursue.

SEPTEMBER 12.

The following note was received from the French ministers:

PARIS, 26 *Fructidor, an* 8.

Les ministres de France ne peuvent se départir des modifications qu'ils ont eu l'honneur de proposer hier verbalement à Messieurs les ministres Américains sur leur note du 6 de Septembre, (19 Fructidor.) Ils sont fixés à ces principes:

1. Qu'une stipulation d'indemnités emporte avec elle la reconnaissance pleine et entière des traités; et

2. Que l'abandon des avantages et priviléges stipulés par les traités, moyennant l'abandon réciproque des indemnités, serait l'arrangement le plus utile et le plus honorable des deux nations.

Partant de ces principes, les ministres Français persistent dans les déclarations verbales qu'ils ont faites dans la conférence d'hier. En conséquence, ils vont s'expliquer sur chacun des articles de la note du 6 Septembre.

1. Les anciens traités seront reconnus et confirmés.

Ils accèdent à la proposition de l'article I.

2. Les obligations de garantie seront specifiées et limitées comme dans le premier paragraphe de leur 3ème proposition du 20 d'Août.

Le second ne peut être admis à moins que l'article IV. ne donne à la république Française l'assurance, que si elle propose aux Etats Unis l'abandon réciproque des indemnités, cette proposition sera acceptée moyennant l'abandon du droit de garantie résultant du traité d'alliance, et des priviléges résultants des articles XVII et XXII du traité de commerce. Si l'article IV ne porte cette stipulation, ni cet article IV ni l'article II ne peut être admis.

"3. Il y aura des indemnités mutuelles, et une restitution réciproque des propriétés capturées, qui ne seront pas encore définitivement jugées, d'apres leur 5ème et 6ème propositions de la même date."

L'article III a paru exiger quelques explications. Les ministres de France entendent:

1. Qu'il sera réglé des indemnités pour les prises faites sur des particuliers, et qui auront été jugées à l'époque de la signature du traité.

2. Que les vaisseaux et bâtimens nationaux pris respectivement seront restitués ou payés.

3. Que les prises faites sur les particuliers, et non jugées à l'époque de la signature du traité, seront jugées d'après le traité de 1778, sainement interprété ainsi qu'il sera convenu.

4. Si à l'échange des ratifications, les Etats Unis proposaient un abandon réciproque des indemnités, la république Française agréera cette proposition, et dans ce cas les anciens traités ne seront pas regardés comme obligatoires excepté que sous les articles XVII et XXII du traité de commerce, les parties continueront toujours d'avoir pour leurs vaisseaux de guerre, les armateurs, et les prises, dans leurs ports réspectifs, les priviléges dont pourrait jouir la nation la plus favorisée.

L'article IV ne peut-être admis, ainsi qu'on l'a déjà observé, s'il n'offre à la France le même droit qu'aux Etats Unis, et s'il ne maintient les traités anciens à l'exception de l'engagement de garantie et des priviléges.

Pour remplir cet objet, et valider l'article II, l'article IV devrait etre conçu en ces termes, ou autres équivalens.

"Si à l'échange des ratifications, les Etats Unis offrent à la république Française, ou si la république Française offre aux Etats Unis l'abandon réciproque des indemnités, cette proposition sera acceptée; et, en ce cas, l'engagement de garantie résultant de l'article XI du traité d'alliance, et des priviléges résultants des articles XVII et XXII du traité de commerce, seront réduits aux avantages dont pourrait jouir la nation la plus favorisée.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 26 *Fructidor*, (*13th September*,) *year* 8.

The ministers of France are unable to depart from the modifications which they had yesterday the honor to propose verbally to the American ministers, on the subject of their note of the 6th of September, (19th Fructidor.) They adhere to these principles:

1. That a stipulation of indemnities carries with it a full and entire recognition of the treaties: and

2. That the abandonment of the advantages and privileges stipulated by the treaties, in consideration of the reciprocal abandonment of indemnities, will be the most useful and honorable arrangement for both nations.

Acting on these principles, the French ministers persist in the verbal declarations made at the conference yesterday. They will, therefore, proceed to give some explanations on each of the articles of the note of the 6th of September.

1. The ancient treaties shall be recognized and confirmed.

They accede to the proposition contained in the first article.

2. The obligations of the guaranty shall be specified and limited, as in the first paragraph of their *third* proposition of the 20th of August.

The *second* cannot be admitted unless the fourth article shall give to the French republic the assurance that, if she should propose to the United States the reciprocal abandonment of indemnities, this proposition will be accepted, in consideration of the abandonment of the right of guaranty, resulting from the treaty of alliance, and of the privileges resulting from the 17th and 22d articles of the treaty of commerce. If article IV does not carry with it this stipulation, neither article IV nor article II can be admitted.

3. There shall be mutual indemnities, and a mutual restoration of captured property, not yet definitively condemned, according to the fifth and sixth propositions of that date.

The third has appeared to require some explanations. The ministers of France understand:—

1. Indemnities shall be provided for captures made from individuals, and which shall have been condemned at the time of signing the treaty.

2. That the vessels and national ships, respectively taken, shall be restored or paid for.

3. That the captures made from individuals, and not adjudicated at the time of signing the treaty, shall be adjudicated according to the treaty of 1778, correctly interpreted, as may be agreed on.

4. If, at the exchange of ratifications, the United States shall propose a reciprocal abandonment of indemnities, the French republic will agree to this proposition; and, in this case, the ancient treaties shall not be deemed obligatory; except that, under the 17th and 22d articles of the treaty of commerce, the parties shall continue to have, for their vessels of war, privateers, and prizes, in their respective ports, the privileges enjoyed by the most favored nation.

Article IV cannot be admitted, as has already been observed, if it does not offer the same rights to France as to the United States; and if it does not preserve the ancient treaties, with the exception of the privileges, and the stipulation of guaranty.

In order to attain this object, and render the 2d article admissible, the 4th article should be expressed in the following, or some other equivalent terms: "If, at the exchange of ratifications, the United States shall offer to the French republic, or if the French republic shall offer to the United States, the reciprocal abandonment of indemnities, this proposition will be accepted; and, in this case, the engagement of guaranty resulting from the 11th article of the treaty of alliance, and the privileges resulting from articles XI and XXII of the treaty of commerce shall be restricted to the advantages which can be enjoyed by the most favored nation.

J. BONAPARTE,
C. P. CLARET FLEURIEU,
RŒDERER.

SEPTEMBER 13.

The American ministers being now convinced that the door was perfectly closed against all hope of obtaining indemnities, with any modification of the treaties, it only remained to be determined whether, under all circumstances, it would not be expedient to attempt a temporary arrangement which would extricate the United States from the war, or that peculiar state of hostility in which they are at present involved, save the immense property of our citizens now depending before the council of prizes, and secure, as far as possible, our commerce against the abuses of captures during the present war.

After mature deliberation, the American ministers resolved to make the overture contained in the following note, which was sent to the commissioners of the French republic the same day:

PARIS, 13*th September*, 1800.

The Envoys Extraordinary and Ministers Plenipotentiary of the United States of America to the Minister Plenipotentiary of the French republic.

The undersigned had the honor of receiving the note of the French ministers of the 26 Fructidor yesterday.

The discussion of former treaties and of indemnities, being for the present closed, it must, of course, be postponed till it can be resumed with fewer embarrassments.

It remains only to consider the expediency of a temporary arrangement. Should such an arrangement comport with the views of France, the following principles are offered as the basis of it.

1. The ministers plenipotentiary of the respective parties, not being able at present to agree respecting the former treaties and indemnities, the parties will in due and convenient time further treat on those subjects; and, until they shall have agreed respecting the same, the said treaties shall have no operation. In the meantime,

2. The parties shall abstain from all unfriendly acts; their commercial intercourse shall be free, and debts shall be recoverable in the same manner as if no misunderstanding had intervened.

3. Property captured and not yet definitively condemned, or which may be captured before the exchange of ratifications, shall be mutually restored. Proofs of ownership to be specified in the convention.

4. Some provisional regulations shall be made to prevent abuses and disputes that may arise out of future cases of capture.

The ministers of the United States request the honor of an early interview at such time and place as may be convenient to the ministers plenipotentiary of the French republic, and offer them the assurances of their high consideration.

O. ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

SEPTEMBER 19.

A conference was held to day with the French ministers, at the opening of which they delivered the following articles as a kind of counterproject:

PARIS, 2 *Complémentaire, an* 8.

Les ministres de France et ceux des Etats Unis ayant reconnu à la suite de discussions multipliées qu'ils ne pouvaient en ce moment s'accorder sur l'interpretation des articles XI du traité d'alliance, XVII et XXII du traité de commerce de 1778, non plus que sur les indemnités réciproques qui peuvent être dues pour raison des prises faites sur les particuliers des deux nations, sont convenues de ce qui suit:

ART. 1. Les parties remettent à un autre tems la discussion des indemnités, et des trois articles ci-dessus des traités de 1778; lesquels traités sont au reste reconnus et confirmés par les présents, ainsi que la convention consulaire de 1788.

ART. 2. Les vaisseaux des deux nations et leurs corsaires, accompagnés de leur prises, seront traités dans les ports respectifs comme ceux de la nation la plus favorisée.

ART. 3. Les bâtimens d'état seront rendus ou payés.

ART. 4. Les propriétés particulières non encore jugées, le seront d'après le traité d'amitié et de commerce de 1778; en conséquence, il ne sera point exigé de rôle d'équipage, ni aucune autre preuve que ce traité n'exigerait pas.

FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, 2 *Complémentaire, (19th September,) year* 8.

The ministers of France and those of the United States, finding, at the close of numerous discussions, that they cannot agree, at this time, either respecting the interpretation of the 11th article of the treaty of alliance of 1778, and the 17th and 22d articles of the treaty of commerce of the same year, or on the subject of the reciprocal indemnities due in consequence of the captures made from the citizens of the two nations, have agreed as follows:

ARTICLE 1. The two parties defer to another time the discussion of the indemnities, and of the abovementioned articles of the treaties of 1778: in every other particular, these treaties are, by these presents, recognized and confirmed, as well as the consular convention of 1788.

ART. 2. The vessels and the privateers, with their prizes, of the two nations, shall be treated, in their respective ports, as those of the most favored nation.

ART. 3. The public ships shall either be restored or paid for.

ART. 4. The property of individuals, not yet condemned, shall be adjudicated according to the treaty of friendship and commerce of 1778; in consequence of which, no *rôle d'équipage* shall be required, nor any other proof which is not required by that treaty.

C. P. CLARET FLEURIEU,
RŒDERER.

These articles were discussed, with the corresponding articles in the propositions of the American ministers of the 13th of September; and it was agreed to meet from day to day until the business was finished.

SEPTEMBER 24.

The following note was received from the Secretary of the French Legation:

4th COMPLEMENTAIRE, (*Sept.* 21) *year* 8.

Mr. Pichon's compliments to Messrs. Davie and Ellsworth, and sends to them, herewith enclosed, copies of the articles settled. Mr. P. has it in charge from the French ministers to desire the American envoys, if they see no impropriety, to communicate what they intend to propose further on the fourth principle of the note, in order that the French ministers may look to it until the next conference, and that the debates after dinner may be the shorter.

If the American ministers have no objection to this, and they are pleased to forward the articles to Mr. Pichon, he will translate and communicate them to the French ministers, so that time may be spared, and business, as much as possible, forwarded.

SEPTEMBER 22.

The American ministers present their compliments to Mr. Pichon, and readily comply with the proposal in his obliging note of yesterday.

They will bring forward, as details under their fourth proposition, the 21st, 22d, 23d, 24th, 25th, 26th, and 28th articles of their former project, with some variation of the 22d and 23d to adapt them to principles already agreed on. These articles, it is presumed, cannot occupy much time, as they have been so long in the hands of the French ministers, as they are principally drawn from the treaty of '78, and are only varied or enlarged to prevent a repetition of abuses and misunderstandings. It will also be proposed to add to the 24th, the following clause: "Nevertheless, it shall not be required to examine the papers of vessels convoyed by vessels of war, but credence shall be given to the word of the officer who shall conduct the convoy;" principally with a view to check West India privateers, till your Government shall be able to reduce them to obedience.

The American ministers present their compliments to Mr. Pichon, and now send, agreeably to his request, the 23d article of their former project, varied agreeably to the intimation given in their note to him of yesterday. He will have the goodness to present the article to the French ministers for their examination. It accommodates their views to subject enemy goods in free bottoms as soon after the ratifications as papers can be furnished, requisite to prevent great embarrassments. It concedes the principle they desire, while it so regulates the exercise of that principle as to render it less distressing to neutral commerce, and, of course, less injurious to France.

SEPTEMBER 23.

ART. 23. And that captures on light suspicions may be avoided, and injuries thence arising prevented, it is agreed that, when one party shall be engaged in war, and the other party be neuter, the ships of the neutral party, that is, such of them as have already left, or which, prior to the 1st day of May next, may leave, the ports of the nation to which they belong, shall be furnished with passports similar to those described in the article, that it may appear thereby that the ships really belong to the citizens of the neutral party. They shall be valid for any number of voyages, but shall be recalled every year, that is, if the ship should return home within the space of a year. Such ships, being laden, are to be provided not only with passports as abovementioned, but also with certificates similar to those described in the same article, that so it may be known whether they carry any contraband goods. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear, from said certificates, that there are contraband goods on board, the ships shall be permitted to proceed on their voyage: if it shall appear from the certificates that there are contraband goods on board any such ship, and the commander of the same shall offer to deliver them up, he shall, notwithstanding, be at liberty to proceed on his voyage, unless the quantity of the contraband goods shall be greater than can be conveniently received on board the ship of war, or privateer; in which case, the ship may be carried into port for the delivery of the same.

With respect to ships which shall leave the ports of the nation to which they belong after the last day of April next, they shall be furnished with passports as abovementioned, and, if laden, shall be furnished with like certificates as beforementioned, excepting that the certificates shall also express to whom the cargo belongs, and of what nation, state, or Prince the owner is a citizen or subject, that so it may be known if there are contraband or enemy goods on board. No other paper shall be required, any usage or ordinance to the contrary notwithstanding. And if it shall not appear from the last mentioned certificates that there are either contraband or enemy goods on board, the ships shall be permitted to proceed on their voyage: if it shall appear from the certificates that there are contraband or enemy goods on board any such ship, and the commander of the same shall offer to deliver them up, he shall, notwithstanding, be at liberty to proceed on his voyage, unless the quantity of contraband or enemy goods, or of both, be greater than can be conveniently received on board of the ship of war or privateer; in which case, he may be carried into port for the delivery of the same.

If any ship in the predicament first above mentioned shall not be furnished with such passport and certificates as is above required for the same, such case may be examined by a proper judge or tribunal; and, if it shall be found, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, it shall not be confiscated, but shall be released, with her cargo, (contraband goods excepted,) and be permitted to proceed on her voyage. And, if any ship in the second predicament above mentioned shall not be furnished with such passport and certificates as is above required for the same, such case may be examined by a proper judge or tribunal; and, if it shall be found, from other documents or proofs admissible by the usage of nations, that the ship belongs to the citizens of the neutral party, the same shall not be confiscated, but shall be released, with her cargo, (contraband goods and such as shall be found to be enemy goods excepted,) and be permitted to proceed on her voyage.

The business was now conducted by conference, from day to day, until the 30th of September, when the convention was finished, under the title of a "provisional treaty." The French ministers had insisted that the treaty should be signed, under a recognition that the original was in the French language, after the manner of the treaty of '78. As the American ministers refused to acknowledge this as a precedent, or recognize any prerogative with respect to language, the French ministers this evening delivered the following note on that subject:

PARIS, *le* 8 *Vendemiaire, an* 9.

Les ministres de France demandent, rélativement au traité, de trois choses; l'une:

Ou qu'il soit signé uniquement en langue Française, et sans reserve, comme la convention consulaire de la France avec les Etats Unis de 1788, et le traité de la France avec l'Angleterre de 1786;

Ou qu'il soit signé uniquement en langue Française, et qu'un article séparé stipule, comme à la suite du traité de 1783 entre la France et l'Angleterre, "que la langue Française employée dans ce traité ne pourra tirer à conséquence ni préjudicier à l'une ni à l'autre des parties contractantes;"

Ou, enfin, qu'il soit signé en langue Française et en langue Anglaise, avec la reconnaissance exprimée à la fin du traité d'alliance et du traité de commerce de 1778, ainsi qu'il suit: C'en foi de quoi, les plénipotentiaires respectifs ont signés les articles ci-dessus, tant en langue Française qu'en langue Anglaise, déclarant, néanmoins, que le présent traité a été originairement rédigé et arrêté en langue Française.

Les ministres de France ne peuvent s'écarter de l'une ou de l'autre de ces formes, ou d'une equivalente, par où il apparaisse que la négociation a été suivie en Français, et que l'original du traité est en cette langue. Leurs raisons sont péremptoires:

La 1ère. C'est que tel est l'usage entre la France et l'Amérique, entre la France et l'Angleterre, entre la France et plusieurs autres états, même entre l'Amérique et d'autres états que la France.

La 2ème. C'est que le principe n'a rien de contraire à l'égalité des deux nations, et que l'usage d'une langue quelconque dans un traité commun à plusieurs parties est un avantage commun à ces parties, sans être un privilége pour la nation qui parle le plus habituellement cette langue.

Ces deux propositions peuvent avoir besoin de quelque développement.

Sur la première, nous nous bornons à ajouter aux exemples cités des deux traités de 1778, et de la convention consulaire de 1788, passée entre la France et l'Amérique, que les Etats Unis se sont servis de la langue Française, sans réclamation et sans réserve, dans des traités où la France n'etait pour rien. Tel est le traité d'amitié et de commerce fait à Paris entre les Etats Unis et la Suède le 3ème Avril, 1783. Nous nous bornerons à demander pourquoi la langue Française, ayant été la langue originale des traités faits par les Etats Unis avec la France et la Suède, elle cesserait tout-à-coup de l'être?

La deuxième proposition s'établit sur des notions fort simples:

1. Quand deux nations, ainsi que deux particuliers, ont des différends à régler ensemble, il est naturel qu'ils s'expliquent dans une langue commune, tant pour éviter la longueur et l'inexactitude des interpretations, que pour ne pas ajouter à la mésintelligence née de la nature des choses la mésintelligence des mots.

Quand il s'agit de négociations ouvertes entre trois, quatre, ou cinq nations différentes, qui parlent chacune une langue différente, la necessité d'une langue commune est encore plus sensible.

Lorsque l'Europe n'avait pour langue commune que le Latin, les traités se fesaient en Latin; depuis que la langue Française, issue du Latin, est devenue une langue classique, il a été généralement jugé plus commode de l'employer que le Latin, et elle a été substituée au Latin. Alors la langue Française a acquis, si l'on veut, un privilége sur les autres langues, mais non la nation Française; et ce privilége elle l'a acquis aux dépens du Latin, non d'aucune autre langue vivante, non au préjudice des droits d'aucune autre nation. Les nations, en la reconnaissant pour l'héritière de la langue Latine en l'adoptant à la place de celle-ci, n'ont fait que ce qui leur etoit le plus commode, pour l'exposition, la discussion, et l'expression de leurs droits, elles ont consideré et servi leurs droits, au lieu d'y préjudicier.

2. Quand deux ou un plus grand nombre de parties ont négocié entre elles en une langue, il est possible de convenir que le traité sera translaté dans la langue de chacune des parties, et signé par toutes les autres; mais, en ce cas, le bon sens et l'intérêt commun demandent deux choses: la première, qu'un des exemplaires, signé aussi par toutes les parties contractantes, soit reconnu pour l'exemplaire original; et la deuxième, qu'on déclare exemplaire original celui qui est rédigé dans la langue de la négociation.

Il faut disons nous, d'abord, qu'il y ait un exemplaire original; parceque si le tems et l'usage, ce qui est inevitable, (ce qui est arrivé relativement au traité d'amitié et de commerce de 1778) font reconnaître dans les expressions de deux exemplaires en langue différentes des différences d'abord inapperçues, il est nécessaire de recourir à une version commune.

Nous disons, en second lieu, que l'exemplaire auquel doit être attaché le titre d'original est l'examplaire rédigé dans la langue de la négociation, et les raisons en sont évidentes. C'est, 1er, que de fait cet exemplaire est l'original des autres qui a été composé le premier, article par article, dans la langue de la négociation, et à mesure que la négociation a fait des progrès.

2d. C'est qu'en cas de discordance entre une locution insérée dans un exemplaire du traité en la locution d'un autre dans une langue différente, la raison, la justice, disent à tous les contractans de recourir à l'expression convenue et avouée par tout dans la langue de la négociation, puisque ce n'est pour chacun que revenir à l'expression première de sa propre volonté, et au tableau fidel de ses propres intentions. Il faut, donc, regarder toute idée de prérogative nationale comme étrangère à l'adoption de la langue Française pour langue originale du traité. Rien ne sollicite, donc, des ministres Américains une innovation; rien n'autoriserait, donc, les ministres Français à se départir de l'usage.

C. P. CLARET FLEURIEU,
RŒDERER.

[TRANSLATION.]

PARIS, *8th Vendemiaire*, (*29th September*,) *year* 8.

The ministers of France insist, in relation to the treaty, upon one of three things:

Either that the treaty shall be signed in the French language only, without any reservation, the mode pursued by the consular convention of 1788, between France and the United States, and by the treaty of 1786, between France and England;

Or, that it shall be signed in the French language only; and that a separate article (similar to the one at the close of the treaty of 1783, between France and England,) shall stipulate, "That the French language, used in this treaty, shall not constitute a precedent, nor operate to the prejudice of either of the contracting parties;"

Or, finally, that it shall be signed in the French and English languages, accompanied by the following declaration, conforming to the one at the end of the treaty of alliance and the treaty of commerce of 1778: "In faith whereof, the respective plenipotentiaries have signed the above articles, both in the French and English languages; declaring, nevertheless, that the present treaty was originally written and concluded in the French language."

The ministers of France cannot depart from either the one or the other of these forms, or from one by which it will appear, with equal clearness, that the negotiation has been conducted in French, and that the original treaty is in that language. Their reasons are conclusive.

The *first* is, that this has been the usage between France and America, between France and England, between France and many other states, and even between America and other states besides France.

The *second* is, that this usage involves no principle opposed to the equality of the two nations; and that the use of one language, whatever that may be, in a treaty common to several parties, is a mutual advantage, and ought not to be considered as a privilege conferred on the nation to whom the adopted language is most familiar.

These *two* propositions may require a few words in explanation. On the *first*, we will only observe that, in addition to the cited examples of the two treaties of 1778, between France and America, and the consular convention of 1788, the United States have used the French language, without hesitation or objection, in treaties with which France had no concern. The treaty of friendship and commerce between the United States and Sweden, concluded at Paris, the 3d of April, 1783, may be referred to as an instance. May it not be asked, why should the French language be now rejected, after having been adopted as the original in treaties formed by the United States with both France and Sweden?

The *second* proposition is founded upon very obvious considerations.

1st. When two nations or individuals are desirous of terminating differences existing between them, it is natural that they should make their several explanations in a common language, as well for the purpose of avoiding the tediousness and incorrectness of interpretations, as of preventing an increased misunderstanding which might arise from verbal misconstruction.

When public negotiations are carried on between three, four, or five different nations, speaking different languages, the necessity of a common language becomes the more apparent.

Formerly, when Europe had no common language except the Latin, treaties were formed in that language. But since the French, a derivation from the Latin, has become a classical language, it has generally been considered more convenient than the Latin for general use, and has therefore been substituted for the Latin. Hence, the French language has acquired a privilege, if you please, over other languages, but not the French nation. It has acquired this privilege at the expense of the Latin, not of any living language, and still less in prejudice of the rights of any Power whatever. Nations, in acknowledging it as the legitimate successor of the Latin, and in adopting it as their own, have only had recourse to a practice the most convenient to themselves in the exposition, discussion, and expression of their rights; and have thus advanced those rights by yielding up their prejudices.

2d. When two or more parties have been carrying on a negotiation in one language, it is possible to agree that the treaty shall be translated in the language of each of the parties, and signed by all. But, in this case, good sense and common interest require two things: First, that one of the copies, thus signed by all the contracting parties, should be acknowledged as the original: Secondly, that the copy written in the language in which the negotiation was conducted should be regarded as that original.

We say, in the first place, that there must be one original copy. Because, if time and usage should disclose differences of expression, at first unperceived, in the phraseology employed in two copies, written in different lan-

guages, (a circumstance which seems inevitable, and has, indeed, occurred in relation to the treaty of friendship and commerce of 1778,) it will be necessary to have recourse to a common version.

We say, in the second place, that the copy, written in the language in which the negotiation was conducted, is the one to which the title of original should be given. The reasons are evident: First, in point of fact, it is the original, as it respects the rest, having been first composed, article by article, in the language of the negotiation, as the negotiation itself progressed: Secondly, in the event of a discrepancy in expression between two copies of the same treaty, written in different languages, it is the dictate of reason and justice that the contracting parties should have recourse to that expression which was agreed upon and avowed by all, in the language of the negotiation. What is more reasonable than that each should refer to the first expression of his own will, and the faithful signs of his own intentions?

In the adoption, therefore, of the French, as the original language of the treaty, every idea of national prerogative should be discarded, as foreign to the subject. No innovation is urged upon the American ministers, and no consideration can authorize the ministers of France to depart from established usage.

C. P. CLARET FLEURIEU,
RŒDERER.

The American ministers finally, but with great reluctance, agreed to the signing in the form of the treaty of 1778, and it was executed accordingly.

OCTOBER 2.

The French ministers called this morning with the treaties, proposing some alterations, with regard to the style of the French republic, and that the word "provisional" should be stricken out in the name or description of the treaty. The American ministers availed themselves of this opportunity to resume their opposition to the admission in favor of the French language, and consented to the proposed alterations, respecting the style of the French Government, and offered to change the term "provisional treaty" for that of "convention," on the condition that that part of the treaty which respected the French language was stricken out, agreeing, at the same time, that a clause might be inserted, saving the right of both nations; to which the French ministers acceded without any further discussion.

OCTOBER 3.

Six copies being now prepared, as agreed to be amended, they were signed and sealed under the former date of the 30th of September, (9 Vendemiaire;) two copies were retained by the French commissioners, two were left with Mr. Murray, and the other two were taken in charge by Mr. Ellsworth and Mr. Davie.

OLIVER ELLSWORTH,
W. R. DAVIE,
W. V. MURRAY.

PARIS, *October* 4, 1800.

SIR:

The undersigned have the honor to present to you a journal of their proceedings, and a convention in which those proceedings have terminated.

The claim of indemnities brought forward by them was, early in the negotiation, connected by the French ministers with that of a restoration of treaties, for the infractions of which the indemnities were principally claimed. To obviate this embarrassment, which it had not been difficult to foresee, the American ministers urged, in the spirit of their instructions, that those treaties having been violated by one party, and renounced by the other, a priority had attached in favor of the treaty with Great Britain, who had thereby acquired an exclusive right for the introduction of prizes; wherefore, that right could not be restored to France. The argument was pressed, both by notes and in conferences, as long as there remained a hope of its utility, and until there appeared no alternative but to abandon indemnities, or, as a means of saving them, to renew, at least partially, the treaty of commerce. Whether, in fact, it could or could not be renewed consistently with good faith, then became a question for thorough investigation; in the course of which, the following considerations occurred:

1st. It is not a breach of faith to form a treaty with one nation inconsistent with an existing treaty with another; it being well understood that the prior treaty prevails, and has the same operation as if the subsequent one were not formed; nor is it necessary or usual for a subsequent to make an express saving of the rights of a prior treaty, the law of nations having made that saving as complete and effectual as it can be rendered. This rule of construction holds universally, except where the subsequent treaty can have no operation but by violating the first; in which case, it will be taken for an agreement to come to a rupture with the Power with whom the first was formed.

2d. Indeed, by a clause in the twenty-fifth article of the British treaty, it is provided, "that while the parties continue in amity, neither of them will in future make any treaty that shall be inconsistent with that or the preceding article," which articles contain, among other things, the exclusive right of introducing prizes into the ports of each other. If, however, the British be considered in the light of a prior treaty, as it must be to raise a doubt, all its rights, as well those of a restrictive nature as others, would be saved, of course, and none of them would at any time, or in any degree, be affected by the subsequent stipulation. The subsequent stipulation, in the case supposed, although it should give in general terms the right of introducing prizes, would be understood with a limitation, that it was never to extend to a case in which Great Britain should be the enemy.

3d. The instructions to the American ministers authorized a renewal of the seventeenth article of the treaty of commerce, if it should be necessary, though with a special saving for two articles of the British treaty. That special saving, however, cannot be material, as the settled rule of construction would, without it, make a saving still more comprehensive.

4th. The renewal of the seventeenth article of the commercial treaty is not conceived to be within the expression or design of the restraining clause of the British treaty, "not in future to make any treaty that shall be inconsistent with," &c. To recognize a pre-existing treaty which contains a stipulation inconsistent with, &c. is not to make a new or future treaty containing such stipulation. To recognize the former treaties would be only to preserve or restore the state of things existing when the British treaty was formed, and not to introduce a new state of things, which was, doubtless, the event intended to be guarded against. It would be only to do what is usually done in the termination of misunderstandings. We are not to presume, and much less is it expressed, that the United States and Great Britain meant to deprive themselves of the usual means of terminating national contests in which they might be involved. And the facility of terminating misunderstandings, by restoring things to their former condition, is not only so great, but so conformable to justice, and so favorable to general tranquillity, that the law of nations will not favor a construction which goes to deprive a contracting party of the benefit of it.

5th. The language in which pre-existing treaties are usually recognized at the close of a war does not import that the treaties have in fact ceased to exist, but rather that the causes which suspended their operation have ceased. And in various instances such treaties are counted upon as becoming again operative, without any express provision to render them so.

6th. Nor is it conceived, that the treaties between the United States and France have undergone a more nullying operation than the condition of war necessarily imposes. Doubtless, the congressional act, authorizing the reduction of French cruisers by force, was an authorization of war, limited, indeed, in its extent, but not in its nature. Clearly, also, their subsequent act, declaring that the treaties had ceased to be obligatory, however proper it might be for the removal of doubts, was but declaratory of the actual state of things; and certainly it was only from an exercise of the constitutional prerogative of declaring war that either of them derived validity. So that the

treaties in question, having had only the usual inoperation, might, without a breach of faith, have the usual recognition.

7th. As far as the opinion of Great Britain goes, there would be no difficulty in recognizing a treaty, which gives to France an exclusive right to introduce prizes into the ports of the United States; because she, by a project of a treaty of peace, drawn up at her own court in 1792, and offered by Lord Malmesbury to the French plenipotentiaries, proposed to give to France such exclusive right in the British ports; that is, the project renewed the treaties of Paris of 1763, and of 1783, both of which renewed the commercial treaty of Utrecht of 1713, which contained such a stipulation.

The foregoing considerations induced the undersigned to be unanimously of the opinion that any part of the former treaties might be renewed consistently with good faith.

They then offered a renewal, with limitations of the seventeeth article of the commercial treaty, which, without compromitting the interests of the United States, would have given to France what her ministers had particularly insisted on, as essential to her honor, and what they had given reason to expect would be deemed satisfactory. The overture, however, finally produced no other effect than to enlarge the demand of the French ministers, from a partial to a total renewal of the treaties; which brought the negotiation a second time to a stand.

The American ministers, however, after a deliberation of some days, the progress of events in Europe continuing in the meantime to grow more unfavorable to their success, made an ulterior advance, going the whole length of what had been last insisted on. They offered an unlimited recognition of the former treaties, though accompanied with a provision to extinguish such privileges claimed under them as were detrimental to the United States, by a pecuniary equivalent, to be made out of the indemnities which should be awarded to American citizens. A compensation, which, though it might have cancelled but a small portion of the indemnities, was, nevertheless, a liberal one for privileges, which the French ministers had often admitted to be of little use to France, under the construction which the American Government had given to the treaties.

This offer, though it covered the avowed objects of the French Government, secured an engagement to pay indemnities, as well as the power to extinguish the obnoxious parts of the treaties. To avoid any engagement of this kind, the French ministers now made an entire departure from the principles upon which the negotiation had proceeded for some time, and resumed the simple unqualified ground of their overture of the 23d Thermidor, declaring that it was indispensable to the granting of indemnities, not only that the treaties should have an unqualified recognition, but that their future operation should not be varied in any particular, for any consideration or compensation whatever. In short, they thought proper to add, what was quite unnecessary, that their *real object was to avoid* indemnities, and that it was not in the power of France to pay them.

No time was requisite for the American ministers to intimate that it had become useless to pursue the negotiation any further.

It accorded as little with their views as with their instructions, to subject their country perpetually to the mischievous effects of those treaties, in order to obtain a promise of indemnity at a remote period—a promise which might as easily prove delusive as it would reluctantly be made; especially, as under the guaranty of the treaty of alliance, the United States might be immediately called upon for succors, which, if not furnished, would of itself be a sufficient pretext to render abortive the hope of indemnity.

It only remained for the undersigned to quit France, leaving the United States involved in a contest, and, according to appearances, soon alone in a contest, which it might be as difficult for them to relinquish with honor as to pursue with a prospect of advantage; or else to propose a temporary arrangement, reserving for a definitive adjustment points which could not then be satisfactorily settled, and providing in the meantime against a state of things of which neither party could profit. They elected the latter, and the result has been the signature of a convention.

Of property not yet definitively condemned, which the fourth article respects, there are more than forty ships and cargoes, and a number of them of great value, at present pending for decision before the council of prizes; and many others are doubtless in a condition to be brought there, if the claimants shall think fit.

Guards against future abuses are perhaps as well provided as they can be by stipulations.

The article respecting convoys may be of use in the West Indies, till it shall be more in the power of the French Government than it is at present to reduce the corsairs in that quarter to obedience.

As to the article which places French privateers and prizes on the footing of those of the most favored nations, it was inserted as drawn by the French ministers, without any discussion of the extent of its operation; the American ministers having, in former stages of the negotiation, repeatedly and uniformly declared, agreeably to the rule of construction settled by the law of nations, that no stipulation of that kind could have effect as against the British treaty, unless the stipulation were derived from the former treaties, which it is here expressly agreed shall have no operation whatever. This article, however, is less consequential, as it will soon be in the power of the United States, and doubtless also within their wisdom, to refuse to the privateers and prizes of any nation an asylum beyond what the rights of humanity require.

If, with the simple plea of right, unaccompanied with the menaces of power, and unaided by events either in Europe or America, less is at present obtained than justice requires, or than the policy of France should have granted, the undersigned trust that the sincerity and patience of their efforts to obtain all that their country had a right to demand will not be drawn in question.

We have the honor to be, sir, with high respect, your most obedient,

OLIVER ELLSWORTH,
WILLIAM R. DAVIE,
WILLIAM V. MURRAY.

The Hon. JOHN MARSHALL, Esq. *Secretary of State.*

Mr. King to the Secretary of State.

LONDON, *October* 31, 1800.

SIR:

The convention with France, having been published at Paris, immediately found its way into the English newspapers, in which it appeared the day after Mr. Ellsworth's arrival in London; its authenticity being confirmed by him, it became my duty to endeavor, with as much diligence and as extensively as was in my power, to communicate such sentiments and opinions respecting it as would be likely to procure to it a favorable consideration.

After conversing with the Lord Chancellor and some others of the ministers, I found an occasion to mention the subject to the King; and though this was not altogether regular, I had no reason to be dissatisfied with having done so.

After waiting several days, during which I might see and converse with the persons about the court, I yesterday asked a conference with Lord Grenville, which took place this morning. The conversation began by my observing that I wished to speak with him respecting our reconciliation with France, in order that I might communicate to my Government, which would be desirous to understand the light in which it was considered by the British Government. This beginning led to a free and apparently candid conversation respecting it, which was followed by Lord Grenville saying to me that he saw nothing in the convention inconsistent with the treaty between them and us, or which afforded them any ground of complaint; nor did he perceive in it any thing that might not have been expected, unless it was the article respecting convoys, which we were certainly free to make, but which, nevertheless, just at the present juncture, had somewhat of a less friendly appearance than might have been wished. I expressed my satisfaction that I had not been mistaken in believing that the British Government would find nothing to object to in the convention; and remarked, that the article of free bottoms having made a part of the old treaty, it was natural enough that it should be inserted in the new one, and that the provision respecting convoys seemed to be no more than a convenient consequence of that article, by which the visit of the belligerent is not only restrained in its ob-

ject, but placed under special regulations as to the manner in which it shall be made; and, moreover, that convoys would be indispensable, to protect our trade against French corsairs in the West Indies, which could not at present be controlled by France. Lord Grenville had not manifested any marks of disappointment or discontent concerning the convention; showed no inclination to controvert what I had just said; contenting himself by repeating (but without seeming to place much importance upon the observation,) what he had before said, with regard to their misunderstanding with the northern Powers. The subject of convoys being before us, I thought the occasion not an unfavorable one concisely to suggest certain reflections which had passed in my mind concerning it, and which are the foundation of the observations contained in my No. 80. After some general remarks respecting the rights of neutrals and belligerents, I observed that it seemed to me practicable to devise regulations, by which the trade of neutrals might be secured by convoys, without affecting injuriously the right of search. It might, for example, be stipulated that no ship should be entitled to sail under convoy which should not possess a certificate, in an agreed form, attesting her neutrality, and the neutrality and innocence of her cargo; the consuls or other agents of the belligerent, residing in the neutral countries, might assist in taking the proofs upon which such certificate should be granted; and it might, moreover, be settled that the visit of the belligerent should be confined to the convoying ship, the commander of which, on exhibiting the certificates of the ships under his convoy, should, with them, be entitled to proceed unmolested. Other regulations might be devised, for places where the agents of the belligerent could not, on account of the war, assist in receiving the proofs of neutrality.

Lord Grenville, without hesitation, admitted the fairness of the project, adding that it would be indifferent to them, as belligerents, whether the examination was made by their agents, before the sailing of the neutral ship, or, upon the ocean, by their naval officers.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

"SIR: "LONDON, *November* 22, 1800.

"Upon the probability of the conclusion of peace, well informed persons continue to differ extremely in their opinions. Austria will make peace if she can make a good bargain, which, as in former wars, she may probably be able to do. England (I mean the Government) desires to make peace with Bonaparte; and, from the language made use of by the English ministers, one would almost be led to think that she is now willing to countenance and support the First Consul upon the very principles which have induced her to oppose those who hitherto have been at the head of the affairs of France.

"Whatever may have been the temper or inclination of this Government, in a different posture of its affairs, and before the convention with France was published, its sentiments in respect to that instrument, and the distinguished manner in which Mr. Ellsworth has been received by the court, have a tendency to show that at present it has no animosity nor unusual prejudice against us; on the contrary, those who disseminate its opinions encourage the people to bear their distresses, arising from the dearness of bread, by holding forth to them the abundant harvest of America, and the prospect of a great supply from thence."

The Senate, having considered the aforegoing convention with France, adopted the following resolution:

IN SENATE, U. S. *February* 3, 1801.

Resolved, By the Senate of the United States, (two-thirds of the Senators present concurring therein,) that they do consent to and advise the ratification of the convention between the French republic and the United States of America, made at Paris, the 8th day of Vendemiaire, of the 9th year of the French republic; (the 30th day of September, Anno Domini 1800:) *Provided*, The second article be expunged, and the following article added or inserted:

It is agreed that the present convention shall be in force for the term of eight years from the exchange of the ratifications.

The following message was thereupon transmitted to the Senate:

UNITED STATES, *March* 2, 1801.

Gentlemen of the Senate:

I have considered the advice and conduct of the Senate to the ratification of the convention with France under certain conditions. Although it would have been more conformable to my own judgment and inclination to have agreed to that instrument unconditionally, yet, in this point, I found I had the misfortune to differ in opinion from so high a constitutional authority as the Senate. I judged it more consistent with the honor and interest of the United States to ratify it under the conditions prescribed than not at all. I accordingly nominated Mr. Bayard, minister plenipotentiary to the French republic, that he might proceed without delay to Paris, to negotiate the exchange of ratifications. But, as that gentleman has declined his appointment, for reasons equally applicable to every other person suitable for the service, I shall take no further measures relative to this business, and leave the convention, with all the documents, in the office of State, that my successor may proceed with them according to his wisdom.

JOHN ADAMS.

The ratification of the convention which was made by the French Government is contained in the following translation:

Bonaparte, First Consul, in the name of the French people: The Consul of the republic having seen and examined the convention concluded, agreed to, and signed at Paris, the 8th Vendemiaire, ninth year of the French republic, (30th September, 1800,) by the citizens Joseph Bonaparte, Fleurieu, and Rœderer, counsellors of state, in virtue of the full powers which have been given to them to this effect, with Messieurs Ellsworth, Davie, and Murray, ministers plenipotentiary of the United States, equally furnished with full powers, the tenor of which convention follows:

Approves the above convention in all and each of the articles which are therein contained; declares that it is accepted, ratified, and confirmed; and promises that it shall be inviolably observed.

The Government of the United States, having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French republic consents to accept, ratify, and confirm the above convention, with the addition importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: Provided, that by this retrenchment the two states renounce the respective pretensions which are the object of the said article.

In faith whereof, these presents are given. Signed, countersigned, and sealed with the great seal of the republic, at Paris, the twelfth Thermidor, ninth year of the republic, (31st July, 1801.)

BONAPARTE.

The Minister of Exterior Relations,

CH. MAU. TALLEYRAND.

By the First Consul:

The Secretary of State,

HUGUES B. MARET.

The following message of the President and resolution of the Senate terminate the proceedings upon the convention:

DECEMBER 11, 1801.

Gentlemen of the Senate:

Early in the last month I received the ratification, by the First Consul of France, of the convention between the United States and that nation. His ratification not being pure and simple, in the ordinary form, I have thought it my duty, in order to avoid all misconception, to ask a second advice and consent of the Senate before I give it the last sanction, by proclaiming it to be a law of the land.

TH: JEFFERSON.

IN SENATE OF THE U. S. *December* 19, 1801.

Resolved, That the Senate (two-thirds of the members present concurring therein) consider the convention between the United States and the French republic as fully ratified.

6th CONGRESS.] **No. 164.** [2d SESSION.

GREAT BRITAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, FEBRUARY 27, 1801.

UNITED STATES, *February* 27, 1801.

Gentlemen of the House of Representatives:

I transmit you a report of the Secretary of State, with sundry documents relative to the subject of your resolution of the twenty-fourth instant.

JOHN ADAMS.

DEPARTMENT OF STATE, *February* 27, 1801.

SIR:

The order of the House of Representatives of the 24th of this month, requesting an account of the depredations committed on the commerce of the United States by vessels of Great Britain, of which complaint has been made to the Government, having been referred to this department, I have the honor to transmit herewith an abstract of such cases as have been complained of since the commencement of the year 1800.

The order of the House having fixed no period at which the account it requests is to commence, I have, from a consideration of the short space for which the present session can continue, thought it compatible with their view to limit the abstract to the time above mentioned.

From various reasons, it is to be presumed that many captures have been made, of which no complaint has been forwarded to the Government. Under this impression, and for the purpose of giving a comprehensive view of the subject, I have thought it not improper to annex to the abstract several extracts of letters from our consuls, and also an extract of a letter from the President of the Chamber of Commerce at Philadelphia to the Secretary of the Navy.

I will also take the liberty to observe, that neither the communications from our minister at London, nor my conversations with the chargé d'affaires of His Britannic Majesty in the United States, would lead to an opinion that any additional orders have been lately given by the British Government, authorizing the system of depredation alluded to in the letter from Mr. Fitzsimmons.

I am, sir, &c.

J. MARSHALL.

The PRESIDENT *of the United States.*

DEPARTMENT OF STATE, *February* 27, 1801.

SIR:

In my report of this day to the President, on the subject of British captures, and which he will have transmitted to Congress, it was accidentally omitted to insert the case of the brigantine Ruby, Captain Wrigley, belonging to Mr. Ambrose Vasse, of Philadelphia. This vessel, proceeding for Port-au-Prince, with a cargo consisting of American produce and some German goods, was lately captured by the British ship of war Tisiphone, and carried to Jamaica, where, the owner informs me, both vessel and cargo were condemned as enemy's property.

I therefore request that the House will consider this letter as an appendage to my report above alluded to.

I have the honor to be, &c.

J. MARSHALL.

The Honorable the SPEAKER *of the House of Representatives.*

Abstract of the cases of capture of American vessels by British cruisers, of which complaint has been made to the Government of the United States since the 1*st of January*, 1800.

Ship Gadsen, of Charleston, owned by Frederick Kohn, from Newport to Port Passage; cargo, Carolina tobacco, rice, sugar, and bees-wax, Spanish tobacco, indigo, cocoa, and hides; taken September 9, 1799, by the British sloop of war Pheasant; carried into Halifax; ship and most of the cargo condemned. The reason of condemnation is said by the owner to be because part of the cargo, having been brought from the Spanish colonies, was not landed in America.

Ship Genet, of Boston, owned by Nathaniel Fellows, from Amsterdam to Boston; cargo, gin and iron; taken May 14, 1799, by the British ship of war Director; carried into Yarmouth, (England;) ship, cargo, and private adventure condemned. She was coming out of the Texel when blockaded.

Brigantine Polly, of Philadelphia, owned by John L. Clark, from Amsterdam to Philadelphia; cargo, sundries; taken May 14, 1799, by a blockading squadron off the Texel; carried into Yarmouth, (England;) supposed to have been condemned. She was coming out of the Texel, when blockaded.

Schooner Susanna, of Baltimore, owned by Jonathan Harrison; from Baltimore to Havanna, taken September 29, 1799, by the British ship of war Arab. Sunk by the officers of the Arab chasing her.

Schooner Diana, of Free Town, charterers Gibbs and Channing, Newport, from Newport to Havanna; cargo provisions; taken August 3, 1800, by the Cleopatra frigate: carried into Halifax.

Cutter Crocodile, of New York, owned by Scott and Seamen, from Curaçoa to New York, taken April 5, 1800, by the ship of war Amiable; carried into Kingston, (Jam.;) part of the cargo was Dutch, the remainder American property. The captors, immediately on the capture, made a privateer of the Crocodile, and sent her on a cruise.

Ship Charlotte, of New York, owned by Henry A. and John G. Castor, from New York to Amsterdam; cargo, sugar, coffee, &c.; taken April, 1800, by the Cleopatra frigate; carried into Halifax: vessel and cargo condemned.

Brigantine Sally, of Philadelphia, owned by Stephen Girard, from Batavia to Philadelphia; cargo, sugar and coffee; taken July 20, 1800, by the Cleopatra frigate; carried into Halifax: vessel and cargo condemned. The condemnation appears to be grounded upon the allegation that the owner is a native of France, carrying on a course of trade to a French colony.

N. B. Mr. Girard was naturalized a citizen of Pennsylvania in the year 1777, and has ever since resided in the United States.

Brigantine Ruby, of Philadelphia, owned by Chandler Price, from Philadelphia to New Orleans; cargo, English and German dry goods and groceries; taken December, 1800, by the privateer Brothers, of New Providence.

Schooner George, of Baltimore, owned by William Patterson, from Baltimore to Curaçoa; cargo, gin, flour, linens, &c. &c.; taken October 7, 1800, by order of Commodore Watkins, of Curaçoa, in and at Curaçoa; detained under pretext of ticklenburghs and osnaburghs being contraband.

Maria, of Baltimore, owned by James Biays; in October, 1800, put in requisition at Curaçoa, and sent to Jamaica by the British.

Sloop Little Charlotte, of Bristol, Rhode Island, owned by Charles D'Wolfe, from Bristol to Leghorn; cargo, sugar; taken August 2, 1800, by the privateer Earl of Dublin, of Halifax; vessel and cargo condemned.

Schooner Aurora, owned by R. Johnson & Co. of New York, taken by a privateer of New Providence; cargo condemned, because part of it consisted of tin plates, as stated by the owners.

Ship Elizabeth, owned by J. Codman, of Boston; she appears to have been captured from having broken the law prohibiting the intercourse with France.

Brig Sea Nymph, of Philadelphia, owned by Louis A. Tarrascon, from Philadelphia to St. Andero; cargo, coffee, specie, &c.; taken by a British letter of marque; carried into Lisbon: acquitted after considerable detention.

Brig Gracy, of Baltimore, owned by Rogers and Owings, from Trinidad in Cuba to Baltimore; cargo, sugar, honey, and hides; taken January 6, 1801, by the frigate Retaliation, of Jamaica: vessel and cargo condemned.

Schooner Rover, of Baltimore, owned by Rogers and Owings, from Baltimore to St. Jago, Cuba; cargo, flour, wines, and dry goods; taken by a French royalist privateer, of Jamaica: condemned.

Extract of a letter from William Savage, agent of the United States at Kingston, Jamaica, dated June 5, 1800, to the Secretary of State.

"A number of American seamen in distress have lately been landed from prizes and ships of war, who have been relieved by me, as all American vessels met with, either going to or coming from Curaçoa, Hispaniola, or South America, are brought in here for adjudication; and, in all cases of acquittal the captors appeal, which, I understand, prevents any action being commenced for damages.

"I am, &c."

Extract of a letter from John Gavino, Consul of the United States at Gibraltar, dated November 19, 1800, to the Secretary of State.

"The Venus of New York, Fairchild, from Naples for Malaga, was immediately liberated.

"The Susanna, Spencer, of Charleston, South Carolina, with a cargo of sugar, from said port to Cadiz, brought from Lisbon, where she had been detained upwards of four months for a breach of blockade, attempting to enter Cadiz after warning by Lamouach privateer, Blair, commander, who next day took her. She, prior to Lamouach's first boarding her, was examined by another English privateer, who said nothing of the blockade to Spencer; so that he continued for the port to inquire of the ships of war, having doubts of the veracity of Blair's intimation. She was tried here whilst at Lisbon, without even the captain being present. I claimed ship and cargo as consul, and protested the proceedings. She is since arrived here and condemned ship and cargo, without any further trial, or giving Spencer a hearing, so that he has protested the proceeding, and will appeal.

"The other is the Sea Nymph, Philadelphia, McKiver, who has also been four months at Lisbon, captured by a letter of marque, the Berrill, Captain Toob, from said port of Philadelphia, with coffee, spices, &c., for St. Andero, pretends it to be French property, as that Mr. Tarrascon, the owner, had not resided long enough in the United States to be a citizen thereof; nor Mr. Ferulah, the supercargo, who went from Lisbon to England on account of the long detention there; he has his certificate of citizenship along with him as I am informed. She is libelled for trial.

"I have the honor to be, &c."

Extract of a letter from John Gavino, Consul of the United States at Gibraltar, dated December 14, 1800, to the Secretary of State.

"The trial of the Sea Nymph, McKiver, came on the 3d instant, when ship and cargo was liberated by a decree of the Vice Admiralty court; and as damages could not then be ascertained, they are reserved; but I do not as yet find out if the captors mean to appeal."

LISBON, *June* 27, 1800.

SIR:

I am extremely sorry to inform you of the capture of the five following vessels, by the British, arrived in this port.

The brig Peacock, David Crafts, master, loaded with one hundred butts of Sherry wine, bound from Cadiz to London, with clearance for Altona: the vessel and cargo the sole property of Ebenezer Parsons, of Boston; captured by the Ruse privateer of Guernsey, Paul Bienvenu, master.

The brig King Solomon, James Hewett, master, laden with butter, cheese, and iron hoops, bound from Amsterdam to Cadiz. The brig, the property of Benjamin Hill, of Newport, Rhode Island; the cargo, Hamburg account: captured by the lugger Flying Fish, of Jersey, John Le Rouer, master.

The brig Susannah, J. V. Spencer, master, laden with sugar, bound from Charleston, South Carolina, to Cadiz: the brig and cargo the sole property of Blacklock and Bower, and William Milligan, of Charleston; captured by the Ruse privateer of Guernsey, Paul Bienvenu, master, and La Bouch privateer, of Gibraltar, owned by Jews in Lisbon.

The brig Hind, Daniel Ropes, Jun., master, laden with sugar, cocoa, and fish, bound from Salem to Cadiz; the brig and cargo the sole property of Joseph White and William Orne, of Salem; captured by His Britannic Majesty's frigate Anson, P. C. Durham, commander.

The brig Sea Nymph, James McKiver, master, laden with coffee, pimento, cloves, cotton, dye-wood, &c. bound from Philadelphia to St. Sebastian's; the brig and cargo the property of Lewis A. Tarrascon, of Philadelphia; captured by the armed ship Bauvel, John Toole, master.

The four first captures are made under the idea of Cadiz being a blockaded port; and, as the abovementioned privateers have positive instructions from their owners to capture all vessels going to or coming from Cadiz, and are cruising off that port, I expect this port will soon be filled with neutrals, and, among them, numbers of our mer-

chantmen. I have written Colonel Humphreys to warn our captains at Cadiz, and caution them against coming out of that port for the present.

The last was captured on suspicion of being French property, as the owner's is a French name, and the supercargo on board, Mr. John Augustine Victor Borrouill, also a French name; but having proved to the captors that the property is *bona fide* American, from the register of the brig and your certificate of citizenship to Mr. Borrouill, they now pretend to detain her on the letter of instruction from the owner to the supercargo, which the captors refuse showing me, saying they will try her under our own laws. These vessels are sent in here under pretence of benefit of convoy to England and Gibraltar; but I understand it is the intention of one of the captors to detain the vessel here and forward the papers on to Gibraltar: which of them it is, my next will inform you.

I have written our consul in London for every judicial information he can furnish me with, and whether it is the opinion of Sir John Nichols and Sir William Scott that Cadiz ought to be considered as blockaded, the trade having been carried on unmolested for upwards of twelve months, and His Majesty's ships on that station boarding and suffering vessels continually to enter and come out.

I have the honor to be, &c.

THOMAS BULKLEY.

To TIMOTHY PICKERING, Esq. *Secretary of State.*

Extract of a letter from Thomas Fitzsimmons, Esq., Chairman of the Chamber of Commerce, to the Secretary of the Navy, dated

PHILADELPHIA, *February* 17, 1801.

"By the public prints you will have seen that a great number of American vessels, bound to and from the Spanish ports in Cuba and on the Main, have been captured by British cruisers. The depredations have so multiplied, that, without a change in their system, or some protection from our own Government, the trade to those places must be entirely abandoned, though forming a very considerable branch of our trade. Premiums of insurance to the Havanna have within a few days advanced from ten to thirty per cent.; and such is the particular situation of those countries, in relation to the British possession, that not one in ten vessels can escape; from New Providence alone, there are above forty privateers, who subsist principally by the plunder of the Americans. The practice is, whenever they are met with, to send them into port; if there are found on board any goods, the produce or manufacture of any countries at war with Great Britain, they are condemned; as is bar-iron, nails, tin, paints, linseed oil, and any strong linens, which are contraband; if the property is found to belong to any persons who are not native Americans, it is either condemned or held under an interlocutory decree, till proofs can be obtained of the citizenship of the owner; and, in every instance, the detention and expenses are so great as to reduce the property, for which no pretence for condemnation can be made, so much as hardly to leave it worth pursuing; these practices are the more mortifying, as they either themselves ship the goods of which they plunder the Americans to the countries to which they do not permit us to carry them, or suffer the people of those countries to come to them and purchase them.

"The proceedings at Jamaica are even more ruinous than at Providence: when they cannot procure a condemnation there, they invariably appeal from the sentence; and, as the Americans can in no other way obtain security than by putting their property in the possession of people there, the whole is swallowed up by commission and charges.

"These enormities are become so great, that the merchants are preparing lists of the captures, and the circumstances attending them, to be laid before the Government; but as any redress through that channel must be distant, they take the liberty of suggesting the propriety of granting them stated convoys for that trade. The passage to and from Havanna is so short, that a few national ships might effectually guard it, except the British should disregard the protection of our flag, which we do not suppose will happen; in any event, our merchants may be protected from privateers, and it is from those principally that we suffer.

"It is wished that a convoy should sail on the first Monday in every month, from Hampton Road, to which place all the vessels from ports to the eastward of that place might rendezvous. Vessels belonging to native citizens, or loaded with native commodities, need not this protection; but the abatement in the premium in all others will oblige them to take advantage of it.

"If the first was provided to sail early in March, there would be several vessels here ready to avail themselves of it; and probably others at New York and Baltimore. As a measure of this kind may involve consequences of national importance, I do not feel myself at liberty to urge it further than that you would be pleased to lay it before the President. I can add, with confidence, that, without some protection of this kind, the merchants of the United States must entirely suspend their trade to those countries, or be ruined in attempting to continue it, although it has been among the most valuable branches of commerce."

7th CONGRESS.] No. 165. [1st SESSION.

BARBARY POWERS.

COMMUNICATED DECEMBER 8, AND DECEMBER 22, 1801.

[The following documents accompanied the message of December 8, 1801, at the opening of the session, and were transmitted by the message of December 22.]

Extract of a letter from the Secretary of State to William Eaton, Esq. Consul of the United States at Tunis, dated

"DEPARTMENT OF STATE, WASHINGTON, *May* 20, 1801.

"The proofs which have been given by the Bashaw of Tripoli of hostile designs against the United States have, as you will learn from Commodore Dale, determined the President to send into the Mediterranean a squadron of three frigates and a sloop of war, under the command of that officer. Should war have been declared, or hostilities commenced, this force will be immediately employed in the defence and protection of our commerce against the piracies of that regency. It is hoped that the contagion will not have spread either to Tunis or Algiers; but, should one or both of them have followed the perfidious example, their corsairs will be equally repelled and punished.

"The policy of exhibiting a naval force on the coast of Barbary has long been urged by yourself and the other consuls. The present moment is peculiarly favorable for the experiment, not only as it is a provision against an immediate danger, but as we are now at peace and amity with all the rest of the world, and as the force employed would, if at home, be at nearly the same expense, with less advantage to our mariners. The President has, therefore, every reason to expect the utmost exertions of your prudence and address, in giving the measure an impression most advantageous to the character and interest of the United States. In effecting this object, the means must be left, in a great degree, to your knowledge of the local and other circumstances, which cannot be understood at this distance. You will, of course, take due pains to satisfy the Bey, that the United States are desirous of maintaining

peace with all nations who are willing to live in peace; that they have given abundant evidence of their disposition to cultivate the friendship of the Barbary regencies, and of himself in particular; and that, if the flag of the United States should be engaged in war with either of them, it will be a war of defence and necessity, not of choice or provocation. You will also give every friendly explanation and assurance, on this occasion, which may be requisite for the consuls and agents of other Powers residing at Tunis.

"You are authorized to inform the Bey of Tunis that a vessel is now preparing to take in the cargo which will complete the regalia due to him, and that no time will be lost in getting her on her voyage."

Note.—The same was written to Mr. O'Brien, except the last paragraph, with the following addition:

"You will, of course, take due pains to satisfy the Dey that the United States are desirous of maintaining peace with all nations who are willing to live in peace; that they have given abundant evidence of their disposition to cultivate the friendship of the Barbary regencies, and of himself in particular; that they expect from his good faith an efficacious interposition, according to our treaty with him, for guarantying the treaty with the Bashaw of Tripoli.

"The United States, it appears, will, before you receive this, be three years in arrears to the Dey. Towards making up the deficiency, the "George Washington" is under active preparation to carry timber and other stores, for at least one annuity. Commodore Dale is charged with thirty thousand dollars, which the President hopes the Dey may have been induced to accept as a commutation for the stores due for another. He has also in charge four hundred yards of cloth and thirty pieces of linen for the biennial present. Should you not have prevailed on the Dey, and should find it still impossible to prevail on him to accept the thirty thousand dollars in lieu of the stores, without the application of four, five, or six thousand dollars, you will be supplied with that sum; and the sum of thirty thousand dollars will then be made up out of other moneys in the commodore's hands. Should there be no possibility of inducing the Dey to the measure, even with this aid, the whole sum of thirty thousand dollars is to be retained by the commodore. The balance for the remaining, or third year, will be sent as soon as it can be done, either in stores or money, as may be agreed. You are already aware how much both the conveniency and interest of the United States will be promoted by substituting money for stores, rating the latter at thirty thousand dollars, as a permanent regulation, and will take due pains to bring about such a change. You may find it, perhaps, an argument of some weight with the Dey for preferring money to stores, that the former can always be remitted with more punctuality, and that, in times of war, such of the latter as are held to be contraband by the European law of nations, may be exposed to captures by which he must be affected as well as the United States. In case you should succeed in the pecuniary commutation proposed, it will be proper, in defining the sum of thirty thousand dollars, to refer to some standard of weight and fineness in the metal, that will secure the United States against arbitrary regulations of the Dey, and quiet his jealousy, if he should have any, of imposition on the part of the United States. The Spanish dollars now in circulation may, for example, answer this purpose.

"The pretensions set up against the United States, in the case of the ship Fortune, for indemnification to the owners of the merchandise with which she was laden, show the disadvantage of employing our vessels in the freight of Algerine property. You will, therefore, as far as you can, discourage that branch of trade; and, as far as it cannot be done, will take care to repress all expectation or claim whatsoever, to throw on the United States the losses by capture under their flags.

"One subject of equal importance and delicacy still remains. The sending to Constantinople the national ship of war the "George Washington," by force, under the Algerine flag, and for such a purpose, has deeply affected the sensibility, not only of the President, but of the people of the United States. Whatever temporary effects it may have had favorable to our interests, the indignity is of so serious a nature, that it is not impossible that it may be deemed necessary, on a fit occasion, to revive the subject. Viewing it in this light, the President wishes that nothing may be said or done by you that may unnecessarily preclude the competent authority from animadverting on that transaction in any way that a vindication of the national honor may be thought to prescribe."

Extract of a letter from the Secretary of State to James L. Cathcart, Esq. Consul at Tripoli, dated

"DEPARTMENT OF STATE, WASHINGTON, *May* 21, 1801.

"The threat of hostilities against the trade of the United States by the Bashaw, certified in your communications as issuing immediately from the Bashaw himself, in a translation of his letter of 25th May last, certified by his interpreter, Farfara, has determined the President to send into the Mediterranean a squadron of three frigates and a sloop of war, under Commodore Dale, by whom this is written. You will also receive from him a letter to the Bashaw from the President.

"Should war have been declared, or hostilities commenced, before the arrival of this squadron, it will be immediately employed in the defence and protection of our commerce against the piratical attacks of the Bashaw's corsairs. Should war have been neither declared nor commenced, it is expected by the President that you will exert all your prudence and address in rendering the appearance of the squadron and the letter from the President subservient to the preservation of peace, and to such impressions on the Bashaw as will be most favorable to the dignity and interests of the United States. The President relies the more on the zeal and success of these exertions, as the policy of exhibiting a naval force on the coast of Barbary has long been urged by you and the other consuls. To aid your exertions on this occasion, you will be supplied by Commodore Dale with a sum, if necessary, which will be communicated by him. In a letter which I have written, by the present opportunity, to Mr. O'Brien, he is instructed to cultivate the good will of the Dey of Algiers, and to call on him for his stipulated interposition as guarantee of the treaty between the United States and the Bashaw. You will not fail to make the best use you can of the interposition, if it be afforded."

THOMAS JEFFERSON, *President of the United States of America, to the illustrious and honored Bey of Tripoli of Barbary, whom God preserve.*

GREAT AND RESPECTED FRIEND:

The assurances of friendship which our consul has given you, and of our sincere desire to cultivate peace and commerce with your subjects, are faithful expressions of our dispositions; and you will continue to find proofs of them in all those acts of respect and friendly intercourse which are due between nations standing, as we do, in the relations of peace and amity with each other.

At the conclusion of our treaty with you, we endeavored to prove our respect for yourself, and satisfaction at that event, by such demonstrations as gave you then entire content: and we are disposed to believe that, in rendering into another language those expressions in your letter of the 25th of May last, which seem to imply purposes inconsistent with the faith of that transaction, your intentions have been misconstrued. On this supposition, we renew to you sincerely assurances of our constant friendship, and that our desire to cultivate peace and commerce with you remains firm and unabated.

We have found it expedient to detach a squadron of observation into the Mediterranean sea, to superintend the safety of our commerce there, and to exercise our seamen in nautical duties. We recommend them to your hospitality and good offices, should occasion require their resorting to your harbors. We hope their appearance will give umbrage to no Power: for, while we mean to rest the safety of our commerce on the resources of our own strength and bravery in every sea, we have yet given to this squadron in strict command to conduct themselves

towards all friendly Powers with the most perfect respect and good order; it being the first object of our solicitude to cherish peace and friendship with all nations with whom it can be held on terms of equality and reciprocity.

I pray God, very great and respected friend, to have you always in his holy keeping.

Written at the city of Washington, the twenty-first day of May, in the year of our Lord one thousand eight hundred and one.

TH: JEFFERSON.

By the President:
JAMES MADISON, *Secretary of State.*

Form of a letter which Commodore Dale was directed to write to the Dey of Algiers and the Bey of Tunis.

MAY IT PLEASE YOUR EXCELLENCY:

Having the honor to command a squadron of observation, despatched by the President of the United States into the Mediterranean sea, to support the safety of their commerce threatened with attacks by the Bashaw of Tripoli, and to exercise our seamen in nautical duty, the instructions that I have received from the President require that, in approaching your harbors, I should tender the profound respect that is due to your excellency's dignity and character, and should recommend the squadron under my command to your hospitality and good offices. I leave to the consul of the United States the task of explaining more particularly the friendly dispositions of the United States towards your excellency, the proofs with which he is charged of their desire to maintain the treaty between the two Powers, and the reliance of the President on similar dispositions on your part; for myself, I only make use of the occasion to assure your excellency of the sensibility with which I shall experience your friendly countenance and accommodations, and of the sentiments of reverence and exalted esteem with which

I have the honor to be, your excellency's obedient servant.

[CIRCULAR.]

SIR: DEPARTMENT OF STATE, WASHINGTON, *May* 21, 1801.

For a considerable time past suspicions have prevailed that a rupture with the United States was intended by the Bashaw of Tripoli. Of late, the alarms and proofs have been such as to impose on the President the obligation of making immediately the most effectual provision within his authority for the defence and protection of our Mediterranean commerce, in case it should be attacked from that quarter. At the last session of Congress six frigates were directed by law to be kept as a peace establishment. Out of this force, three frigates and also a sloop of war have been equipped, and will sail for the Mediterranean in a few days, under the command of Commodore Dale. Should war have been declared, or hostilities actually been commenced against our trade, this force will be employed in the most effectual manner for its safety. Should the means which have been or may be employed to obviate the necessity of such an application of the force be successful, the squadron, after cruising a sufficient time in the Mediterranean, perhaps, if circumstances should not render it unadvisable, as far as the Levant, and towards Constantinople, will return to the United States.

The expedition will, by this means, be not without its use, whatever may be the state of things on its arrival. It will have the effect, from which so much advantage has been promised by our consuls and others, of exhibiting to the Barbary Powers a respectable specimen of the naval faculties of the United States. It will exercise our mariners and instruct our officers in the line of their service, and in a sea which it may be particularly useful for them to understand. And as they form a part of the peace establishment, the measure will add but inconsiderably to the expense otherwise to be incurred. The United States being now also happily at peace and amity with all the European Powers, the moment is the more favorable in that view of the subject.

The President has thought proper that this early information and explanation should be given to you, that, being fully possessed of the causes and object of the expedition, you may guard it against any misconception or misrepresentation that may by possibility be attached to it; and, moreover, prepare the Government where you are to lend to this squadron such hospitalities and accommodations in its ports, or elsewhere, as opportunities may claim, and as it would be incumbent on the United States to reciprocate.

The friendly disposition felt by the United States towards ——— justifies them in their confidence that no convenient proof of a like disposition will be withheld; and of this friendly disposition you are authorized and instructed by the President, on all proper occasions, to give the most explicit and cordial assurances.

I have the honor to be, sir, with great consideration, your most obedient servant.

To RUFUS KING, London,
DAVID HUMPHREYS, Madrid,
WILLIAM SMITH, Lisbon,
W. V. MURRAY, Hague.

[CIRCULAR.]

SIR: DEPARTMENT OF STATE, WASHINGTON, *May* 21, 1801.

The proofs which have been received of the hostile purposes of the Bashaw of Tripoli having imposed on the President the obligation of providing immediately for the safety of our Mediterranean commerce, he has judged proper to send to the coast of Barbary a squadron of three frigates and a sloop of war, under the command of Commodore Dale. The squadron will sail in a very few days from this date. Should war have been declared, or hostilities commenced, Commodore Dale is instructed to make the most effectual use of his force for the object to which it is destined. Should the means employed by our consuls, and those which accompany this expedition, for obviating such an event, be successful, the squadron, then, after cruising for some time in the Mediterranean, perhaps, if circumstances should not forbid, into the Levant, and towards Constantinople, will return to the United States. The expedition will, by this means, be not without its use, whatever may be the state of things on its arrival. It will have the effect, from which so much advantage has been promised by our consuls and others, of exhibiting to the Barbary Powers a naval force from the United States. It will exercise our mariners, and instruct our officers in the line of their service, and in a sea where, more than any other, their services may be wanted; and as they form a part of the peace establishment fixed by law, the measure will add but inconsiderably to the expense that would otherwise be incurred. The United States being also happily at peace with all the Powers of Europe, the moment is the more favorable in every view that can be taken of it.

The President has thought proper that you should be furnished with the information here given, in order, first, that you may be ready to afford every friendly and useful accommodation that occasions may admit, to the squadron, or any part of it: secondly, that, being possessed of the objects of the expedition and the considerations which led to it, you may be able, by proper explanations, to prevent its being misunderstood. The United States persist steadfastly in their desire of living in peace and friendship with all nations who will permit them; and on all occasions where assurances to that effect can be proper, you are authorized to make them in the most satisfactory manner.

I am, with great consideration, sir, your most obedient servant,

JAMES MADISON.

A copy forwarded to each of the following named consuls: Thomas Bulkeley, consul, Lisbon; John Gavino, Gibraltar; Anthony Terry, (acting) Cadiz; James Simpson, Tangier; William Kirkpatrick, Malaga; William Willis, Barcelona; Robert Montgomery, Alicant; John Matthieu, Naples; Frederick H. Walloston, Genoa; Thomas Appleton, Leghorn; John Lamson, Trieste; Etienne Cathalan, agent, Marseilles.

Extract of a letter from James Leander Cathcart to the Secretary of State.

TRIPOLI, *April* 18, 1800.

"I had the honor of receiving yours of the 15th of January on the 13th instant, and am happy my conduct has been approved of by the President. Yours to Dr. M'Donogh I delivered to the British consul to forward to him, or to keep until his arrival. I have already informed you that he departed from hence with Commodore Campbell last January, in order to solicit the court of Portugal for the consulate of this regency, he having the commodore's promise of recommendations.

"In consequence of the decease of our political father, I sent my dragoman to inform the Bashaw that the next day I should hoist the banners of the United States half-mast, the only token of respect which I had in my power to pay to the manes of our much beloved patriot, intending to wait a proper opportunity to communicate to him your intimation. The Bashaw sent me a very polite message, expressing his concern for our loss, and requesting to know if the President had received his letter, which was forwarded by the Sophia. I answered in the affirmative, and ordered the dragoman to inform his excellency that I would wait on him when he was at leisure.

"In the evening he sent Farfara to inform me that he was indisposed, or would have been glad to see me; and requested, if I had any thing to impart, that I would communicate it to Farfara. I accordingly requested him to express to the Bashaw his excellency the President's satisfaction with the arrangements that took place last year, and to assure him that he had never considered him as dependent upon either of the other regencies; that he had always treated him as an independent prince, and the Government of the United States would always consider him with as much respect, and treat him with the same friendship, that they did the heads of the other regencies. Farfara returned with the following answer: 'His excellency the Bashaw has desired me to request you to acquaint the President of the United States that he is exceedingly pleased with his proffers of friendship; that the respect which he has shown to his communication is really flattering; that, had his protestations been accompanied with a frigate or brig of war, such as we had given the Algerines, he would be still more inclined to believe them genuine; that compliments, although acceptable, were of very little value, and that the heads of the Barbary States knew their friends by the value of the presents that they received from them.'

"It being too late for any answer that evening, I made such comments on the Bashaw's message as might serve to eradicate from the mind of the Jew the most distant expectation that the President would ever make so great a sacrifice, which I informed him was entirely incompatible with the interests of the United States.

"Considering it highly improper to delay giving a direct, explicit, and categorical answer to the Bashaw's insinuation, I sent my dragoman to the castle to request an audience; I having previously formed a resolution never to employ a third person whenever the honor or the interest of my country was concerned. The dragoman informed me that his excellency had seen Farfara, and if I had any further communication to make, to employ him, as he was very much indisposed. Thus was I disappointed.

"Farfara waited upon me in the afternoon, when I requested him to inform the Bashaw, that, if he supposed that the cruisers which were sent by our Government to Algiers were given gratuitously, he had been misinformed; that, during our negotiation last year, I had acquainted him that the frigate was given to that regency in lieu of cash, for the ransom of our citizens, which had been redeemed on credit more than a year before her arrival; that the cruisers were built on commission, and paid for in cash out of the public treasury, and were not the property of the Dey, as he supposed; that I had copies of their accounts by me which he should peruse if he thought proper, whereby he would be informed of the magnitude of his expectation, and the improbability of the United States having given them gratuitously; that I was sensible how disagreeable it would be to disappoint expectations when once formed; I therefore found it my duty to prevent any taking place, in order to avoid the chagrin attending a positive refusal, which, from the nature of the request, must naturally be expected from the President of the United States.

"The Bashaw returned, in answer, that he had concluded peace with the United States for much less than he had received from other nations, and that he knew his friends by what he received from them.

"I shall by no means broach this subject to the Bashaw again, as I have hindered him from having any ground for expectation, and shall continue to act in the same manner should he ever make it a topic of conversation, as he can have no pretext to make a demand, and only insinuates that he expects some mark of the President's friendship more substantial than compliments. I imagine it will be best to take no further notice of it. The appearance of our frigates in the Mediterranean will, I hope, eradicate any expectation that he may have flattered himself with, if any really exists; and, until that period, believe me, sir, our commerce will never be upon a respectable footing in these seas."

Extract of a letter from the same to the same, dated

MAY 12, 1800.

"Give me leave to inform you, in addition to mine of the 18th of April, a copy of which is enclosed with this despatch, that on the 21st of said month a board of consuls were called by the Bashaw, relative to the affairs of Sweden, in order to facilitate, as much as possible, his depredations and unjust demands upon that nation. As I have already forwarded to you the particulars of their last arrangement, I at present refer you to the copy of the certificate herewith enclosed for the result. During the course of conversation, the Bashaw observed, 'that he never made reprisals on any nation, or declared war, but in consequence of their promises not being fulfilled, or for a want of due respect being shown him; that he conceived himself entitled to the same respect that was shown to the Bashaws of Algiers and Tunis, but that some nations gave more to the officers in each of those regencies than they had given to him for their peace.' The last remark was evidently pointed at the United States, but as it was made in general terms, I thought proper not to seem to understand it, especially as I could say very little more on the subject than what I had already communicated to him through the agency of Signior Farfara.

"On the 2d of May a courier arrived from Tunis, which brought me the copies of your letters of the 15th of January, which arrived in the ship Hero. Before I had time to read them, Farfara came and informed me that the Bashaw wanted to see me immediately. I asked him if he knew what his excellency wanted; he said he did not: that he had received letters from Tunis, and seemed very much irritated. It being late in the evening, I waited on him in deshabille, when the following conversation took place, which I have endeavored to render verbatim:

"'You have received letters from America: how were they brought to Tunis?'

"'In a vessel direct from America.'

"'What is her business at Tunis?'

"'She has brought the stores stipulated by treaty with that regency.'

"'What do they consist of?'

"'I do not know the particular articles which compose her cargo, but it chiefly consists of lumber and articles, such as were promised to your excellency when our peace took place.'

"'What do your letters from your Government contain?'

"'They are merely copies of what I had already received, the contents of which your excellency was informed by Farfara.'

"This being a favorable opportunity to know whether our broker had acted with candor, I repeated what was contained in mine of the 18th of April, and found by the Bashaw's answers (which were exactly what Farfara had before informed me) that he had acted honestly.

"The Bashaw observed that the United States had made liberal presents to Algiers and Tunis; that he was informed of the particulars of all our negotiations; that he even had a list of the cargo which had arrived at Tunis: that it is worth a treasure. 'Why do not the United States send me a voluntary present? They have acted with me as if they had done every thing against their will. First, they solicited the interference of the Dey of Algiers, in consequence of which I concluded a peace with them for almost nothing in comparison to what I had received from other nations. I having received many favors from Hassan Bashaw during the continuance of the revolution in this kingdom. They next made me wait more than two years before they sent their consul, and then he came without

the stipulated stores. Nevertheless, in order to convince them of my good and friendly intentions, I accepted of the small sum of eighteen thousand dollars in lieu thereof, not doubting but they would be grateful enough to make me some return for my civility; but I have the mortification to be informed that they have now sent a ship load of stores to Tunis, besides promising a present of jewels, and to me they have sent compliments. But I have cruisers as well as Tunis, and as good raizes and sailors. I am an independent prince as well as the Bashaw of Tunis, and I can hurt the commerce of any nation as much as the Tunisians. Why, then, should so great a difference be made?'

"From the tenor of the Bashaw's harangue, I perceived that his aim was to intimidate me to say something that might hereafter be interpreted into a promise of a present, the value of which he would probably dictate himself. I therefore answered him as follows:—

"'Whatever information your excellency has received relative to the value of the presents or stores which have been given to Tunis, it has been amazingly exaggerated. We have never made any but what were stipulated by treaty, nor can we ever make voluntary presents, it being incompatible with our form of Government, the funds of the United States not being at the disposal of the President until an appropriation is made by an act of the Legislature. The funds for carrying our treaty with Tripoli into effect are exhausted; and last year your excellency wrote to the President of the United States that you were contented with what you had already received. You, therefore, in justice, could not expect any thing at present from the United States, but a reciprocal tender of friendship. Had your excellency preferred the stores to cash, and waited with patience until they were forwarded, as the Bey of Tunis has done, I am convinced they would have arrived long ere now. But, at present, as the United States have fulfilled the stipulations of the treaty, they are not in arrears to this regency, and any demands upon them must naturally be very unexpected.' The Bashaw observed it was late, had coffee served, and said he would converse with me upon the subject at some other opportunity. I wished him a very good evening.

"May 4, the Siddi Mahomed Daguize and Signior Farfara came to the American house and informed me that the Bashaw had ordered them to ask me if I had taken any resolution in consequence of the conversation which I had with him on the 2d inst. I informed them that I had taken none whatever, and that it seemed unaccountable to me that his excellency should expect any other answer after what I had informed him in their presence. They staid about an hour, during which time their conversation tended to persuade me that, considering the Bashaw's character, it was certainly the interest of the United States to make a sacrifice; that, otherwise, it would be impossible to remain long on good terms with him. I made use of the same arguments which I had done before. I, therefore, will not tire you with a repetition.

"At six, P. M. they returned, and informed me that the Bashaw was very much displeased, and had ordered them to acquaint me that he was informed that the Sahibtappa at Tunis had received more than forty thousand dollars from the United States, in cash, besides presents; that he had received very little more, and that he had never imagined the United States meant to put him on an equality with one of the Bey of Tunis's ministers.

"I observed that the Bashaw was misinformed by his correspondent, who, in order to ingratiate himself in his favor, had informed him of things which had never taken place; that he was giving himself, as well as them and me, a great deal of trouble, without any hopes of reaping the least benefit therefrom; that I requested them to inform his excellency that I had not power to offer him a dollar, and that there were no funds in the United States appropriated for maintaining our peace with Tripoli, as we had carried our treaty into effect already; that he had written to the President of the United States, the Dey of Algiers, and Bey of Tunis; that he had settled with the agent of the United States, and had received a cash payment in lieu and in full of all demands, and that he was content; that only three years and a half had elapsed since our treaty commenced; that the first year he had received forty thousand dollars in cash, and the value of eight thousand in presents; that the second he had received twelve thousand dollars; and that last year he had received eighteen thousand, and presents to the value of four thousand more: that, on the circumcision of his son, Siddi Aly, I had made him a present superior to the presents which were made him by the consuls of other nations on the same occasion; that, consequently, the Government of the United States were not deficient either in their respect to him, or tokens of friendship, as he had received in the short period of three years and a half cash and presents to the amount of eighty-three thousand dollars, exclusive of ten thousand measures of grain, which Hassan Bashaw had made him a present of, in consequence of his having concluded a treaty with the United States, which was worth at Tripoli near twenty thousand dollars more; that I was persuaded that, if his excellency would give himself the trouble to reflect on the circumstances which had taken place since the commencement of the treaty between the United States and this regency, he would not hesitate a moment in acknowledging the justice and propriety of my observations.

"In the evening, the Bashaw's emissaries returned, and informed me that they had encountered great difficulty in persuading the Bashaw to believe that the consul had not power to make him a present without an express order from his Government. His excellency said that he had received many presents from the consuls of other nations, and that their conduct had afterwards been approved. They observed that the form of Government of the United States was vastly different from the Government of every other nation with whom his excellency was at peace; that he had a recent example that the powers of a consul were limited, in the result of the Swedish consul's negotiation, he having arranged the affairs of his nation without receiving orders from his court; that he knew the consequence; his bills were protested, he had received a severe reprimand from the King of Sweden, and was immediately suspended; and that his excellency might depend that the American consul would take care never to be reduced to a similar predicament, whatever might be the consequence of his non-compliance with his excellency's demand.

"They further informed me that the Bashaw had ordered them to request me to write to my Government to inform them that, when he had written to the President of the United States, he was contented with what he had received; that he really was so, on a supposition that the presents to him bore some proportion to those that had been promised to Tunis; that, at present, he was informed to the contrary, and that he felt himself amazingly hurt when he considered that he had been treated with indifference; and that he never would be convinced that the friendship of the United States was sincere until there was a greater equality observed in their donations between the two nations; or, in other words, until he received some further marks of the President's esteem more substantial than mere compliments. They said that, although the Bashaw was inclined to credit the impossibility of the consul's making him a present without orders from his court, he likewise was sensible how much depended on the manner of his representation; that he believed he had treated him with every respect since his arrival at Tripoli, and he requested I would write in such terms as would ensure him from the mortification of being disappointed; adding, 'This I expect from the consul, as he values my future favor and a happy result to the objects of his mission.' I replied, that the object contemplated by the United States, in sending an agent the vast distance of near six thousand miles, was to endeavor to maintain a friendly intercourse between the two nations on honorable and equitable terms; that, as it had pleased God to employ me as the instrument to promote so desired an effect, he might rest assured I should take pleasure in representing facts for the consideration of Government, in as favorable a manner as the dignity annexed to my office would admit; that, as it would be the height of presumption in me to dictate to the President of the United States what he ought to do in the present case, so, on the other hand, I by no means considered it to be a part of my official duty in any means to oppose the liberal intentions of Government, should they be found disposed to make him a present; but, on the contrary, should I receive orders to that effect, I would take pleasure in executing them; but must again beg leave to repeat that the issue depended on them only. They retired, promised to make a faithful report to his excellency, protested they would use their influence in favor of the United States, and requested me not to close my letters until I heard further from the Bashaw, either direct or through their agency.

"May the 6th. I waited on the Bashaw to pay my compliments to him, in consequence of the festival. He treated me with great politeness, but I could easily discern that it was against his inclination. There was something in his countenance that indicated his smiles were not sincere, and ought not to be depended on.

"May the 10th. Farfara came to the American house, and informed me that the Bashaw had concluded to write to the President of the United States himself, as he entertained some suspicion that I would not write to Government with sufficient energy; that the Bashaw would send me his letter the first opportunity that should present, to for-

ward it, which he hoped I had no objection to do. I replied, none in the least; and requested Farfara to procure me a copy, if possible; which he promised to do. Having waited until the date of this despatch without having heard any thing more on the subject, I hastened to get my despatches in readiness to forward by the first conveyance. Should any thing intervene worthy of notice before I receive the Bashaw's letter, it shall be the subject of another despatch."

Extract of a letter from James Leander Cathcart to the Secretary of State, dated

TRIPOLI, *October 18th*, 1801.

"On the 16th I waited upon the Bashaw, in company with Captain Carpenter, to demand satisfaction for the insult our flag had suffered, in having one of our vessels brought in here without any visible cause, her papers and passport being in perfect order; and likewise, to demand restitution of property plundered from the brig.

"The Bashaw answered, that he had not given orders to the Raiz to bring in American vessels; that he had broke him, and dismissed him from his service, and then gave orders to the Minister of Marine to have every article that was plundered from the brig returned.

"The Bashaw then commenced thus: 'Consul, there is no nation I wish more to be at peace with than yours; but all nations pay me, and so must the Americans.' I answered, 'We have already paid you all we owe you, and are nothing in arrears.' He answered, 'That for the peace we had paid him, it was true; but to maintain the peace we had given him nothing.' I observed, that the terms of our treaty were to pay him the stipulated cash, stores, &c. in full of all demands, forever; and then repeated nearly to the same effect as is contained in my despatch of the 12th of May, which, to avoid repetition, I forbear inserting. The Bashaw then observed, 'that we had given a great deal to Algiers and Tunis, and that the Portuguese captain informed him that, when he passed by Algiers, about the middle of last month, he had seen an American frigate in the bay, which he supposed had brought more presents to the Dey. Why do they neglect me in their donations? Let them give me a stipulated sum annually, and I will be reasonable as to the amount.'

"In answer to the first, I replied, that it was true that one of our frigates was at Algiers, being one of a squadron of three forty-four gun ships and some smaller vessels which were appointed to protect our commerce in the Mediterranean; but whether they had presents on board for the regency of Algiers, or not, I could not inform him; that some of them would have been at Tripoli before now, had I not informed them that they had better stay away until the spring, upon account of the badness of this road, which renders it very unsafe at this season. And in answer to his proposal of an annuity, I replied with some warmth, exactly what I had requested Daguize to inform him of in my name yesterday evening. 'Well, then,' replied the Bashaw, 'let your Government give me a sum of money, and I will be content; but paid I will be, one way or other. I now desire you to inform your Government that I will wait six months for an answer to my letter to the President: that if it does not arrive in that period, and if it be not satisfactory, if it does arrive, that I will declare *war* in form against the United States. Inform your Government,' said he, 'how I have served the Swedes, who concluded their treaty since yours. Let them know that the French, English, and Spaniards have always sent me presents from time to time, to preserve their peace; and if they do not do the same, I will order my cruisers to bring their vessels in whenever they can find them.' He then turned to Daguize, and told him to explain to Captain Carpenter what he had informed me, (they both speaking French,) and added, that he did not wish to make it a private affair between the consul and him, and desired him to make it public, as he wished the whole world to know it. He then told Daguize to tell the captain that he hoped the United States would [not] neglect him, as six or eight vessels of the value of his would amount to a much larger sum than he ever expected to get from the United States for remaining at peace. 'Besides,' said he, 'I have a great desire to have some captains like you here to teach me to speak English.'

I answered that it was absolutely impossible to receive answers to the letters which he desired me to write by Captain Carpenter in six months, as it would be nearly that time before he would get home, upon account of the winter season; that I expected his excellency would wait until the answer arrived, let that be long or short; and observed, that none but those who held a correspondence with the *devil* could determine whether he would be content with the President's answer or not, as neither the President nor myself knew what would content him. I therefore requested him to inform me explicitly what were his expectations. To the first he answered, 'I will not only wait for answers from your President, but I will now detain the brig, and write to him again; but I expect when he sends his answers that they will be such as will empower you to conclude with me immediately; if they are not, I will capture your vessels; and as you have frequently informed me that your instructions do not authorize you to give me a dollar, I will, therefore, not inform you what I expect until you are empowered to negotiate with me; but you may inform your President that, if he is disposed to pay me for my friendship, I will be moderate in my demands.' The Bashaw then rose from his seat, and went out of the room, leaving me to make what comment I thought proper upon his extraordinary conduct."

Extract of a letter from the same to the same, dated

MAY 27, 1800.

"Since the date of the enclosed despatch, I heard nothing from the Bashaw until the evening of the 25th instant, when Siddi Mahomed Daguize sent me the original in Arabic, of which the enclosed is a literal translation. The only conclusion which can be drawn from the Bashaw's proceedings is, that he wants a present; and if he does not get one, he will forge pretences to commit depredations on the property of our fellow-citizens. His letter to the President will be the means of keeping him quiet until he receives an answer, provided no unnecessary delay is made, as he will expect to reap a benefit therefrom. Should Government think proper to make him a present, it will have the desired effect probably for one year, but not longer. I, therefore, can see no alternative but to station some of our frigates in the Mediterranean; otherwise, we shall be continually subject to the same insults which the Imperials, Danes, Swedes, and Ragusans have already suffered, and will still continue to suffer."

Translated extract from a letter of the Bashaw of Tripoli to the President of the United States.

MAY 25, 1800.

"After having cultivated the branches of our good will, and paved the way for a good understanding and perfect friendship which we wish may continue forever, we make known that the object and contents of this, our present letter, is, that whereas your consul, who resides at our court in your service, has communicated to us, in your name, that you have written to him, informing him that you regarded the regency of Tripoli in the same point of view as the other regencies of Barbary, and to be upon the same footing of friendship and importance. In order to further strengthen the bonds of a good understanding, blessed be God, may he complete and grant to you his high protection! But, our sincere friend, we could wish that these your expressions were followed by deeds and not by empty words. You will, therefore, endeavor to satisfy us by a good manner of proceeding. We, on our part, will correspond with you, with equal friendship, as well in words as deeds. But if only flattering words are meant, without performance, every one will act as he finds convenient. We beg a speedy answer, without neglect of time, as a delay on your part cannot but be prejudicial to your interests. In the mean time, we wish you happiness.

"Given in Tripoli, in Barbary, the 29th of the moon Hegia, the year of the Hegira 1214, which corresponds with the 25th May, 1800."

Copy of a letter from Mr. O'Brien to Captain Bainbridge.

SIR:

Your letter to me of this date I have received, and seriously considered its contents, and shall observe, sir, that from the day the United States' ship, under your command, arrived in this port, and to this day, it has been generally supposed that the regency would insist that the United States' ship should proceed to the Levant on the business or mission of this regency. On the 18th ult., when you went with me to pay your respects to the Dey, after a little Algerine ceremony, the Dey said he would want this ship as a favor from the United States, to carry his ambassador and presents to Constantinople, and return on the business to Algiers. I observed to the Dey that the captain or consul had no orders or power which, in any respects, could justify us in acquiescing in his demand; that, without the orders of the United States, we could not do any such thing; that we, having no orders, we could make no responsibility; that the captain could not protect his property against the Portuguese or Neapolitans; that your orders were to return to the United States, and by orders you could only defend your ship against French corsairs. The Dey did not seem satisfied with these explanations; that, shortly after, I repeated nearly the same objections on this business to the Algerine prime minister.

On the 26th ult. the Dey sent for me and the British consul, and asked me if I was still determined not to acquiesce in making responsibility, and carrying his ambassador and presents. I again repeated all the arguments which I made use of on the 18th ult., and added, as this vessel belonged to the Government of the United States, and we having no fixed peace or treaty with the Italian states or with the Grand Signior, that this ship and crew would be in a very singular predicament in going to Constantinople on the business of the regency, we having no ambassador or consul at these places. The Dey answered, passionately, that these were all excuses; that other nations had rendered Algiers the like favors; but that, if the British consul would promise faithfully that a British ship of war would come here and go to the Levant on this mission, under this consideration he would let the American ship return to her country. The British consul, John Falcon, Esq. promised and assured the Dey (in my presence) that, as Lord Keith had promised to send a ship of war on this business, said ship might be daily expected. The Dey observed he would wait a few days, before he would fully determine, to see if the British ship would arrive.

The Dey remained undetermined until the 3d instant, when arrived at Algiers, from Mahon, a British ship of war of twenty-four guns, sent by the orders of Lord Keith, intentionally, to carry the ambassador and presents of Algiers to Constantinople. This business seemed finished and settled in order that the British ship of war would proceed on the business. But, from the 4th instant to this date, the Dey and ministry, and sundry persons of influence, started many difficulties relative to the mission of the regency going in the British ship, and finally objected to go. When this morning the Dey came to town from his country seat, and at 10, A. M. sent for me, and told me, without any alternative, the United States' ship should do him the favor to carry his ambassador and presents to Constantinople; that, if this favor or demand was not complied with, he no longer holds to his friendship with the United States.

On my declaring that I or the captain of the United States' ship had no orders, and could not justify ourselves to our Government to acquiesce, the Dey got very angry, and declared that he considered every thing we did say, or could say, to be excuses not to do him the favor he required; and if this favor was not acquiesced to, he knew what to do; that other nations frequently did it, and he could see no reason or motive which should prevent me, on the part of the United States, acquiescing to the request.

I again repeated to the Dey that I or the captain could make no responsibility on the part of the United States; that we could not think his property safe under the American flag from the capture of his enemies; that the ship sailed dull or heavy; that, as it was war time, a thousand difficulties might happen. The Dey hastily observed that God was great, that all was on his head, that all difficulties would be surmounted.

I again declared that I or the captain had no orders which would, in any respect, justify ourselves to acquiesce. The Dey said he would justify us, and that the ship should go *per force*, and that we had no alternative but to do him this favor; that his mind and his minister's were soured against the British, and that, on this account, he rejected the British ship, and would insist his request should be complied with.

The Dey said he would send his flag to the marine to be hoisted at the mast head of the American ship. I answered I was very sorry on account of his determination, and withdrew; went and explained to the prime minister all that had passed or was said on this business between the Dey and me.

The prime minister observed that the Dey's mind was so positively fixed and determined on this affair, that there would be no alternative but to comply, to prevent greater evils, reminding me of several overt acts of this regency to the consuls of other nations and their affairs; that he had tried to prevent the Dey from sending the American ship, but that it had no effect.

At meridian, I and Captain Bainbridge were sent for by the general of marine, when we made use of all those arguments which are heretofore detailed. The general of marine declared that there was no alternative but to comply. After our retiring from the marine half an hour, the general of marine sent to the consular house of the United States, to acquaint us that it was the orders of the Dey of Algiers that the flag of Algiers should be hoisted to the main-topgallant-mast-head of the American ship. That we answered, all was *per force;* that we were in their power, and the regency, of course, might do as they had a mind. Shortly after, we determined to see the Dey, and sent the American dragoman to acquaint the Dey that the consul of the United States and commandant of the United States' ship, demanded an audience.

At two, P. M. we were in the presence of the Dey, and stated all those difficulties, and all our former objections, that we had no orders, could not justify ourselves, and could make no responsibility. The Dey observed, that there was no alternative but to comply; that, in doing him this favor, he never would forget it on the part of the United States, and that, when he did, God would forget him; that he would write to the Government of the United States on this business of his making this demand; and assured Captain Bainbridge and me, that the United States would be highly pleased at the conduct of the consul and commandant in obliging the Dey and regency, agreeable to the request he made to us, as a favor from the United States. We observed to the Dey that this was a forced business; that, under this idea, and for the safety of his presents, it would be better that his flag should be hoisted at the fore-topgallant-mast-head than the main. The Dey declared he did not well know this business, but that those at the marine knew the custom; he believed it was at the main.

On this we went to the marine, told the general of the marine that if this United States' ship should haul down her pennant, and hoist the Algerine flag at the main, that said ship, agreeable to our laws, was out of commission, and would not be considered as a public ship of the United States; that the Algerine flag would be the same thing at the fore as the main, but to us it made great difference; that, by Christian laws, the ship would be considered as Algerine property, and not as a ship of the United States; that we made this remonstrance and observation to prevent difficulties. On this explanation, the general of marine got into a great passion; swore that the proposition and idea was made as an evasive pretence; that the ships of war of Spain and France, and other nations, had acquiesced to hoist the Algerine flag at the main; that it was by the flag being hoisted there, that the mission was known and announced at Algiers and Constantinople. I explained to you, sir, that it was the custom, as I have seen and known, that the French and Spanish ships of war going on the like mission, hoisted at Algiers and Constantinople the Algerine flag at the main; that at sea he wore his pennant, and was more his own master. On this, you observed, it being a forced business, that, if there was a right to acquiesce to one point, there was no alternative but by the same rule to acquiesce to the other relative to the flag.

The general of marine and officers of the same said, if there was not a compliance on this business, agreeable to customs of all nations heretofore, that there no longer existed friendship between this regency and the United States. I observed, that I was sorry that the United States had so much reason to know Algiers, and that Algiers had no reason to know the United States.

We went on board; the Turkish flag was hoisted at the main of the United States' ship, and was saluted with seven guns, as customary.

Painful is the detail, but it contains a narrative of facts. To the truth thereof, witness my hand and seal of office, at Algiers, this 9th day of October, 1800.

I am, sir, very respectfully, your most obedient servant,

RICHARD O'BRIEN.

Extract of a letter from Richard O'Brien to the Secretary of State.

"ALGIERS, *October* 22, 1800.

"As the United States' ship Washington, Captain Bainbridge, has proceeded *per force*, in fact, to save the peace of the United States with Algiers; to prevent captivity and detention to the ship, officers, and crew, and prevent the pretence of a sudden war, and pillage and slavery to the citizens of the United States; I calculate that, if said ship goes and comes safe in five months, it will cost the United States forty thousand dollars. This, in comparison to what our losses might be if *war*, left me no time to hesitate in the choice of the evils and difficulties which presented fully in view: in surveying both sides of the coast, and how we should stand on both tacks, I found there was no alternative but to proceed.

"I have made no responsibility, as is customary with all nations, [with] the Dey and regency. I am convinced that, if an accident should happen to the Washington, in being captured by any nation, or by being driven on shore, as soon as this news would reach Algiers they would immediately send out their corsairs, and send in all American vessels they should meet with, in order to repay themselves for the amount of Algerine property on board the Washington. We submitted to it in the affair of the ship Fortune; and, if the amount in reality was six hundred thousand dollars, the regency would take to the amount of one million of dollars. It is their custom. Is not it a hard case for us to risk the ship and crew of the United States, and Algiers to force said ship, and, if any accident, to be liable to difficulties and calamities I have described?"

Extract of a letter from Mr. Cathcart to the Secretary of State.

"TRIPOLI, *January* 4, 1801.

"On the 2d instant, in the evening, the banners of Sweden, by the Bashaw's request, were hoisted upon the Danish house, and a temporary flag-staff was prepared, in order that the customary salute should be fired the next day. When a peace takes place with any nation, it is customary for the different consuls to congratulate the Bashaw on the event. You may judge with what a grace I performed a ceremony so repugnant to my feelings; but it was necessary. I accordingly waited upon his excellency, in company with the Danish consul, Swedish ex-consul, Mr. Bohrstrom, the present consul, and several others. After congratulation, perfumation, fumigation, and drinking of coffee and sherbet were over, commenced the following litigation: 'I have concluded a peace with the Swedes,' commenced the Bashaw; 'and I am certain that the King of Sweden is sensible that I was forced to declare war against his nation contrary to my inclination; for had my demands been satisfied in the first instance, I should not have captured their ships and enslaved their people. Some nations,' added he, (meaning the United States,) 'have used me very ill; they look upon me as nothing; they have recourse to Algiers for all things. I should be glad to know which is thought most of at Constantinople?' I could easily have solved that doubt, by saying that the Dey of Algiers had lately sent presents to the Grand Signior to the amount of a million of dollars, which were powerful arguments in his favor. But, as the conversation was general, I did not conceive it more incumbent on me to answer his prologue than any of the rest of the company; and, in fact, I could say nothing but what I have communicated already. The Bashaw, observing my silence, directed his discourse to me, and asked me if I understood the Arabic and Turkish languages. I answered that I had a trifling knowledge of them, but spoke them so miserably that I never used any of them, especially as his excellency and ministers all spoke Italian. 'Pray,' says the Bashaw, 'what was the present Dey of Algiers in the reign of Mahomed Bashaw?' I answered, that he was a person very much respected, in consequence of his being the cousin of Hassan Bashaw, but had no post whatever. 'And pray, what was Hassan Bashaw at that time?' First, he was bik ilharche of the marine, and afterwards was made prime minister and treasurer in Algiers, called the Hasnagi. The Bashaw turned up his nose with visible signs of contempt, and was going to proceed, when a person informed him that a piece of timber was not to be found in the whole regency large enough to make a flag-staff for the Swedes, unless they took one of the cruiser's spars. 'It is a difficult thing,' says the son of Ali Bashaw, 'to get a flag-staff put up when it once comes down. When the American flag-staff comes down, it will take a great deal of grease (meaning money) to get it up again. The Danish flag-staff is broke, I hear, and wants mending with a new one.' He smiled a ghastly *grin*, and said, 'After all, what is twenty thousand dollars a year for a Christian nation to pay that has such vast resources? Had I enough to live on, I would not trouble myself with cruisers, although my subjects always wish war, because it is to their advantage. How many raizes,' added he, 'have I that know the way to the great sea?' Admiral Morad answered, about twenty. There not being, I believe, one capable but himself, without his accompanying them, shows that the Bashaw and his officers pay no great regard to truth. 'Well,' replied his excellency, 'I will find them vessels. In Tripoli, consul, we are all hungry, and, if we are not provided for, we soon get sick and peevish.' As the Bashaw spoke in metaphors, I answered him in the same manner, by saying, that when the chief physician prescribed the medicine, I should have no objection to administer the dose; but until then I could say nothing on the subject. 'Take care,' answered the Bashaw, 'that the medicine does not come too late, and, if it comes in time, that it will be strong enough.'"

Extract of a letter from Richard O'Brien to the Secretary of State.

"ALGIERS, *January* 27, 1801.

"On the 21st instant arrived at Algiers, in twenty-three days from Constantinople, the United States' ship the George Washington, William Bainbridge, Esq., commander. The Grand Signior has detained the Algerine ambassador sent, and presents, until that the regency of Algiers complies with all his demands, and will have full submission to his orders.

"The presents and funds which were sent by the Washington certainly amounted to one and a half million of dollars. A Swede, with the Dey's nephew, arrived at Smyrna with five hundred thousand. This was, by the orders of the Captain Bashaw, deposited in the treasury of the Grand Signior at Smyrna. Another Swede, with the Algerine prime minister's nephew, with at least four hundred thousand dollars, ran on shore at the island of Candia. This money also has fallen into the possession of the Grand Signior. Add to this, that the hundred Turks who went in the Washington, and are detained at Constantinople, were chiefly the richest and first men of this regency. These considerations will certainly induce this regency to acquiesce in the demands of the Grand Signior.

"The Dey will make a haul to repay him for his present losses; I hope we shall not be the victims; we are nearly two and a half years in arrear; no funds; we have a valuable unguarded commerce in these seas; we are threatened by all Barbary: therefore, we should act with energy, make good our stipulations and annuities, have consular friends, (not to be depending on mercenary Jews,) and show force in this sea."

Extracts of a letter from Mr. O'Brien to Mr. Smith, Minister Plenipotentiary of the United States, at Lisbon.

ALGIERS, *February* 7, 1801.

"Even at this moment I shudder for fear of our valuable vessels and citizens in this sea; so much in arrears, no funds, no corsairs, and threatened by all the dogs of prey.

"Algiers, a pirate state, wants employment for the refractory and for their corsairs. The troubles of the Baltic will scare the Swedes and Danes into port; and we, in arrears, *no* oil in our lamps, no anchors and cables, no corsairs in this sea, we will be the victims: such, sir, are my present fears."

Extract of a letter from Mr. Cathcart to the Secretary of State.

TRIPOLI, IN BARBARY, *May* 16, 1801.

"This evening (10th May,) at six, P. M. Hadgi Mahomude la Sore, the same that went to Algiers in the Hamdullah, came to the American house, and told me not to be alarmed, for the Bashaw had sent him to inform me that he declared war against the United States, and would take down our flag-staff on Thursday, the 14th instant; that, if I pleased to remain at Tripoli, I should be treated with respect, but, if I pleased, I might go away. I sent my compliments to the Bashaw, and informed him that it was my positive instructions not to remain an instant after a declaration of war took place, and that I should charter a vessel to-morrow, if possible.

"Thursday, 14th, at one, P. M. Hadgi Mahomude la Sore came to inform me that the chavux were coming to take our flag-staff down. I waited until the Seraskier arrived, and then sent said la Sore to offer him ten thousand dollars, in addition to what I had already offered, which was rejected by the Bashaw; and orders given to cut away the flag-staff.

"At a quarter past two they effected the grand achievement, and our flag-staff was chopped down six feet from the ground, and left reclining on the terrace. Thus ends the first act of this tragedy. I hope the catastrophe may be happy."

Extract of a letter from William Eaton, Esq. Consul of the United States at Tunis, to the Secretary of State.

TUNIS, *December* 8, 1800.

"On the 25th ult. after having despatched duplicates of my letter from the 1st to the 16th, it was intimated to me that there was an American ship in the road of Porto Farino. Instantly I sent off an express to inquire for facts. On the 27th, I received a note from Captain Coffin, of the Anna Maria, informing me that he had been ten days in the road, without being able to communicate with the shore, by reason of the weather, which was extremely bad. On the 28th, I asked a boat of the Bey to board her, which he said should be ready on the 30th. Accordingly, on the 30th, I embarked at Tunis in an open boat, and arrived on board, ten leagues, at eight in the evening of the same day. On the morning following, the 1st December, I had the honor of receiving your letter of the 30th August, covering an invoice and bills of the ship's lading. Yesterday I returned to Tunis. Such part of the cargo as was between decks was chiefly discharged before I left the ship. The *quality* of the articles is acknowledged to be good, but it is objected that the *plank* and the *oars* are *too short*, and the Government affect to be dissatisfied that the keels, guns, and powder are not come forward. I believe the fact to be, the Government is dissatisfied that any thing is come forward. If this opinion requires evidence, I consider it sufficient to state that the United States are the only nation which have, at this moment, a rich unguarded commerce in the Mediterranean, and that the Barbary regencies are *pirates*. I take to myself the merit of having once more at least suspended an expedition which was prepared for us; but we are yet deficient, and I am not without apprehension that this deficiency will be resorted [to] as a pretext for surprising our merchantmen; in which case, they might do us incalculable mischief. These are considerations, which, it is supposed, should compel exertions to fulfil our obligations with this regency.

"The immense concessions he has received, the summer past, from Spain, Denmark, Sicily, Sweden, have so diminished the condition of our peace in his eye, that he says, '*it is a trifle for so great a commercial nation, in consideration for the advantages of a free trade in this sea.*'"

To all whom it doth or may concern:

Know ye, by these presents, that I, James Leander Cathcart, agent and consul for the United States of America, in and for the city and regency of Tripoli, in Barbary, finding just cause to complain of Jusef Bashaw, supreme commandant of said city and regency of Tripoli, and his ministers, towards the Government and citizens of the United States of America, and conceiving it my duty to protest against such conduct: now know ye, that I do hereby protest against the said Jusef Bashaw, supreme commandant of said city and regency, and against his ministers and counsellors, in behalf of the Government of the United States of America, myself, and fellow-citizens, for the following reasons, viz:

First. Be it known, that, on the 17th of August, 1799, said Jusef Bashaw, supreme commandant of the regency of Tripoli, at the instigation of Morad Raiz, admiral of the cruisers of this regency, refused to receive the printed passports, issued by the consul of the United States of America in this regency, in obedience to his orders from Government, thereby claiming a superiority or preference to the regencies of Algiers and Tunis, he being duly informed that the said passports were accepted in the same form by the chiefs of said regencies, and in order, as is my firm belief, to have a pretext to send the merchant vessels, belonging to the citizens of the United States, into this port for examination, said Admiral Morad having publicly declared that he would go to sea, with the vessels under his command, without any passport from this office, if they were not modified to his liking, and worded similar to the passports of the British; and the said Jusef Bashaw, on application being made by the said consul of the United States, refusing to exert his authority, is a clear and sufficient evidence that he was accessory to the insolent demand of said Morad, or, more properly speaking, that said Morad acted, if not by his orders, at least with his tacit consent, thereby forcing the said consul of the United States to deviate from his instructions, and to submit, from imperious necessity, to a humiliation incompatible with the honor and dignity of the nation he has the honor to represent.

Second. Be it known, that, in the month of October, 1799, James Leander Cathcart, consul for the United States of America, in this regency, having received several bales of cloth to dispose of, said Jusef Bashaw sent the broker, Leon Farfara, to the consular house, requesting said consul to give him the preference in the sale of said cloth, promising to pay for the same like any other individual, and as cloths were sold of the same quality. I, knowing how he had served the late Venetian and Swedish consuls on a similar occasion, sent said Leon Farfara to inform him that the cloth was not mine, and that I expected to be paid immediately, in order to be enabled to make a remittance to my correspondent, which he, the said Bashaw, promised to do. I, therefore, confiding in his promise, which I was taught to believe was sacred to all true Mussulmen, and more especially to a Prince of the august family of Caramanly, did deliver unto him sundry pieces of cloth, to the value of five thousand seven hundred and eighty-seven yuslicks, current coin of this regency; which, at that time, was worth in Spanish dollars two thousand three hundred and fourteen and eighty cents, two yuslicks and one-half being then equal to one dollar silver; but, at present, the coin of this regency having depreciated, owing to the great quantity of alloy mixed in the coinage, a dollar passes for three yuslicks, which makes a difference of one-fifth part, or twenty per cent.; that I have repeatedly demanded the above sum, and have always been put off, from time to time, with promises, until the 22d day of Sep-

tember, 1800, when, some oil belonging to said Bashaw being selling at public vendue, I sent my dragoman to purchase a barrel for the use of my house, value about eighteen dollars, which the hasnador refused to give unto him, unless I sent the money to pay for it first. I sent the dragoman immediately to the Bashaw to know the reason, who repeated the same words, saying the oil was not his, but belonged to the crew of the cruisers; that, if I wanted oil, I must first send the cash. I immediately sent for Farfara, who had acted as broker in the sale of the cloth, and desired him to demand a positive answer from the Bashaw, whether he intended to pay me or not; that I was resolved to be kept no longer in suspense; and offered to take the money at the present value, which is only one thousand nine hundred and twenty-nine dollars, in full of all demands. The Bashaw sent the same answer which he had sent above fifty times before, that he would pay me, but at present it was not convenient; and desired Leon Farfara to inform me, that, if I had a mind, I might take one of the Swedish prizes for my money, which I declined; knowing that he, having a quantity of prizes and other goods on hand for exportation, would probably force me to take a cargo of said goods to Leghorn, or elsewhere, thereby exposing the United States to become responsible for said goods, or their value, should any accident happen to said vessel, in the same manner as the claim originated upon Sweden, which was the first and principal cause of the present war. I therefore have deemed it more expedient to entirely lose the aforementioned sum than to run a risk which might involve my country in a war.

And as it appears from the above detail that the said Bashaw never intends to pay me the above sum in cash, according to agreement, notwithstanding I have his receipt or promissory note, under the great seal of this regency, and I having waited above one year for the payment of the said sum, without effect, I therefore debit the United States the said sum in my account current, leaving the Government of the said United States to make the said claim a national claim; no individual being bound to be responsible for the arbitrary acts of the chiefs of the Barbary States; at the same time making myself responsible to the United States for said sum, or any part thereof, which may be recovered from the said Jusef Bashaw hereafter.

Third. Be it known, that, in the months of May, September, and October, 1800, the said Jusef Bashaw, supreme commandant of the said regency of Tripoli, having made certain demands upon the United States, in direct violation of the tenth article of the treaty existing between the United States of America and the regency of Tripoli, which the consul of the United States resident here found incompatible with the honor and interest of the nation he represents to comply with; that said Jusef Bashaw, in direct violation of the twelfth article of the said existing treaty, did publicly declare that he would only wait until he receives answers from the President of the United States of America, which, if not satisfactory, that he would then declare war against the said United States, as is more fully explained in my despatches to Government, copies of which were forwarded to our consuls at Algiers and Tunis. And whereas it is particularly specified in the tenth article of said treaty that the money and presents demanded by the Bey or Bashaw of Tripoli is a full and satisfactory consideration on his part, and on the part of his subjects, for said treaty of perpetual peace and friendship, and that no pretence of any periodical tribute or further payment is ever to be made by either party; and said Bashaw of Tripoli having acknowledged the receipt of the money and presents stipulated by said treaty, I find myself justifiable, both to God and my country, in having refused to comply with the said Bashaw's unjust demands upon said United States of America.

And whereas, it is stipulated in the twelfth article of the aforesaid treaty, that, in case any dispute arises from a violation of any of the articles of said treaty, no appeal shall be made to arms, nor shall war be declared on any pretence whatever; but if the consul residing at the place where the dispute shall happen shall not be able to settle the same, an amicable reference shall be made to the mutual friend of both parties, the Dey of Algiers; the parties thereby engaging to abide by his decision: and he, by virtue of his signature to the said treaty, having engaged, for himself and his successors, to declare the justice of the case according to the true interpretation of the said treaty, and use all the means in his power to enforce the observance of the same:

Now know all men by these presents, that I, James Leander Cathcart, consul for the United States of America in said regency of Tripoli, do protest and declare, that the demands made by the Bashaw of Tripoli upon the United States of America are of such a nature that I cannot settle the dispute arising therefrom; and that I conceive that I should not only be deviating from my official duty, but likewise acting as an accomplice, and in conjunction with the said Bashaw of Tripoli, to treat our good friends, the Dey and Divan of Algiers, with indignity and disrespect, were I to refrain from making the aforesaid amicable reference. I, therefore, in virtue of these presents, do make the aforesaid amicable reference, transmitting the whole to the consul general of the United States of America at Algiers, who is possessed of every information relative to the state of our affairs in this regency, having received duplicates of my despatches for the Government of the United States; at the same time, leaving it at the discretion of the consul general of the United States at Algiers, for the time being, to take such measures as he in his judgment may think most likely to promote the interests of the United States, and to maintain the peace of our country with this regency upon honorable and equitable terms.

Fourth. Be it known, that, on the 25th of September, 1800, Raiz Amor Shelli, commander of a Tripolitan cruiser of eighteen guns, captured the American brig Catharine, James Carpenter, master, of and from New York, and bound to Leghorn, valued at fifty thousand dollars, or thereabouts; that said vessel was kept in possession of the subjects of Tripoli until the 15th of October, in the evening, and was then delivered up to the consul of the United States, in consequence of the Bashaw of Tripoli having written a letter to the President of the United States, the purport of which, being already known, needs no repetition; and that said vessel was exposed to much loss and peril, as appears by the master of said brig his protest, already forwarded to our consul general at Algiers; and that said brig was plundered of effects, valued by said master, James Carpenter, at three hundred and ninety-seven hard dollars, whereof was recovered to the value of one hundred and eighty dollars, the value of two hundred and seventeen dollars being irrecoverably lost; notwithstanding he the Bashaw had given positive orders to Hamet Raiz, or Minister of Marine, to cause every article that could be found to be restored to their lawful owner; yet said Raiz of the Marine did not comply with the Bashaw's orders; and, being the Bashaw's brother-in-law, it was out of my power to compel him; but, on the contrary, prevaricated, from day to day, from the 16th to the 21st of October, with an intent, no doubt, to share the spoils with the aforesaid Raiz Amor Shelli; and, on the night of the 21st instant, sent Ibram Farfara to inform me that, if the brig did not sail by daylight in the morning, the port would be embargoed: and gave me to understand that, if I did not promise to pay him anchorage for said brig, she would be detained until the embargo should be taken off. This demand I absolutely refused to comply with. On the 22d, at daylight, I ordered the brig to get under way, and could not get the pilot to go on board until said Ibram Farfara paid the Raiz of Marine five dollars and seventy-five cents anchorage, which, notwithstanding it being an unjust demand, I complied with, sooner than have the brig detained one day longer.

I therefore, for foresaid reasons, and for each of the aforementioned arbitrary acts, do protest against the aforesaid Jusef Bashaw, supreme commandant of the regency of Tripoli, in Barbary, and against his ministers and counsellors; but more especially against said Morad Raiz, admiral of the cruisers of this regency, for being the cause of my altering the national passports of the United States of America, and against said Hamet Raiz, or Minister of Maine, for the reasons before mentioned, as well as for falsely, insidiously, and slanderously asserting in my presence, and in the presence of Captain Carpenter, that the consul general of the United States, Richard O'Brien, and the broker or banker of said United States, Micaiah Cohen Bacri, had informed him, when he was last at Algiers, that the Government of the United States had alone paid to the house of Bacri & Co. one hundred thousand dollars for their influence, thereby irritating the said Jusef Bashaw against the Government and citizens of the United States of America, as the said Jusef Bashaw seemingly gave credit to the falsehood of said Hamet Raiz, and emphatically said that the Government of the United States had treated an Algerine Jew better, and with more liberality, than they had the said Bashaw of Tripoli, notwithstanding I gave the direct lie without ceremony or hesitation to the said Hamet, and told the Bashaw that I wondered how he could give credit to so barefaced a falsehood; for even had the United States given the abovementioned sum, the party concerned would be the last people in the world to divulge the same, it not comporting with their honor or interest, especially to Hamet Raiz, who was not only an enemy to the United States, but likewise to his excellency the Bashaw of Tripoli, he having by his false insinuations endeavored to persuade the Bashaw to annul the treaty of peace and amity at present subsisting between the said United

States and this regency, to the prejudice of his character, honor and dignity, whose word and signature I had always supposed to have been inviolably sacred; and that said Jusef Bashaw, in answer to the above, said, "You say that Hamet Raiz *lies*, and I say he tells truth;" thereby discrediting all I had said, and giving full credit to the imposition of said Hamet Raiz, or Minister of Marine.

Now know all men, that, for the reasons afore assigned, I, James Leander Cathcart, agent and consul for the United States of America, in the regency of Tripoli, having shown sufficient cause to enter this protest against the said Jusef Bashaw, supreme commandant of the regency of Tripoli, his aforementioned ministers and counsellors, I do, by these presents, most solemnly protest against the conduct of said Jusef Bashaw, his ministers and counsellors, as being unjust and in direct violation of the 10th and 12th articles of the existing treaty between the United States and the said regency of Tripoli; and I, James Leander Cathcart, do further declare that the dispute arising from the violation of said treaty is of such a nature, that I cannot adjust the same before I receive express instructions from the President of the United States of America, or until our good friends the Dey and Divan of Algiers shall decide upon the justice of the cause, according to the true interpretation of the existing treaty between the United States of America and this regency; and that I do hereby make an amicable reference to our good friends the Dey and Divan of the regency of Algiers, promising, in the name of the United States of America, to abide by their decision agreeable to the true meaning of the stipulation contained in the 12th article of the treaty of peace and amity concluded between the United States of America and the regency of Tripoli, by the intervention of the late Hassan Bashaw, Dey of Algiers, and under the immediate guaranty of said regency; the said treaty having been duly ratified by the reigning Dey of Algiers, Mustapha Bashaw, whom God preserve.

Now I, James Leander Cathcart, agent and consul of the United States of America, conceiving it my duty so to do, do now transmit this said protest to the chancery of the United States at Tunis, in order that it may be there duly registered, and from thence forwarded to the consul general of the United States of America at Algiers, in order to prevent, as much as depends upon me, any appeal being made to arms, leaving the conducting of the whole affair entirely at the discretion of the consul general of the United States of America for the time being, as before mentioned, not doubting but he will take such measures as he in his judgment may think most likely to promote the interests of the United States of America, and maintain the peace of our country with this regency upon honorable and equitable terms.

In testimony of the above, I have hereunto subscribed my name, and affixed the seal of my office, at the chancery of the United States of America, in the city of Tripoli, in Barbary, this 29th day of October, in the [L. S.] year of our Lord one thousand eight hundred, and in the 25th year of the independence of the United States of America.

JAMES L. CATHCART.

[TRANSLATION.]

Mr. Cathcart having desired a *procès verbal* of what passed at the audience, which, at his request, in conjunction with that of the consul of His Danish Majesty, and of the *chargé des affaires* of His Catholic Majesty, was given on the 11th of this month; as well as of the reasons which occasioned their request:

The undersigned Nicholai Christian Nisen, consul of His Danish Majesty, and Don Pedro Ortiz de Zugasti, *chargé des affaires* of His Catholic Majesty, attest and declare as follows:

Since a long time there existed the greatest irregularity in the distribution of letters which arrived here for the consuls. This irregularity was considerably increased, when, by reason of the plague which appeared at Tunis, and the precautions relative to health taken by his excellency the Bashaw, in consequence, the couriers were subjected to quarantine, and the letters fumigated before they were distributed. But the abuses had now reached their last extreme. On the 27th October, arrived a small vessel from the coast of Tunis: the vessel and passengers were both subjected to quarantine. Only one letter was delivered on the day of her arrival; and on our earnestly endeavoring to learn whether there were any for us, we received negative answers. Nevertheless, on the 9th of this month a packet was given to the *chargé des affaires* of His Catholic Majesty, and another to the consul of the United States of America; the latter having had the politeness to communicate some news from it to us, complained of the considerable delay he had experienced of a letter he had just received from Algiers, dated on the 25th July, contained in another from Tunis of the 1st of October. This letter was of the greatest consequence to him in his consular concerns, and he requested us to attest the day of its arrival, which we did, as we now do by these presents.

The next day (Nov. 10,) arrived a courier from Tunis. He arrived in the morning, but all the day passed without receiving the letters. On the 11th, in the morning, they were landed open, and thrown together promiscuously, and, instead of fumigating them, they were burnt in such a manner as to consume a part and render the rest illegible, and thus they were sent to us by handfulls. Seeing these unworthy proceedings, finding many of our letters lost, and that our residence here at Tripoli would be absolutely useless to our Governments, if their orders did not reach us, we thought it our duty to make a complaint, supported by all, and in the strongest manner, to his excellency the Bashaw. An audience being granted, we showed him our letters in pieces and burnt, among which there was one for the Bashaw himself. His excellency immediately promised to cause this abuse to be redressed. He gave his orders, in consequence, and declared himself ready to punish the guilty.

After having thus terminated the principal object of the audience requested, each of us communicated to his excellency the news we had received; and the consul of the United States of America, having equally communicated to the Bashaw, that the ministers of his Government at Paris had just concluded a treaty with the French republic, which was to terminate their differences, his excellency complimented him on the occasion, but nevertheless added, that an arrangement ought also to be made with him, and to take care that he did not give orders to his cruisers to bring in the merchant vessels of the United States; and his excellency the Bashaw further explained himself in such manner as to cause the fear of a rupture not far off. The consul of the United States of America, Mr. Cathcart, answered, that he was sure that would never take place; that the word of his excellency was sacred; that he, the consul, could do nothing without the orders of his Government, and that his excellency had promised to wait, not only six months, computing from the 2d of October last, but until the arrival of an answer from the American Government. But the Bashaw did not seem to accede to it; on the contrary, he refused, and said that he had the greatest reason to complain of the Americans; that lately he had received a letter from one of his corsairs, which acquainted him that, being on the coast of Naples, he had met an American polacre richly laden; that he visited and treated it in a friendly manner; that, nevertheless, the polacre, after entering the port, gave intelligence that the corsair was there, in order that a superior force might be sent out to capture him; but the corsair being advised of it by a Ragusan vessel, which had just come out of the same port, he had time to save himself.

Mr. Cathcart answered his excellency that it was evidently a false report, dictated by malice; that, among the whole marine of the United States, there was no polacre; and that he prayed his excellency not to give credit to such lies, which his Raiz might report; nevertheless, the consul of the United States had no reason to be tranquillized: it appeared, on the contrary, that his excellency the Bashaw of Tripoli intended shortly to give orders for bringing in the merchant vessels of the United States, and thus to commence hostilities.

The audience being finished, we retired, and Mr. Cathcart, consul of the United States of America, having communicated his wish to us, to have a *procès verbal* of all that passed at the audience, as well as of what gave occasion for asking it, we have drawn up these presents; and in faith thereof, we have signed them, and thereto affixed the royal seals of our consulates.

Done at Tripoli, in Barbary, this 13th November, 1801.

N. C. NISEN. [L. S.]
Consul of His Danish Majesty, at Tripoli, in Barbary.

In absence of the Consul General:
[L. S.] PEDRO ORTIZ DE ZUGASTI.

DECEMBER 22, 1801.

Gentlemen of the Senate and of the House of Representatives:

I now enclose sundry documents supplementary to those communicated to you with my message at the commencement of the session. Two others of considerable importance, the one relating to our transactions with the Barbary Powers, the other presenting a view of the offices of the Government, shall be communicated as soon as they can be completed.

TH: JEFFERSON.

[TRANSLATION.]

The Bashaw of Tunis to Mr. John Adams, President of the United States of America.

MR. PRESIDENT:

Although I have charged the worthy and zealous consul of your nation, the Sieur William Eaton, to acquaint you with a proposition, which I have found myself under the absolute necessity of making to him, I have nevertheless determined to apply directly to you about it by these presents, in order that I might, at the same time, procure for myself the pleasure of reiterating to you the assurance of the continuance of my esteem and my friendship.

After the request I formerly made for forty cannon of different calibers, the present circumstances in which I find myself require that I should procure twenty-four pounders, of which I have the most pressing need. I should therefore wish that you would cause them to be sent to me as soon as possible: in case you should not, on the receipt of the present, have sent the first to me, if finally they should have been already sent away, I expect, Mr. President, as a real proof of your friendship, for which I shall be infinitely obliged to you, that you will furnish and convey to me forty other pieces, all of the caliber abovementioned.

This request will not appear in the least extraordinary to you, when you consider the very moderate and friendly manner in which, differently from others, I have conducted myself towards the United States and their flag, notwithstanding that the douceurs and presents, stipulated four years ago for my making peace with the United States, have not all arrived, and that not the smallest part of those, which were intended for me individually, have been sent. I make no doubt on this subject, that your consul will have forwarded the letter I addressed to you about two years past relative to it, and that you will thereby have seen that I consented to wait the space of a year, in consequence of the representation which the same consul made to me, that several of the articles composing the present due to me, and which I constantly expect, could neither be had nor manufactured in the United States, and that they were to be procured from foreign countries.

Wishing, on my part, to return you a reciprocity (whenever an occasion of urgency in your nation happens) in my country, and hoping to see that good harmony which happily subsists between us continued and remain undisturbed, I pray Almighty God to preserve you, and I assure you, Mr. President, of my esteem and my most distinguished consideration.

[Signature and seal of Hamouda Bashaw, Bey of Tunis.]

At Bardo, of Tunis, the 2d of the moon Haggia, of the year Hegira 1215, and the 15th April, 1801.

Thomas Jefferson, President of the United States of America, to Hamouda Bashaw, Bey of Tunis.

GREAT AND GOOD FRIEND:

The letter which you addressed to the President of the United States of America, on the 15th of April, has been received, and has conveyed us the assurances, always welcome, that your friendly dispositions towards these States still continue firm and unimpaired. We feel deep regret that the regalia, and other tokens of our esteem for you, had not, at that date, reached their destination. These delays proceed from the distance of our situation, and from the circumstance that some of the articles acceptable to you are not fabricated here, but are to be sought for in foreign countries, where, also, they require time to be prepared. We trust they will all have been received before this reaches you. We are a nation not practising the difficult arts, but employed in agriculture, and transportation of its produce, for commercial exchange with others. Peace, therefore, with all nations is essentially our pursuit, so long as it can be obtained on just and equal grounds. Of this desire, on our part, we have given to the States bordering on the Mediterranean the same manifestations of which Europe had set the example. Like them, we consented to give a price for friendship, which would have been properly requited by our own. So long as we have been met with moderation and good faith, we have preferred these means of peace, rather than to seek it through our own strength. At length, however, the inadmissible demands of the Bashaw of Tripoli, and our determination to owe to our own energies, and not to dishonorable condescensions, the protection of our right to navigate the ocean freely, have induced us to send a squadron into the Mediterranean sea, for the protection of our commerce against the Bashaw of Tripoli. We gave, illustrious friend, in strict charge to our officer, chief in command, to respect and treat with particular friendship your flags, your vessels, and your subjects, and to take an early occasion, after his arrival in those seas, to testify his respect to you, to assure you of our adherence to the peace and friendship established with you, and of our orders to him to cultivate them with assiduity: and we trusted you would yield him that hospitable reception, and those accommodations in the ports of your dominions which his necessities require. We did this with the greater confidence, as knowing the liberality of your mind, and being ourselves in the habit of rendering similar good offices to all nations in friendship with us.

Trusting, good friend, that our consul will have received and delivered those evidences of our good will, which circumstances permit us to offer for your acceptance, we ask the continuance of your friendship in return for that which we sincerely bear to you: and pray to God that he may long preserve your life, and have you under the safeguard of his holy keeping.

Done in the United States of America, this 9th day of September, 1801.

TH: JEFFERSON.

TUNIS, *June* 28, 1801.

SIR:

On the night of the 18th instant a fire broke out in the Bey's palace, which, in its progress, consumed fifty thousand stands of arms. The second day following, I received a message to wait on the Bey, but was at that moment confined to my bed with a bilious fever, so that it was not till this morning I have been able to go in my carriage to the palace. The Bey's object in calling on me was to demand of the United States *ten thousand stands of arms*. I refused to state his demand. "I have proportioned my loss," said he, "among my friends, and this falls to you to furnish. Tell your Government to send them without delay." It is impossible, said I, to state this claim to my Government. We have no magazines of small arms; the organization of our national strength is different from that of any other nation on earth. Each citizen carries his own arms, always ready for battle. When threatened with an invasion, or actually invaded, detachments from the whole national body are sent, by rotation, to serve in the field; so that we have no need of standing armies, nor depositories of arms. It would be an affront to my Government, and an imposition on the Bey, to state to them this demand, or to flatter him with a prospect of receiving it. "Send for them to France or England," said the minister. You are in a much more eligible position to make this commission to Europe than we are, said I. "If the Bey had any intention of purchasing the arms from Europe," said the minister, "he could do it without your agency. He did not send for you to ask your advice, but to order you to communicate his demands to your Government." And I came here, said I, to assure you that I will make no such communication to my Government. "The Bey will write himself," said he. If so, it will become my duty to forward his letter; but, at the same time, it is equally obligatory on me to let the Bey be aforehand apprized that he never will receive a single musket from the United States. I should suppose a sense of decency, if not of grati-

tude, would dissuade the Bey from this new extravagant claim. Has he not, within eighteen months, received two large ship cargoes in regalia? have we not now another ship laden for him on its passage? and has he not, within sixty days, demanded cannon extraordinary of the United States? At this rate, when are our payments to have an end? "Never," said the minister; "as to the ships you talk of, they are but the part payment of regalia you have long since owed us, as the condition of peace; the other claims we make are such as we receive from all friendly nations once every two or three years; it is an established custom, and you, like others, will be obliged to conform to it." When we shall have completed the payment of our peace stipulations, you may never calculate on further donations. It is by treaty considered as the conditions of a perpetual peace, and any new claims on your part will be at least an infraction of the treaty, and will be so considered by us. You may, therefore, at once, and forever, abandon the idea of future claims: for I again assure you, in the name of my Government and country, that the discharge of our treaty obligations will put an end to our contributions here. "Your contributions, as you think proper to call them," said the minister, will never have an end. If this be the language you think of holding at this court, you may prepare yourself to leave the country, and that very soon." If change of style, on my part, said I, be the condition of residence here, I will leave the Bey's kingdom to-morrow morning. "We will give you a month," said the minister. I ask but six hours, I replied. "But you will write?" No. "But it is your duty to write." For deficiency in duty this is not the place where I am to be questioned. "I tell you again," continued he, "your peace depends on your compliance with this demand of my master." If so, said I, on me be the responsibility of breaking the peace. I wish you a good morning. Leaving the place, I heard the minister say to one of his colleagues, "By God, that man is mad! but we shall bring him to terms; never fear." I do not know how this affair will end. I will not change my position.

I have the honor to be, sir, with perfect respect, your most obedient servant,

WILLIAM EATON.

Hon. SECRETARY *of the United States.*

Extract of a Letter from the Secretary of the Navy to Commodore Dale.

MAY 20, 1801.

"Recent accounts received from the consul of the United States, employed near the regencies of Algiers, Tunis, and Tripoli, give cause to fear that they will attack our commerce, if unprotected, within the Mediterranean; but, particularly, such apprehension is justified by absolute threats on the part of the Bey of Tripoli.

"Under such circumstances, it is thought probable that a small squadron of well appointed frigates appearing before their ports will have a tendency to prevent their breaking the peace which has been made, and which has subsisted for some years, between them and the United States. It is also thought that such a squadron, commanded by some of our most gallant officers, known to be stationed in the Mediterranean, will give confidence to our merchants, and tend greatly to increase the commerce of the country within those seas.

"I am, therefore, instructed by the President to direct that you proceed, with all possible expedition, with the squadron under your command, to the Mediterranean. It will be proper for you to stop at Gibraltar, and obtain permission from the Governor for depositing provisions there, for the use of your squadron. It is not presumed there will be any refusal; but should he deem it improper, you will then leave a letter with Mr. Gavino, the American consul, for the captain of the provision vessel that will be sent hereafter, directing him where to proceed.

"On your arrival at Gibraltar, you will be able to ascertain whether all or any of the Barbary Powers shall have declared war against the United States. In case all are tranquil, you will water your ships, proceed off the port of Algiers, and send to the consul, Mr. O'Brien, whom you will inform that you have arrived; that the views of your Government are perfectly friendly; that you have a letter for him and the Dey; and that you request to see him, or that he send some person, in whom he can confide, for the letters; or that he send a permission for one of your officers to go to the city. You will have on board certain goods, which you will deliver on his requisition. They are for the biennial presents to the regency. The George Washington is preparing to carry timber and other stores for at least one year's annuity, and you have on board the President thirty thousand dollars, which it is hoped and expected Mr. O'Brien will be able to induce the regency to receive for another year. The balance may go some time hence. But if Mr. O'Brien cannot induce the Dey to receive money instead of stores, you will retain the thirty thousand dollars, excepting four or five thousand dollars, which, on Mr. O'Brien's requisition, may (if he should think it useful to commence with) be given him on your arrival, and which amount may be replaced, if the Dey shall afterwards agree to receive the thirty thousand dollars in full for one year's annuity, out of the ten thousand dollars hereafter mentioned as being intended for the Bey of Tripoli, and the stores will be sent as soon as possible.

"When your business is arranged at Algiers, to your satisfaction, you will proceed to Tunis, and there cause the letters you carry to be delivered to Mr. Eaton, the consul. A ship is preparing, and will sail as soon as possible, with stores, agreeably to treaty with that regency.

"From thence you will proceed to Tripoli; on your arrival there, send for Mr. Cathcart, American consul for that port, to whom deliver his letters, and either by him or one of your officers (whoever may be deemed most proper,) send the President's letter to the Bey. You have on board ten thousand dollars, as a present from the President; the whole, or such part thereof as you may have on your arrival at Tripoli, and which Mr. Cathcart may conceive useful, will be given the Bey, provided he has conducted himself peaceably towards the United States.

"You will be careful not to solicit the honor of a salute from any of those Powers; if you do, they will exact a barrel of powder for every gun they fire.

"You will enjoin upon your officers and men the propriety and utility of a proper conduct towards the subjects of all those Powers; a good understanding with them being extremely desirable.

"Should you find the conduct of the Bey of Tripoli such as you may confide in, you will then coast with your squadron the Egyptian and Syrian shores as far as Smyrna, and return by the mouth of the Adriatic; thence pay the Bey of Tripoli another visit; finding him tranquil, proceed to Tunis, and again show your ships; and thence coast the Italian shore to Leghorn, where you may stay some days, and then proceed along the Genoese to Toulon, which port it will be instructive to your young men to visit. From thence, proceed again to Algiers. If there should be no hostile appearance on the part of those Powers, and you should be well assured that no danger is to be apprehended from either of them, you may, on the 15th October, commence your return homeward; but if there should be any cause for apprehension from either of those Powers, you must place your ships in a situation to chastise them, in case of their declaring war or committing hostilities, and not commence your return to the United States until the first day of December.

"On your return, you will go into Hampton Road, and repair yourself to this place as soon as you can. Order the Philadelphia to Philadelphia, if the season will permit; if not, let her go with the Essex to New York; the Enterprise send to Baltimore.

"But should you find, on your arrival at Gibraltar, that all the Barbary Powers have declared war against the United States, you will then distribute your force in such a manner as your judgment shall direct, so as best to protect our commerce and chastise their insolence; by sinking, burning, or destroying their ships and vessels wherever you shall find them. The better to enable you to form a just determination, you are herewith furnished with a correct state of the strength and situation of each of the Barbary Powers. The principal strength, you will see, is that of Algiers. The force of Tunis and Tripoli is contemptible, and might be crushed with any one of the frigates under your command.

"Should Algiers alone have declared war against the United States, you will cruise off that port so as effectually to prevent any thing from going in or coming out, and you will sink, burn, or otherwise destroy their ships and vessels wherever you find them.

"Should the Bey of Tripoli have declared war, (as he has threatened) against the United States, you will then proceed direct to that port, where you will lay your ship in such a position as effectually to prevent any of their

vessels from going in or out. The Essex and Enterprise, by cruising well on towards Tunis, will have it in their power to intercept any vessels which they may have captured. By disguising your ships, it will be some weeks before they will know that the squadron is cruising in the Mediterranean, and give you a fair chance of punishing them.

"If Tunis alone, or in concert with Tripoli, should have declared war against the United States, you will chastise them in like manner. By cruising with the squadron, from the small island of Maratimo, near the island of Sicily, to Cape Blanco, on the Barbary shore, you may effectually prevent the corsairs of either from intercepting our commerce in the material part of the Mediterranean sea, and may intercept any prizes they may have made.

"Any prisoners you may take you will treat with humanity and attention, and land them on any part of the Barbary shore most convenient to you. This mode will be humane, and will show that we have no sort of fear what such men can do. It will also tend to bring those Powers back to a sense of justice which they owe to us. But you will be careful to select from them such Christians as may be on board, whom you will treat kindly, and land, when convenient, on some Christian shore. Should you have occasion, you may accept their services."

Extract of a letter from Commodore Dale, commanding the United States' squadron in the Mediterranean, to the Secretary of the Navy.

"GIBRALTAR BAY, *July* 2, 1801.

"On my arrival here, I found lying at anchor the high admiral of Tripoli, in a ship mounting twenty-six guns, nine and six pounders, two hundred and sixty men, and a brig of sixteen guns, one hundred and sixty men. He has been out thirty-six days, says he is not at war with America, nor has he taken any thing. He came in here for water, and is under quarantine at present. From every information I can get here, Tripoli is at war with America."

Extract of a letter from Commodore Dale to the Secretary of the Navy.

"TUNIS BAY, *July* 19, 1801.

"Mr. O'Brien informed me 'that the Dey of Algiers had been complaining very much of the United States in not making their annual payments good, and had gone so far as to say that he would not put up with it much longer. He was now confident, he said, that the Dey would not speak so big, and had no doubt that the arrival of the President at Algiers had much more weight with the Dey than if the Washington had arrived with stores. He did not think it a proper time to mention to the Dey about receiving thirty thousand dollars instead of stores.' Mr. O'Brien took the cloth and linen on shore with him.

"I arrived in Tunis Bay 17th instant, and sent a letter on shore to Mr. Eaton; the 18th he came on board. The Essex and the ship Grand Turk arrived the same day. From Mr. Eaton's information, this regency has been much in the same way as Algiers, and the appearance of our ships will have the same effect on the great and mighty Bey of Tunis."

Extract of a letter from Commodore Dale to the Secretary of the Navy.

"MALTA HARBOR, *August* 18, 1801.

"I arrived off Tripoli the 24th ultimo; the 25th I received a letter from Mr. Nessen, consul for Denmark at Tripoli; he was requested by Mr. Cathcart to act for him in his absence, should there be a necessity for it. The letter was written at the request of the Bey, to know if my intentions in coming off Tripoli were to make peace or war. I wrote him that my intentions in the first instance were friendly, but the act of his excellency in declaring war against the United States had put that disposition out of my power, and that I was determined to take his vessels of every description, and his subjects, wherever I could find them; but, at the same time, I should be glad to know his reasons for declaring war, and on what principles he expected to make peace. That on those points I wished information as soon as possible, that I might inform the President of the United States, and ascertain his determination respecting the business. The next day the Bey sent off a Jew, to negotiate for a peace or truce. I informed him that his excellency had not answered my letter; that I was not empowered to make a new treaty; but if the Bey would answer my letter, and send off one of his officers, and was serious in the business, I would then treat with him about a truce. The Jew went on shore. I have not heard from him since. The Bey wrote me previous to this, that he had good reasons for declaring war against the United States, but if I would come on shore, he was very certain we should be able to make a peace. He said he did not like the first and twelfth articles in the old treaty, and did not wish to have any thing to do with the Dey of Algiers.

"I am happy to inform you that the Enterprise, on the 1st instant, on her passage to this place, fell in with a polacre ship, mounting fourteen guns and eighty men, a corsair belonging to Tripoli. The enclosed is a copy of Mr. Sterrett's letter to me, which will give you an account of the action and the result of it. Mr. Sterrett is a very good officer, and deserves well of his country. After being eighteen days off Tripoli, and seeing nothing in that time but two small vessels, Tunisians, one bound in and the other out, and receiving information that the Bey had boats stationed along the coast, both to the eastward and westward, on the 11th instant I determined to run along the coast to the westward as far as the island of Pidussa; from Pidussa to this place for water. I arrived here the 16th instant; saw nothing on my passage."

Copy of a letter from Lieutenant Andrew Sterrett to Commodore Dale, dated on board the United States' schooner Enterprise.

AT SEA, *August* 6, 1801.

SIR:

I have the honor to inform you that on the 1st August I fell in with a Tripolitan ship of war, called the Tripoli, mounting fourteen guns, commanded by Raiz Mahomet Sous. An action immediately commenced within pistol shot, which continued three hours, incessant firing. She then struck her colors. The carnage on board was dreadful, she having twenty men killed and thirty wounded; among the latter was the captain and first lieutenant. Her mizen-mast went over the side. Agreeable to your orders, I dismantled her of every thing but an old sail and spar. With heartfelt pleasure I add, that the officers and men throughout the vessel behaved in the most spirited and determined manner, obeying every command with promptitude and alertness. We had not a man wounded, and sustained no material damage in our hull or rigging.

I remain your most obedient servant,

ANDREW STERRETT.

Extract of a letter from Commodore Dale to the Secretary of the Navy.

"GIBRALTAR BAY, *October* 4, 1801.

"Having completed my water on the 21st of August, I sailed again. On the 30th I brought to a Greek ship, from Constantinople and Smyrna, bound into Tripoli, loaded with beans and merchandise, and having on board one Tripolitan officer, twenty soldiers, fourteen merchants, five women, four of them black, and one white child, all Tri-

politans. I took them all on board. I thought this a favorable opportunity to try to bring about and settle an exchange of prisoners with the Bey, should his corsairs take any Americans, (I say God forbid!) I accordingly sent three of the Tripolitans on shore in a small boat, with a letter to Mr. Nissen, the Danish consul, requesting him to make known the contents of it to the Bey. The next day, Mr. Nissen came off, at the Bey's request, to know if I would make a truce. Mr. Nissen informed me that he told the Bey, before he came off, that he could not say any thing to me on that subject, until he had answered my letters on that point. The Bey told him to go off and try, and, if I would, he would then talk to me about the exchange of prisoners, and a peace. My mind was made up on that subject: knowing I had no orders to make a truce, little was said on that subject. Mr. Nissen told me that the Bey said that he would not give one American for all the soldiers, and that only eight of the merchants were his subjects. He cared very little about any of them. At length, the Bey agreed to give three Americans for twenty-one soldiers, and three for the eight merchants. Circumstanced as I was, I was under the necessity to act as I did, namely, to put them all on board the Greek ship again, and permit them to go into port. I wrote to Mr. Nissen to inform the Bey, that I agreed to the exchange of three Americans for the soldiers, but I did not consider the merchants as prisoners, nor could I fix on any thing respecting them, until I knew the determination of my Government, and that the present transaction was not to be a precedent in any future negotiation. This transaction took place on the 3d of September, the ship's company then very sickly, ninety-four men on the doctor's list, and a number more complaining: not knowing to what extent the sickness might go, and not having more than one month's provision on board, at eight P. M. I was under the necessity of coming to a determination to give up the blockade of Tripoli, and proceed for Gibraltar.

"Mr. Gavino informed me, about a month ago, that the Tripolitan admiral had laid up his two corsairs here, and took his passage, with eight of his officers, on board of an English ship bound to Malta, leaving the captain of the brig and twenty men, to take care of the two vessels, and bring the ship home, if he had an opportunity; sent the remainder of his men over to Tetuan in boats.

"I think it necessary that two frigates should remain in those seas all the winter, under the present circumstances. The Philadelphia to rendezvous at Saragossa, the southeast end of the island of Sicily. I shall give Captain Barron orders to show himself off Tripoli and Tunis, every now and then, to let those fellows know and see that we are on the watch for them. The Essex to rendezvous at Gibraltar and Algeziras, as may be most convenient, to keep a good look out, and know what is going on in this quarter."

Extract of a letter from David Humphreys, Esq. to the Secretary of State.

"MADRID, *October* 20, 1801.

"In a postscript to the duplicate of the same, dated the 16th instant, I informed you I had received a letter that day from consul O'Brien at Algiers, in which he mentioned that a revolt had existed for a few hours, while the Dey was at the mosque, but that it was soon quelled, and tranquillity restored.

"I am since in receipt of a second copy of that letter, which is continued to the 28th ultimo, wherein he advises me that the Dey had received letters from Tripoli, with the information of the blockade of that port by the American armament; stating that one Tripolitan corsair had been taken and released; that some vessels had been permitted to enter the port, and others refused; that the Bashaw had been in want of grain, and that he had offered to make a truce with the American commodore, but the latter had rejected the offer. The Bashaw, therefore, solicits his (the Dey's) succor, to relieve him from his embarrassments, and to clear from their detention his two armed vessels which are blockaded at Gibraltar. Consul O'Brien had already declined complying with the Dey's desire to give passports for two hundred and fifty men, being part of the crews of those two armed vessels, to return to Tripoli.

"The same consul further reports, that the regencies of both Tripoli and Tunis solicit the Dey that he will not admit the custom of blockade, as being a novel system as applied to them, alike prejudicial to all their common interests.

"This appears to me strongly to recommend the policy of persisting in the system on our part, and perhaps of augmenting our present naval force in the Mediterranean."

7th CONGRESS.] No. 166. [1st SESSION.

AMERICAN SEAMEN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 14, 1801.

DEPARTMENT OF STATE, *December* 14, 1801.

SIR:

Agreeably to the "Act to revive and continue in force certain parts of the act for the relief and protection of American seamen, and to amend the same," I have the honor to lay before Congress an annual return, ending the 9th instant, containing an abstract* of all the returns made to the Secretary of State by the collectors of the customs for the different ports, pursuant to the "Act for the relief and protection of American seamen;" to which I have added extracts from the communications received from the agents employed in foreign countries, for the relief of American seamen.

I have the honor to be, with great respect, sir, your very obedient servant,

JAMES MADISON.

The Honorable the SPEAKER *of the House of Representatives.*

Abstract from the communications from the Agents employed under the act for the Relief and Protection of American Seamen.

DAVID LENOX, Esq. the Agent in Great Britain.

THIRD QUARTER, 1800, *from the 1st day of July, to the 1st day of October,* 1800.

Cases unanswered, per last abstract,	-	45
Applications since,	-	133
Applications renewed,	-	9
		187
Discharged,	32	
Ordered to be discharged, and are supposed to be so,	46	
		78

* For abstract of Registered Seamen, see Commerce and Navigation, No. 55.

Detained, having no documents to prove their citizenship,		34
Entered, and have received the bounty,		8
Detained as British subjects,		4
Not on board ships represented,		6
Made their escape,		2
Taken prisoners in Holland, and have not since been heard of,		2
No wish to leave the British service,		1
Cases unanswered,		52
		187

MEMORANDUM.—Died, in the West Indies, Fitch Allen, of Connecticut, July, 1799. In the Port Royal Hospital, John Eason, of Maryland, March, 1800.

Applicable to the former abstracts.

D. LENOX,
Agent of the United States of America, in Great Britain, for the relief and protection of American Seamen.

LONDON, 1*st of October*, 1800.

FOURTH QUARTER, 1800, *from the* 1*st day of October, to the* 1*st day of January*, 1801.

Cases unanswered, per last abstract,		52
Applications since,		142
Applications renewed,		21
		215
Discharged,	33	
Ordered to be discharged, and are supposed to be so,	56	
	89	
Detained, having no documents to prove their citizenship,		78
Entered, and have received the bounty,		6
Detained as British subjects,		6
Not on board ships represented,		15
Made their escape,		5
On board ships on foreign stations,		3
Dead, John Titus, of New York,		1
Cases unanswered		12
		215

D. LENOX,
Agent of the United States of America, residing in Great Britain, for the relief and protection of American Seamen.

LONDON, 1*st January*, 1801.

FIRST QUARTER, *from the* 1*st day of January to the* 1*st day of April*, 1801.

Cases unanswered, per last abstract,		12
Applications since,		83
Renewed applications,		28
		123
Discharged,	11	
Ordered to be discharged, and are supposed to be so,	24	
	35	
Detained, having no documents to prove their citizenship,		33
Entered, and have received the bounty,		3
Detained as British subjects,		2
As prisoners of war,		1
Not on board ships represented,		6
Not answering description in certificates,		5
Made their escape,		2
Invalided,		1
On board ship on foreign station,		1
Dead, Benjamin Eastman,		1
Cases unanswered,		33
		123

D. LENOX, *Agent, &c.*

LONDON, 1*st April*, 1801.

SECOND QUARTER, *from the* 1*st day of April to the* 1*st of July*, 1801.

Cases unanswered, per last abstract,		33
Applications since,		130
Renewed applications,		6
		169
Discharged,	21	
Ordered to be discharged, and are supposed to be so,	39	
	60	
Detained, having no documents to prove their citizenship,		13
Entered, and have received the bounty,		4
Detained as British subjects,		6
Detained as prisoners of war,		2
Not on board ships represented,		7
Not answering description in certificates,		3
Made their escape,		2
Cases unanswered,		42
		169

D. LENOX, *Agent, &c.*

LONDON, 1*st July*, 1801.

Extracts of letters from David Lenox, Esq. to the Secretary of State.

"LONDON, *January* 15, 1801.

"I have the honor to send you enclosed abstract of my applications for the discharge of seamen, to the 1st instant; and a list of one hundred and twelve seamen who are detained on the ground of their having no documents to prove their citizenship, for the six months ending the 31st ultimo. I have no new observations to make respecting this business. It is a constant detail, extremely vexatious, and by my present abstract you will perceive that the impressments are to fully as great an extent as at any period since I entered on the duties of my appointment. At the same time, I must observe that my applications continue to receive the usual attention at the Admiralty."

LONDON, *July* 25, 1801.

"The unanswered cases mentioned in my last letter are also brought into view; and those cases which still remain unanswered will be noticed in my future communications. It may, however, be proper for me to remark, that I do not entertain a doubt but that all these men will be discharged, provided they are not under restrictions, claimed by the British Government; namely, that they have not entered, received His Britannic Majesty's bounty, or are not married and settled in his dominions."

Extracts from two letters written by William Savage, Esq., agent at Jamaica, to the Secretary of State.

KINGSTON, *May* 19, 1801.

"I am confident if the masters of vessels from America would attend at my office, immediately after they have entered at the public offices here, and bring their crews, there would be fewer instances of impressment than there are."

KINGSTON, *July* 6, 1801.

"A great number of American seamen have been lately liberated from the several ships of war on this station, and a proper respect is paid to my signature, as the accredited agent of the United States here. Could the American masters that are continually arriving here, think it their duty to call on me as they entered, with their crews, my signature on the back of the protections would prevent the people from impressment, as well as the expense and trouble that arise to procure men in the room of those taken from them."

NOTE.—He has stated about fifty-six cases of the impressment of American citizens, or of persons calling themselves so, since the last report to Congress on this subject.

Abstract of all the protests, or affidavits of masters of ships and vessels of the United States, transmitted to the Secretary of State, in pursuance of the fifth section of the "Act for the relief and protection of American Seamen," and received since the 9th of December, 1800, the date of the last report to Congress.

No. of protest.	Date of protest.	Names of American vessels.	Where belonging.	Masters' names.	Names of people impressed.	Of what country.	By whom impressed.	When impressed.	Whether they had protections.
1	9th Jan. 1801,	Schooner Charlotte,	- - -	E. Crooker,	John Quin, -	Ireland, -	British sloop of war Alligator,	27th Sep. 1800,	Does not appear.
2	9th Feb.	Two Brothers, -	Philadelphia,	Patrick Hays,	Thomas Moody, -	United States,	ditto, Seam, -	13th Dec.	Had a protection.
3	12th " -	Brig Moses Gill, -	- - -	Sam'l Fitz,	Nicholas Weldon, -	Ireland, -	ditto, Cleopatra, -	29th Jan.	Does not appear.
4	17th March,	Schooner Polly, -	- - -	C. B. Church,	Jacob Dingley, -	United States,		25th Feb.	Ditto.
5	22d April,	Ditto Nancy, -	Scituate, -	W. Johnston,	John Scott, / George Dickson,	Ditto, - / Africa, -	ditto, Surprise, / ditto, ditto,	18th "	Scott had a protection. / Does not appear.
			- - -		John Lewis, -	Spain,			
6	6th June,	Ditto Scourge, -	New York,	Rich'd Scott,	William Mills, / Samuel Hudson, / Thomas Brown,	United States,	ditto, L'Amiable,	17th May,	They all had protections but Lewis.
7	14th " -	Ditto Aurora, -	Ditto, -	Nath'l Shaler,	Henry Burl, -	Ditto, -	ditto, Echo, -	7th June, -	Had a protection.
8	20th July, -	Ditto Morning Star,	Ditto, -	Geo. Hobson,	John Johnson, -	Prussia, -	ditto, Decade, -	22d " -	Does not appear.
9	22d " -	Ditto Elizabeth, -	Ditto, -	H. Parsons,	Peter Gronner, -	Denmark, -	ditto, Hydra, -	2d " -	Ditto.
10	" "	Ditto Ambition, -	Ditto, -	John Farrier,	Jonathan Williams,	United States,	ditto, Mortality, -	20th March,	Ditto.
11	24th " -	Ditto Nancy, -	- - -	J. O'Conner,	Robert Mitchell, -	Scotland, -	ditto, Viper, -	17th May,	Ditto.
12	8th August,	Ditto Betsey, -	- - -	Chas. Fowler,	Thomas Welsh, -	United States,	Press-gang, -	1st July, -	Ditto.
13	1st Sept'r,	Ditto Helena, -	Baltimore, -	J. Robertson,	Frederick Johnston, / William Scrivener,	- - -	British sloop of war Volage,	13th October,	Ditto.
14	9th Sept'r,	Ditto Russel, -	- - -	James Fostick,	John Higgins, -	United States,	Press-gang, -	14th June,	Had a protection.
15	10th " -	Ditto William, -	Portland, -	James Coombs,	William Rogers, -	England, -	ditto, - -	29th " -	Does not appear.
16	17th " -	Ditto Buck, -		Wm. Smith,	James Frary, -	United States,	ditto, - -	10th August,	Had a protection.
17	23d " -	Ditto Anna, -		A. Wildrage,	James Clark, -	England, -	ditto, - -	1st June, -	Ditto.
18	7th Nov'r,	Ditto Lavinia, -	Philadelphia,	A. Stevenson,	Robert Hewitt, -	United States,	British sloop of war Serpent,	4th August,	Does not appear.

7th CONGRESS.] No 167. [1st SESSION.

FRANCE.

COMMUNICATED TO THE SENATE, JANUARY 12, 1802.

JANUARY 12, 1802.

Gentlemen of the Senate:

I now communicate to you a letter from the Secretary of State enclosing an estimate of the expenses, which appear at present necessary for carrying into effect the convention between the United States of America and the French republic, which has been prepared at the request of the House of Representatives.

TH: JEFFERSON.

DEPARTMENT OF STATE, *January* 11, 1802.

SIR:

I have the honor to lay before you an estimate of the sum necessary to be appropriated for carrying into effect the convention between the United States of America and the French republic of the 30th of September, 1801.

I have the honor to be, sir, your most obedient servant,

JAMES MADISON.

The PRESIDENT *of the United States.*

Estimate of the expenses necessary for carrying into effect the convention between the United States of America and the French republic, of the 30th of September, 1801.

For captures made prior to the date of the treaty, on which no final condemnation had then passed, and of which the property was brought into the United States, - - - - -	$137,770
For captures made subsequent to the date of the treaty, - - - - -	70,351
For captures, where the property was not brought into the United States nor any condemnation had,	122,156
For cases of capture not at present known, and for a possible excess of the indemnities to be paid, above the estimate; say, - - - - - - - - - -	19,723
	$350,000

NOTE. The sum of two thousand dollars per annum, to cover the allowance to an agent at Paris, to perform the office of soliciting the claims for restitution under the convention, has been included in the general estimate for the service of the year 1802.

The repairs put upon the corvette Berceau, before her delivery to the French republic, are not included in the above estimate: they amounted to $32,839 54.

7th CONGRESS.] No. 168. [1st SESSION.

FRANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, JANUARY 25, 1802.

DEPARTMENT OF STATE, *January* 25, 1802.

SIR:

In obedience to the order of the House of Representatives of the 22d instant, I have the honor to lay before them a copy of the instructions, as issued by the Department of State, under the direction of the President of the United States, in virtue of the act of Congress entitled "An act further to protect the commerce of the United States," and passed on the 9th of July, 1798. These instructions were issued only to private armed vessels.

I have the honor to be, sir, with very great respect, your most obedient servant,

JAMES MADISON.

The Hon. the SPEAKER *of the House of Representatives.*

INSTRUCTIONS FOR THE PRIVATE ARMED VESSELS OF THE UNITED STATES.

1st. In exercising the powers granted by the act of Congress, entitled "An act further to protect the commerce of the United States," passed the 9th day of July, 1798, and which is hereto annexed, the regulations therein prescribed are to be strictly attended to and observed.

2d. The powers of capturing and recapturing, granted by the said act, being pointed solely and exclusively against French armed vessels, and those vessels, goods, and effects of citizens of the United States, or of persons resident therein, which shall have been captured by the French, the rights of all other nations are to be duly respected; and they are not to be molested in their persons or property; consequently, American vessels and property captured by the commissioned vessels of such of those other nations as are at war, are not to be recaptured by the armed vessels of the United States. Nevertheless, any vessels found on the high seas may be examined in such manner as shall be necessary to ascertain whether they are or are not armed French vessels, or "vessels the property of, or employed by, any citizen of the United States, or person resident therein, or having on board any goods or effects belonging to any such citizen or resident," that have been captured by the French. But if they are of neither of these descriptions, they are to be dismissed with as little delay as possible. And in making such examination, care is to be taken that no injury be done to the vessel or to the persons or property on board her. It peculiarly becomes a nation like the American, contending for her just rights, and defending herself against insults and injuries, to respect the rights of others, and studiously to avoid, not only the outrage and the inhumanity, but even the incivility of which itself complains. It is hoped that Americans will be as distinguished for their justice and humanity as for their bravery and love of true liberty. If, on the contrary, any of the officers or crews of American armed vessels shall practise any cruelty or inhumanity, contrary to the usage of civilized nations, the offenders will be severely punished.

3d. For the purposes of the act aforesaid, you will consider the "high seas" to extend to low water mark on all the coasts of France, and her dominions, and of all places subject to her power, in any part of the world; and exercise accordingly the powers of capturing and re-capturing, granted by the act aforesaid. By the same rule, seeing a war exists between Great Britain and France, you may capture and re-capture as aforesaid, on all the coasts of the British dominions, and of all places subject to the British power: but you are to refrain from exercising the aforesaid powers of capturing and re-capturing, in waters which are under the protection of any other nations, that their peace and sovereignty may remain unviolated. If, however, any armed French vessel, regardless of the rights of these other nations, shall, within their jurisdictional limits, attack or capture any vessel, goods or effects, the property of citizens of or residents in the United States, and you are able to attack and take such armed French vessel, or to retake her prize, within the jurisdictional limits of such nations, you are to do it; provided their Governments, respectively, or the commanders or governors in chief in such places, give their permission.

4th. The master or pilot, and one or more of the principal persons of the company of every armed French vessel, captured as aforesaid, are to be sent, as soon after the capture as may be, to the judge or judges of the proper court in the United States, to be examined upon oath, touching the interest or property of the captured vessel and her lading; and at the same time are to be delivered to the judge or judges, all passes, charter-parties, bills of lading, invoices, letters, and other documents and writings found on board; the said papers to be proved by the affidavit of the commander of the capturing vessel, or some other person present at the capture, to be produced as they were received, without fraud, addition, subduction or embezzlement.

5th. The commanders of American private armed ships are, by all convenient opportunities, to send to the Secretary of the Navy written accounts of the captures they shall make, with the number and names of the captives, and intelligence of what may occur, or be discovered, concerning the designs of the French, and the destinations, motions, and operations of their fleets, cruisers, and armies.

6th. Where it can be done without injury or great inconvenience, the armed French vessels, captured as aforesaid, are to be sent to some port in the United States, to be tried according to law. But such captures may happen in places remote from the United States, or under circumstances which would render the sending of the captured vessels thither extremely inconvenient: while, from the vicinity of the ports of the British dominions, or those of any other Power in friendship with the United States, but at war with France, or from other circumstances, it would be easy to send such captured vessels into those friendly ports. In such cases, it will be lawful to send such prizes into those friendly ports where they will find an asylum; and if the laws of those countries admit of it, and it can be done to the satisfaction of the captors, there will be no objection on the part of the American Government to the libelling and trying such captured armed French vessels by the proper courts of those countries; where, also, may be delivered to the proper officers all French persons and others who shall be found acting on board of any French armed vessel which shall be captured, or on board of any vessel of the United States which shall be re-captured as aforesaid.

7th. With respect to American vessels, goods, and effects re-captured, it seems not necessary to bring them immediately into a port of the United States. If brought in, they are to be restored to the owners, on the payment of salvage. But such re-captured vessels, goods, and effects may, at the time of re-capture, be so remote from the United States, and so near a market, or the goods and effects may be of a nature so perishable, that to send such vessels, goods, and effects back to the United States may prove extremely injurious to the owners and re-captors: whereas, if permitted to proceed to their destined ports, or other places, to a market, greater advantages may result to all concerned therein: and, as either the master, mate, or supercargo of any such re-captured vessel is usually left on board, and with the aid of the prize-master and hands of the re-captors, which would be necessary to bring her home, might proceed and complete their original or other beneficial voyage; the commanders of the private armed vessels will, in such case, consider maturely the course most proper to be pursued, as well for the benefit of their fellow-citizens, whose property they shall thus recapture, as of themselves, in respect to the salvage to which they and their crews and owners will be entitled. Nothing on this subject is enjoined; the commanders of the private armed vessels are to use their sound discretion.

8th. If any vessel of the United States, public or private, shall be found in distress, by being attacked or taken by the French, the commanders, officers, and company of the private armed vessels aforesaid are to use their utmost endeavors to aid, succor, relieve, and free every such vessel in distress.

To Captain ———, *Commander of the private armed* —— *called the* ——.

AN ACT further to protect the Commerce of the United States.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the President of the United States shall be, and he is hereby, authorized to instruct the commanders of the public armed vessels which are, or which shall be, employed in the service of the United States, to subdue, seize, and take any armed French vessel which shall be found within the jurisdictional limits of the United States, or elsewhere on the high seas; and such captured vessel, with her apparel, guns, and appurtenances, and the goods or effects which shall be found on board the same, being French property, shall be brought within some port of the United States, and shall be duly proceeded against, and condemned as forfeited, and shall accrue and be distributed as by law is or shall be provided respecting the captures which shall be made by the public armed vessels of the United States.

Sec. 2. *And be it further enacted*, That the President of the United States shall be, and he is hereby, authorized to grant to the owners of private armed ships and vessels of the United States, who shall make application therefor, special commissions, in the form which he shall direct, and under the seal of the United States; and such private armed vessels, when duly commissioned as aforesaid, shall have the same license and authority for the subduing, seizing, and capturing any armed French vessel, and for the re-capture of the vessels, goods, and effects of the people of the United States, as the public armed vessels of the United States may by law have; and shall be, in like manner, subject to such instructions as shall be ordered by the President of the United States, for the regulation of their conduct. And the commissions, which shall be granted as aforesaid, shall be revocable at the pleasure of the President of the United States.

Sec. 3. *Provided, and be it further enacted*, That every person intending to set forth and employ an armed vessel, and applying for a commission, as aforesaid, shall produce, in writing, the name and a suitable description of the tonnage and force of the vessel, and the name and place of residence of each owner concerned therein, the number of the crew, and the name of the commander, and the two officers next in rank, appointed for such vessel; which writing shall be signed by the person or persons making such application, and filed with the Secretary of State, or shall be delivered to any other officer or person who shall be employed to deliver out such commissions, to be by him transmitted to the Secretary of State.

Sec. 4. *And provided, and be it further enacted*, That, before any commission, as aforesaid, shall be issued, the owner or owners of the ship or vessel for which the same shall be requested, and the commander thereof, for the time being, shall give bond to the United States, with at least two responsible sureties, not interested in such vessel, in the penal sum of seven thousand dollars; or, if such vessel be provided with more than one hundred and fifty men, then in the penal sum of fourteen thousand dollars, with condition that the owners, and officers, and crews, who shall be employed on board of such commissioned vessel, shall and will observe the treaties and laws of the United States, and the instructions which shall be given them for the regulation of their conduct; and will satisfy all damages and injuries which shall be done or committed contrary to the tenor thereof, by such vessel, during her commission, and to deliver up the same when revoked by the President of the United States.

Sec. 5. *And be it further enacted*, That all armed French vessels, together with their apparel, guns, and appurtenances, and any goods or effects which shall be found on board the same, being French property, and which shall

be captured by any private armed vessel or vessels of the United States, duly commissioned as aforesaid, shall be forfeited, and shall accrue to the owners thereof, and the officers and crews by whom such captures shall be made; and, on due condemnation had, shall be distributed according to any agreement which shall be between them; or, in failure of such agreement, then by the discretion of the court before whom such condemnation shall be.

SEC. 6. *And be it further enacted*, That all vessels, goods, and effects, the property of any citizen of the United States, or person resident therein, which shall be re-captured, as aforesaid, shall be restored to the lawful owners, upon payment by them, respectively, of a just and reasonable salvage, to be determined by the mutual agreement of the parties concerned, or by the decree of any court of the United States, having maritime jurisdiction, according to the nature of each case: *Provided*, That such allowance shall not be less than one-eighth, or exceeding one-half of the full value of such re-capture, without any deduction. And such salvage shall be distributed to and among the owners, officers, and crews of the private armed vessel or vessels entitled thereto, according to any agreement which shall be between them; or, in case of no agreement, then by the decree of the court, who shall determine upon such salvage.

SEC. 7. *And be it further enacted*, That, before breaking bulk of any vessel which shall be captured, as aforesaid, or other disposal or conversion thereof, or of any articles which shall be found on board the same, such capture shall be brought into some port of the United States, and shall be libelled and proceeded against before the district court of the same district; and if, after a due course of proceeding, such capture shall be decreed as forfeited, in the district court, or in the circuit court of the same district, in the case of any appeal duly allowed, the same shall be delivered to the owners and captors concerned therein, or shall be publicly sold by the marshal of the same court, as shall be finally decreed and ordered by the court: And the same court, who shall have final jurisdiction of any libel or complaint of any capture, as aforesaid, shall and may decree restitution, in whole or in part, when the capture and restraint shall have been made without just cause, as aforesaid; and, if made without probable cause, or otherwise unreasonably, may order and decree damages and costs to the party injured, and for which the owners, officers, and crews of the private armed vessel or vessels by which such unjust capture shall have been made, and also such vessel or vessels shall be answerable and liable.

SEC. 8. *And be it further enacted*, That all French persons, and others, who shall be found acting on board any French armed vessel, which shall be captured, or on board of any vessel of the United States, which shall be re-captured as aforesaid, shall be reported to the collector of the port in which they shall first arrive, and shall be delivered to the custody of the marshal, or of some civil or military officer of the United States, or of any State, in or near such port, who shall take charge for their safe keeping and support, at the expense of the United States.

Enacted into a law, July 9, 1798.

By command of the President of the United States of America:

———— *Secretary of State.*

NAVY DEPARTMENT, 23*d January*, 1802.

SIR:

Agreeably to a resolution of the House of Representatives, I have the honor to enclose copies of the instructions heretofore given by this Department to the commanders of vessels in the public service, authorizing the capture of vessels belonging to the French republic.

I have the honor to be, with great respect, sir, your most obedient servant,

RT. SMITH.

Honorable SPEAKER *of the House of Representatives.*

JOHN ADAMS, PRESIDENT OF THE UNITED STATES OF AMERICA.

Instructions to the commanders of armed vessels belonging to the United States, given at Philadelphia, this 28th day of May, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-second year of the independence of the said States.

Whereas, it is declared by an act of Congress, passed the 28th day of May, 1798, that armed vessels, sailing under authority, or pretence of authority, from the French republic, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations and treaties between the United States and the French nation:

Therefore, and in pursuance of the said act, you are instructed and directed to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any armed vessel sailing under authority, or pretence of authority, from the French republic, which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing depredations on the vessels belonging to citizens thereof; and also to retake any ship or vessel of any citizen or citizens of the United States, which may have been captured by any such armed vessel.

By command:

JAMES M'HENRY, *Secretary of War.*

JOHN ADAMS, PRESIDENT OF THE UNITED STATES.

Instructions to commanders of armed vessels belonging to the United States, given at Philadelphia, the tenth day of July, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-third year of our independence.

In pursuance of the acts of Congress, passed the 28th day of May, the 20th day of June, and the 9th day of July:

You are hereby authorized, instructed, and directed to subdue, seize, and take any armed French vessel or vessels, sailing under authority, or pretence of authority, from the French republic, which shall be found within the jurisdictional limits of the United States, or elsewhere on the high seas; and such captured vessel, with her apparel, guns, and appurtenances, and the goods and effects which shall be found on board of the same, to bring within some port of the United States; and also retake any vessel, goods, and effects of the United States, or persons resident therein, which may have been captured by any French vessel, in order that proceedings may be had concerning such capture or re-capture, in due form of law, and as to right shall appertain.

By command of the President of the United States of America:

BEN. STODDERT. [L. S.]

Circular instructions to the captains and commanders of vessels in the service of the United States.

NAVY DEPARTMENT, 12*th March*, 1799.

SIR:

Herewith you will receive an act of Congress "further to suspend the commercial intercourse between the United States and France, and the dependencies thereof," the whole of which requires your attention. But it is the command of the President that you consider particularly the fifth section as part of your instructions, and govern yourself accordingly.

A proper discharge of the important duties arising out of this act will require the exercise of a sound and an impartial judgment. You are not only to do all that in you lies, to prevent all intercourse, whether direct or circuitous, between the ports of the United States and those of France, or her dependencies, in cases where the vessels or cargoes are apparently, as well as really, American, and protected by American papers only; but you are to be vigilant that vessels or cargoes really American, but covered by Danish or other foreign papers, and bound to or from French ports, do not escape you. Whenever, on just suspicion, you send a vessel into port, to be dealt with according to the aforementioned law, besides sending with her all her papers, send all the evidence you can obtain, to support your suspicions and effect her condemnation. At the same time that you are thus attentive to fulfil the objects of the law, you are to be extremely careful not to harass or injure the trade of foreign nations with whom we are at peace, nor the fair trade of our own citizens.

A misconstruction of his authority by Captain Nicholson, in relation to vessels of friendly nations, captured by the French, renders it necessary that I should make some explanatory observations on that subject. Our laws direct the capture of all armed vessels sailing under authority, or pretence of authority, from the French republic. A vessel captured by the citizens of France must be considered as sailing under the authority of France; and it is scarcely to be supposed that, in times like the present, when few vessels sail without arms, a captured vessel in possession of the captors will be so circumstanced as not to come under the description of an armed vessel within the meaning of our laws. To justify a re-capture, nothing is necessary but that the vessel be provided with such means of annoyance as will render her dangerous to an unarmed American vessel in pursuit of lawful commerce. If, however, the vessel cannot be considered an armed vessel, within the meaning of our laws, you are not to re-capture her, unless you should have probable cause to suspect that the citizens of the United States, or persons resident therein, have some interest in the vessel or cargo.

It is always your duty to recapture American property, and property of persons resident within the United States, whenever found in possession of the French on the high seas.

I have the honor to be, sir, your most obedient servant,

BEN. STODDERT.

Circular to the Captains in the Navy of the United States.

NAVY DEPARTMENT, *November 29th*, 1800.

SIR:

I understand that there is money in your hands arising from the sales of French armed vessels captured by our vessels of war, and sold in the West Indies, because they were not in a condition to proceed to the United States for regular trial and condemnation. You will be pleased to pay over to the Treasurer of the United States such portion of the prize money as would have belonged to the United States, had the vessels been regularly condemned, and distribute the residue as the law directs in cases of regular condemnation; for doing which, this letter shall be your authority. You will transmit to the Accountant of the Navy an account of the sales of the vessels, &c. in this predicament.

I have the honor, &c.

B. STODDERT, *Secretary of the Navy.*

7th CONGRESS.] No. 169. 1st SESSION.

BARBARY STATES.

COMMUNICATED TO CONGRESS, FEBRUARY 18, 1802.

FEBRUARY 16, 1802.

Gentlemen of the Senate and of the House of Representatives:

I now transmit a statement of the expenses incurred by the United States, in their transactions with the Barbary Powers, and a roll of the persons having office or employment under the United States, as was proposed in my messages of December the 7th and 22d. Neither is as perfect as could have been wished; and the latter not so much so as further time and inquiry may enable us to make it.

The great volume of these communications, and the delay it would produce to make out a second copy, will, I trust, be deemed a sufficient reason for sending one of them to the one House, and the other to the other, with a request that they may be interchanged for mutual information, rather than to subject both to further delay.

TH: JEFFERSON.

DEPARTMENT OF STATE, *February* 16, 1802.

SIR:

I have the honor to enclose a letter from the Secretary of the Treasury to me, together with the documents accompanying it, containing an account of the moneys drawn out of the treasury under the several appropriations made for defraying the expenses incident to the intercourse with the Mediterranean Powers, and statements of the credits obtained or claimed at the treasury by the persons to whom they were advanced.

It would have been very desirable to separate the whole amount expended into the several subordinate heads of expense intimated in the close of the Secretary's letter; but, apprised of your wish to communicate, as soon as possible, such information as that letter affords, I forbear to detain it, especially as an opinion of the present scantiness of materials to effect the separation referred to does not encourage the hope of its being rendered perfect.

With the highest respect, I have the honor to be, sir, your most obedient servant,

JAMES MADISON.

The PRESIDENT *of the United States.*

TREASURY DEPARTMENT, *January* 30, 1802.

SIR:

In compliance with your request, I have the honor to enclose an account of the moneys drawn out of the treasury, under the several appropriations made for defraying the expenses incident to the intercourse with the Mediterranean Powers; transcripts of the accounts of persons to whom the said moneys were respectively advanced, so far as the same have been settled at the treasury; and statements of the credits, not yet ultimately admitted, but claimed on account of such expenses, so far as the same can be ascertained from the accounts rendered, though not yet definitively settled, by the accounting officers of this Department.

The greater part of the accounts being yet unsettled, and several of the most important not having yet been rendered, it is not practicable to state, with precision, in what manner the whole of the sums drawn out of the treasury has been ultimately applied.

It is, however, believed, that the annexed sketch (AA) will prove sufficiently correct to show, without material error, the gross amount actually expended.

The sums drawn out of the treasury amount, including $5,683 30 reimbursed to C. Colville and others, for their ransom, to	$2,011,998 65
Mr. I. Whelen, purveyor of supplies, has expended, beyond the sum for which he is already debited in the treasury books, being principally for timber and supplies, received from the Navy Department,	47,330 46
Making an aggregate amount of	2,059,320 11

On the other hand, it appears that two items, making part of the sums drawn out of the treasury ought to be deducted from that gross amount, the same not having been applied to the object for which they had thus been drawn:

1st. The amount advanced to Mr. Francis, late purveyor of supplies, on account of Mediterranean Powers, is	288,782 12
The amount of credits claimed by him, on that account, is only	274,262 83
Leaving a surplus, not applied to that object, of	14,519 29

2dly. The account rendered by Mr. Pickering, late Secretary of State, is general, and denotes only the persons to whom the public moneys, drawn by him, were advanced, without particularizing the objects for which said moneys were advanced, which renders it impossible, until those persons shall have settled their accounts, to ascertain, with precision, the credits to which he may be entitled under each distinct object of expenditure, respectively.

Mr. Kimbel, late clerk in your Department, has, however, at the request of the comptroller, drawn the sketch of a particular account, showing the purpose for which the moneys were respectively advanced.

The amount which he states to have been advanced by Mr. Pickering to sundry persons, in relation to Algiers, and other Mediterranean Powers, is	310,466 17
To which should be added, not being included in that statement—	
Amount of an account now before the comptroller,	5,342 15
And paid by Mr. Humphreys to I. Burnham, for his ransom, being part of the moneys charged to Mr. Pickering,	2,000 00
Making altogether,	317,808 32
The amount for which Mr. Pickering remains charged in the treasury books, under that head, is,	352,736 74
Leaving a difference (if Mr. Kimbel's statement shall prove correct) applied to other objects, of	34,928 42
Which sum, added to the preceding item of	14,519 29
Makes the sum drawn out of the treasury, under the appropriations for Mediterranean Powers, but not applied to that object,	49,447 71
Which sum, deducted from the above stated gross amount of	2,059,329 11
Leaves for the apparent sum actually applied to that object, as per statement (AA,)	2,009,881 40
If to this sum shall be added the expenditures on account of the voyage of the ship "George Washington" to Algiers, in 1800, which have been defrayed by the Navy Department, and are stated at	36,255 82
The total amount of real expenditures, will be	$2,046,137 22

Exclusively of sundry expenses incurred, but not yet paid, during the course of last year.

It must be repeated that, although this is probably an accurate account of the gross sums disbursed by the United States, the documents in the Treasury Department by no means show the ultimate application of the money, but only the names of the individuals who remain accountable.

The account rendered by Mr. Donaldson, of which an abstract (Z) is enclosed, is, as far as has been ascertained, the only one in the Department not alluded to in the sketch (AA,) which can throw any additional light on the subject.

The accounts, when ultimately rendered and settled, should exhibit the amount paid, in order to obtain treaties, to each of the Barbary Powers; the amount lost by the various remittances in stock or bills of exchange; the amount paid for the annuity due to Algiers; and the amount paid to those several States as presents, or extorted at different times under various pretences. It is presumable that there may be, in the Department of State, information, which, combined with the accounts now enclosed, would assist, even at present, in drawing a sketch of that kind.

I have the honor to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

The SECRETARY OF STATE.

List of Accounts, &c. enclosed.

General Statement of Appropriations.	
Particular accounts of moneys advanced to individuals, including the amounts respectively accounted for and settled at the treasury,	A. to P.
Summary general statement of moneys advanced.	
Explanatory observations on the preceding accounts.	
Account of moneys reimbursed to sundry persons for their ransoms,	R.
Abstract of a particular account rendered, not yet passed,	T.
The above furnished by the Register.	
Statements of credits claimed by sundry persons, as furnished by the Auditor,	S. V. W.
Abstract of credits claimed by Mr. Pickering, furnished by Mr. Kimbel,	U.
General sketch of moneys and expenditures, including all the preceding accounts, prepared by the Secretary,	AA.
Abstract of expenditures of ship "George Washington," furnished by Navy Department,	Y.
Abstract of Mr. Donaldson's account, furnished by the Auditor,	Z.

AA.

Sketch of the expenditures incident to the intercourse with Mediterranean Powers.

Dr.

To moneys advanced to sundry persons, as per account furnished by the Register, viz:

May 7, 1791,	Thomas Jefferson. Morocco appropriation, per Register's account, Aa, -		13,000 00
March 31, 1797,	Samuel Meredith. Treaties with Mediterranean Powers, per do. Gb. -		10,000 00
March 7, 1795,	Edmund Randolph. Intercourse with foreign nations, per do. Bc, - -		7,500 00
March 28, 1795,	Edmund Randolph. Intercourse with foreign nations, per do. Bd, - -		800,000 00
June 22, 1797, }	Samuel Meredith. Treaties with Mediterranean Powers, per do. G, 77,271 8 } e		
June 4, 1798 }			
October 5, 1797,	Willings and Francis. Do. do. per do. I, 12,640 0 }		
			89,911 08
Dec. 31, 1796,	Timothy Pickering. Intercourse with foreign nations, per do. Df, - -		27,120 00
1797 to 1799,	Do. do. and treaties with Mediterranean Powers, per do. Dg,		91,339 96
Do. do.	Do. do. per do. Dh, -		261,339 90
1796 to 1801, {	J. Hackett, E. Hill, S. Meeker, J. Sheaffe, } Algiers and do. per do. E, F, H, & Ki, -		28,874 26
1796 to 1800,	Tench Francis. Do. and do. per do. Ck, -		387,532 30
1800 to 1801,	Israel Whelen. Do. and do. per do. Ml, -		152,466 23
Do. do.	John Marshall. Do. and do. per do. Nm, -		59,813 95
1801,	James Madison. Treaties with Mediterranean Powers, per do. On, -		42,761 46
Do.	George Simpson. Do. per do. Po, -		30,956 21
Do.	William Eaton. Do. per do. Lp, -		3,700 00
	Total amount per Register's account, - - -		2,006,315 35
1796 to 1797,	{ C. Colville, J. Robertson, J. Burnham, G. Smith } Miscellaneous expenses, per do. Rr, -		5,683 30
	Total drawn out of the Treasury, - - -		2,011,998 65
1801,	Expended by I. Whelen, out of moneys not yet covered by warrant l, -		47,330 46
			$2,059,329 11

Cr.

By the following sums expended, viz:

Nov. 1791,	Thomas Barclay, for the purpose of effecting a treaty with Morocco, a draft of Mr. Humphreys on Willink, to whom the same was remitted by T. Jefferson, as per Register's account, - - - - - Aa,		13,000 00
" 1797,	James Simpson, consul at Morocco, draft of Baring—no account, - b,		10,000 00
" 1795,	Thomas Pinckney, draft of Willings & Francis, remitted by E. Randolph, as per Register's account B; included in T. Pinckney's general account, c,		7,500 00
1795 to 1797,	J. and F. Baring, accounted for by their acct. rendered, as per extract S, viz.		
	£187,771 15*s.* 9*d.* at 1 for $4 $\frac{44}{100}$ - - - 833,716 73 } d		
	Add supposed loss, - - - - 83,324 35 } e f		
			917,031 08
1797 to 1799,	John and Francis Baring, remitted by T Pickering, as per extract S, viz:		
	£26,653 9*s.* 10*d.* at 1 for $4 $\frac{44}{100}$ - - - - 91,590 50 } g		
	Deduct, supposed profit on bills, - - - - 250 54 }		
			91,339 96
1795 to 1799,	Sundry expenditures, by T. Pickering, as per settled acct. D, 27,063 12		
	Do. by do. as per account, T, 5,342 15		
	Do. by do. as per Kimball's ac. U, 192,006 21		
	Do. by do. as per account, R, 2,000 00 h		
			226,411 48
1796 to 1797,	Do. in relation to the frigate "Crescent," as per Register's accounts, - - - - - E, F, H, & Ki,		28,874 26
1798,	Do. by Tench Francis, as per settled acct. C, 98,750 18 } k		
1796 to 1800,	Do. by do. as per ac. rendrd. V, 274,262 83 }		
			373,013 01
1800 to 1801,	Do. by Israel Whelen, as per do. do. W, - - l,		199,796 69
1800 to 1801,	Account of Mr. Marshal in office of Secretary of State, - - m,		59,813 95
1801,	Do. of Mr. Madison, do. do. rendered, - n,		42,761 46
1801,	Bills remitted by the Secretary of the Treasury, to Bird, Savage & Bird, being the amount purchased by G. Simpson—cost, - - o,		30,956 21
1801,	Paid for freight, &c. of vessel despatched by W. Eaton, - - p,		3,700 00
1796 to 1797,	Reimbursed to Colvill and others, prisoners at Algiers, for ransom, r,		5,683 30
	Total supposed to have been expended, - - -		2,009,881 40
	Drawn out of the Treasury, but applied to other purposes, viz.		
	by T. Pickering, - - - - 34,928 42 h,		
	by T. Francis, - - - - 14,519 29 k,		49,447 71
			$2,059,329 11

The Register begs leave to refer the Secretary of the Treasury to the following schedule of appropriations by law, and of expenditures by warrants, in relation to the Mediterranean Powers:

The total amount of appropriations by law, from the commencement of the present Government, as per statement of particulars herewith,		$2,212,917 03
Deduct this sum carried to the surplus fund in the year 1795, being a part of the appropriation of twenty thousand dollars, of 3d March, 1791,		7,000 00
		2,205,917 03
Amount of expenditures by warrants on the Treasurer of the United States, as per statement,		2,006,315 35
Leaves, on the 30th of September, 1801, balance of appropriations,		$199,601 68
Appropriation treaty with Algiers,	$37,400 05	
Mediterranean Powers,	162,201 63	
	$199,601 68	

Of the sum above stated of $2,006,315 35 there have been accounted for at the Treasury, upon settled accounts, viz:

Disbursements made by Tench Francis, for brigantine Sophia, and goods shipped to Algiers, Treasury statement, No. 9,677,	$42,709 51
By ditto, stated for sundry expenditures on account of the Mediterranean Powers,	56,040 67
	98,750 18
Disbursements included in a settlement made by Colonel Pickering, for passages of American seamen, who were redeemed from slavery in Algiers, and money paid them to enable them to return, No. 11,405,	27,063 12
No. 9,368, amount of disbursements by James Hacket, being a part of the cost of the frigate built at Portsmouth, New Hampshire,	22,110 94
No. 9,523, ditto, by Elisha Hill and James Hill, on account of frigate,	5,821 36
Ditto, by Samuel Meeker, five pieces of ordnance,	710 00
Ditto, by Jacob Sheaffe, assorting timber,	231 96
	154,687 56

The following accounts remain open in the treasury books:

Wilhelm and Jan Willink, Nicholas and Jacob Van Staphorst and Hubbard, agents for the Department of State at Amsterdam.

Remittance in 1791, of 32,175 florins,	$13,000 00	
Thomas Pinckney, late minister of the United States at London, for £1,500 sterling, remitted by Edmund Randolph,	7,500 00	
John and Francis Baring and Co., of London, for remittance in stock,	800,000 00	

General account of remittances to agents in Europe, for which personal accounts will be opened in the Treasury books.

£17,140 17s. 3d.	sterling,	treasury statement,	No. 9,353,	$76,111 11
2,498 10 0	do.	do.	9,767,	11,159 97
3,000 00 0	do.	do.	9,218,	12,640 00
7,396 00 1	do.	do.	12,601,	30,956 21
				130,867 29
Tench Francis, late purveyor of public supplies,				288,782 12
Timothy Pickering, late Secretary of State,				352,736 74
Israel Whelen, purveyor of public supplies,				152,466 23
John Marshall, late Secretary of State,				59,813 95
James Madison, Secretary of State,				42,761 46
William Eaton, consul at Tunis,				3,700 00
				A 1,851,627 79
				$2,006,315 35

A. The debits unaccounted for, according to this schedule, are generally connected with the books of the Department of State, and will require investigation.

JOSEPH NOURSE, *Register.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
November 22, 1801.

(I.)

Statement of all the sums appropriated by law for carrying into effect negotiations between the Mediterranean Powers and the United States, from the commencement of the present Government.

	Emperor of Morocco.	Dey of Algiers.	Mediterranean Power.	Total Amount.
Appropriated for effecting a recognition of the treaty with the Emperor of Morocco, March 3, 1791,	20,000			
Ditto, for defraying any expenses which may be incurred in relation to the intercourse between the United States and foreign nations, for one million of dollars, per act of 20th March, 1794, of which only this sum has been expended under this head,			807,500 00	
Ditto, per act, entitled "An act making further provision for the expenses attending the intercourse between the United States and foreign nations," and to continue in force the act entitled "An act providing the means of intercourse between the United States and foreign nations;" passed May 30, 1796,			260,000 00	
This amount was drawn from the general appropriation for foreign intercourse in the year 1795,			45,911 37	
Ditto, per act, entitled "An act making an appropriation for defraying the expenses which may arise in carrying into effect the treaty made between the United States and the Dey and regency of Algiers;" passed May 6, 1796,		24,000 00		
Ditto, per act, entitled "An act authorizing the President of the United States to apply a further sum to the expense of negotiations with the Dey and regency of Algiers;" passed March 3, 1797,		96,246 63	280,259 03	
Ditto, per act, entitled "An act making additional appropriations for the support of Government, for the year 1797;" passed July 10, 1797,			47,000 00	
Ditto, per act passed May 6, 1796, for 1797,		24,000 00		
Ditto, per act passed May 6, 1796, for 1798,		24,000 00		
Ditto, per act passed May 6, 1796, for 1799,		24,000 00		
Ditto, per act, entitled "An act making additional appropriations for the year 1799;" passed March 2, 1799,			200,000 00	
Ditto, per act passed May 6, 1796, for 1800,		24,000 00		
Ditto, per act, entitled "An act making appropriations for the support of Government for the year 1800;" passed May 7, 1800,		56,000 00		
Ditto, per act passed May 6, 1796, for 1801,		24,000 00		
Ditto, per act, entitled "An act making appropriations for the support of Government for the year 1801;" passed March 3, 1801,			256,000 00	
Total amount of appropriations,	20,000	296,246 63	1,896,670 40	2,212,917 03
Deduct this sum, carried to the surplus fund in the year 1795,	7,000			7,000 00
	13,000			2,205,917 03
Total amount of expenditures to September 30, 1801, brought from statement folio 10,	13,000	258,846 58	1,734,468 77	2,006,315 35
Balance of appropriation to said period,		$37,400 05	$162,201 63	$199,601 68

A.

Thomas Jefferson, Secretary of State.

1791. May 7.	To appropriation of 20,000 dollars, for effecting a recognition of the treaty with the Emperor of Morocco. - - - -	13,000	1794. March 20,	By W. and J. Willink, N. and J. Van Staphorst and Hubbard, agents for the Department of State, for a bill drawn by the Treasurer of the United States, and which they credit in their account No. 4, for 32,175 florins, remitted to them May 2, 1791, subject to the orders of Humphreys and Barclay, equal to - - - -	$13,000
		$13,000			

B.

Edmund Randolph, Secretary of State.

1795. March 7,	To general account of moneys advanced, for warrant No. 4,616, in his favor, being on account of the Department of State, to be applied towards defraying any expense which may be incurred, in relation to the intercourse between the United States and foreign nations, - - -	7,500	1797. May 3,	By Thomas Pinckney, late minister of the United States at London, for amount of a bill of exchange, dated January 4, 1795, drawn by Willings and Francis on the Rev. John Owen, for £1,500 sterling; the receipt thereof was acknowledged by said Pinckney on the 11th May, 1795, per report No. 8,842, - - - -	7,500
" 28,	To ditto, for warrant No. 4,694, on same account,	800,000	" "	By John and Francis Baring & Co. of London, for amount of a remittance in stock made to them by the Bank of the United States, pursuant to a power of attorney from Mr. Randolph; the receipt whereof has been acknowledged by said Barings, per letter of the Secretary of the Treasury, dated 27th October, 1795, per said report No. 8,842, - - - -	800,000
		$807,500			$807,500

C.

Tench Francis, late Purveyor of Public Supplies.

1796.	To general account of moneys advanced, viz:			1798.			
Oct. 10,	To warrant No. 6,577, for providing supplies for the service of the United States, -		5,000 00	June 30,	By general account of moneys advanced for amount of disbursements for brigantine Sophia, and goods shipped to the address of Joel Barlow, at Algiers, to 31st Dec. 1796, per report No. 9,677, -		$42,709 51
Nov. 17,	To warrant No. 6,648,	do. -	10,000 00				
Dec. 1,	Do. 6,684,	do. -	20,000 00				
" 20,	To warrant No. 6,727, on account of the frigate building at Portsmouth, New Hampshire, - - - - -		10,000 00				
1797.							
Jan. 17,	To warrant No. 6,853, for providing supplies for the service of the United States, -		24,000 00				
April 15,	To warrant No. 7,132,	do. -	5,000 00				
June 29,	Do. 7,346,	do. -	10,000 00	" "	By ditto, being amount of his disbursements for sundry expenditures from 1st January to 30th June, 1797, per said report No. 9,677, -		$56,040 67
Oct. 19,	Do. 7,664,	do. -	20,000 00				
Nov. 2,	Do. 7,685,	do. -	20,000 00				
" 21,	Do. 7,731,	do. -	10,000 00				
Dec. 13,	Do. 7,783,	do. -	20,000 00				
Jan. 17,	Do. 6,854,	do. -	11,000 00				
Feb. 28,	Do. 6,918,	do. -	10,000 00				
March 8,	Do. 6,961,	do. -	10,000 00				
" 10,	Do. 6,970,	do. -	10,000 00				
April 15,	Do. 7,132,	do. -	5,000 00				
" 22,	Do. 7,150,	do. -	10,000 00				
Aug. 15,	Do. 7,517,	do. -	20,000 00				
1798.							
April 16,	Do. 8,193,	do. -	5,000 00				
June 6,	Do. 8,305,	do. -	5,000 00				
July 25,	Do. 8,545,	do. -	20,000 00				
Dec. 12,	Do. 9,007,	do. -	29,246 63				
March 5,	Do. 8,042,	do. -	15,000 00				
May 5,	Do. 8,221,	do. -	20,000 00				
" 23,	Do. 8,275,	do. -	10,000 00				
1799.							
July 30,	Do. 2,	do. -	10,000 00				
Nov. 19,	Do. 290,	do. -	7,000 00				
Dec. 6,	Do. 326,	do. -	5,000 00				
1800.							
May 21,	Do. 815,	do. -	1,500 00				
Jan. 3,	Do. 417,	do. -	8,000 00				
Feb. 3,	Do. 497,	do. -	15,185 67				
June 23,	Do. 888,	do. -	6,600 00				
			$387,532 30				

D.

Timothy Pickering, late Secretary of State.

1796.					
Dec. 31,	To general account of moneys advanced for warrant No. 6,768, being on account of a set of bills of exchange amounting to £6,000 sterling, remitted to John and Francis Baring & Co. for the purpose of defraying any expenses which may be incurred in relation to the intercourse between the United States and foreign nations, - -	27,120 00	By general account of moneys advanced for this sum, being amount of his expenditures, for carrying into effect the treaties of the United States with the Mediterranean Powers, including various payments made for the passages of American seamen, who were redeemed from slavery in Algiers; and moneys paid them, to enable them to return to their respective places of residence in the United States, from 7th December, 1795, to 31st December, 1799, per report No. 11,405, -	$27,063 12
1797.					
Feb. 21,	To warrant No. 6,898 for defraying any expense which may be incurred in relation to the intercourse between the United States and foreign nations, - - - - - -	5,050 00			
March 9,	To warrant No. 6,966, do. - - -	1,500 00			
April 4,	Do. do. 7,101, do. - - -	500 00			
June 19,	Do. do. 7,316, do. - - -	3,000 00			
" 22,	Do. do. 7,327, being the amount of a bill of exchange remitted to Samuel Williams, consul of the United States at Hamburg, to be by him paid over to the owners of the Swedish ship Jupiter, chartered to carry naval stores to Algiers,	5,600 00			
August 8,	To warrant No. 7,489, for defraying any expenses which may be incurred in relation to the intercourse between the United States and foreign nations, - - - - - -	2,000 00			
Nov. 21,	To part 7,729, do. - - -	1,500 00			
Dec. 19,	Do. 7,814. do. - - -	3,383 20			
" 21,	Do. 7,818, do. - - -	180,000 00			
1798.					
June 9,	Do. 8,312, on account of the expenses attending the negotiations with the Dey and regency of Algiers, pursuant to the act in that case made and provided, - - - - -	4,000 00			
" 19,	Do. 8,359, do. - - -	4,000 00			
Sept. 8,	Do. 8,711, on account of the expenses incident to the treaties with Mediterranean Powers, -	43,333 34			
" 20,	Do. 8,723, do. - - -	43,813 32			
1799.					
April 18,	Do. 9,612, do. - - -	50,000 00			
1800.					
Jan. 15,	Do. 471, do. - - -	5,000 00			
		$379,799 86			

E.

James Hackett, contractor for building a frigate for the use of the United States.

1796.	To general account of moneys advanced for warrant—		1798.		
Dec. 31,	No. 6,795, on account of his contract for building a frigate,	3,000 00	March 20,	By general account of moneys advanced for this sum, being part of cost of a frigate built and delivered at Portsmouth, for the use of the Dey of Algiers, agreeably to contract with the Secretary of the Treasury, of the 25th October, 1796, per report No. 9,368, - - -	22,110 94
1797.					
March 31,	No. 7,052, on account of ditto,	2,000 00			
June 6,	No. 7,268, ditto, -	3,000 00			
June 9,	No. 7,281, ditto, -	2,000 00			
June 30,	No. 7,364, ditto, -	4,000 00			
Aug. 15,	No. 7,518, ditto, -	1,000 00			
Aug. 16,	No. 7,519, ditto, -	5,000 00			
1798.					
June 30,	No. 8,413. ditto, -	2,110 94			
		$22,110 94			$22,110 94

F.

Elisha Hill and James Hill, contractors for making iron work for the frigate building at Portsmouth.

1797.	To general account of moneys advanced for warrants—		1798.		
June 30,	No. 7,361, on account of their contract, - - -	1,000 00	March 20,	By general account of moneys advanced for amount of sundry iron work done, tools, and other articles, delivered from 20th September, 1796, to 16th January, 1798, for use of the Algerine frigate, per report No. 9,523, - - -	5,806 66
June 30,	No. 7,362, on account of ditto,	1,000 00			
June 30,	No. 7,363, ditto, -	1,000 00			
Nov. 30,	No. 7,748, ditto, -	1,000 00			
1798.					
May 19,	No. 8,263, ditto, -	14 70		By ditto, on same account, per Comptroller's certificate of 20th March, 1798, - -	14 70
June 30,	No. 8,412. ditto, -	1,806 66			
		$5,821 36			$5,821 36

G.

Samuel Meredith, agent for the purchase of bills of exchange.

1797.	To general account of moneys advanced, viz: to warrants—		1797.		
March 31,	No. 7,044, on account of bills purchased by him for a remittance to John and Francis Baring and Co. of London, to be paid by them to the order of James Simpson, consul of the United States for the empire of Morocco, and to be invested by him in presents to the emperor, -	10,000 00	Dec. 21,	By general account of remittances, for four sets of exchange remitted to London, making, together, £17,140 17*s.* 3*d.* sterling, being for Mediterranean purposes, as particularly expressed by said Meredith, per report No. 9,353, - - -	76,111 11
			1799.		
June 22,	No. 7,328, being for bills of exchange, amounting to £7,875 sterling, purchased of Willings and Francis, and remitted to John and Francis Baring and Co. of London, towards defraying the expenses which may be incurred in relation to treaties with Mediterranean Powers, - -	35,000 00	June 29,	By ditto, being for the cost of two sets of exchange, amounting to £2,498 10*s.* sterling, purchased by him for remittances, on account of treaties with Mediterranean Powers, per report No. 9,767, -	11,159 97
June —,	No. 7,330, being for a set of bills of exchange, amounting to £7,000 sterling, purchased of Willings and Francis, and remitted to John and Francis Baring and Co., of London, which bills, when paid, are to be applied as above mentioned, - - - - -	31,111 11			
1798.					
June 4,	No. 8,302, being for the cost of two sets of exchange, amounting to £2,498 10*s.* sterling, purchased by him on April 3, 1798, and remitted to John and Francis Baring and Co., on account of treaties with Mediterranean Powers, -	11,159 97			
		$87,271 08			$87,271 08

H.

Samuel Meeker, acting assignee of Matthew Irwin, deceased.

1801.	To general account of moneys advanced, viz:		1801.		
March 31,	To warrant No. 1,699, being the cost of five pieces of iron ordnance, furnished by said Irwin in the year 1797, for the frigate built at Portsmouth for the Dey of Algiers, -	710 00	March 31,	By general account of moneys advanced, being the cost of five pieces of ordnance furnished as per debit, per Comptroller's certificate, of March 6, 1801, - - -	710 00
		$710 00			$710 00

I.

Willings and Francis, agents for the purchase of bills of exchange.

1797.	To general account of moneys advanced for warrant—		1797.		
October 5,	No. 7,641, being for a set of exchange amounting to £3,000 sterling, purchased by them, and remitted to John and Francis Baring & Co. of London, which bills, when paid, are to be applied by them, the said John and Francis Baring & Co., towards paying the expenses which may be incurred in relation to the treaties with the Mediterranean Powers, - - -	12,640	Oct. 5,	By general account of remittances for this sum, being amount of their bill, drawn by them on John and Francis Baring & Co. of London, in favor of Samuel Meredith, Treasurer of the United States, at sixty days sight, for the purpose of being remitted to John and Francis Baring & Co. of London, on account of treaties between the United States and the Mediterranean Powers, amounting to £3,000 sterling exchange at 158 per cent.; per report No. 9,218.	12,640
		$12,640			$12,640

K.

Jacob Sheaffe, contractor for making moulds and assorting timber for the frigate building at Portsmouth.

1798.	To general account of moneys advanced for warrant—		1798.	By general acount of moneys advanced, for amount of his expenditures in making moulds, and assorting timber for said frigate, per Comptroller's certificate of June 27, 1797, -	
March 2,	No. 8,028, being amount disbursed on said account, - -	231 96	March 2,		231 96
		$231 96			$231 96

L.

William Eaton, Consul at Tunis.

1801.	To general account of moneys advanced, viz:	
Sept. 7,	Warrant No. 2,160, for discharging the portion of the freight and primage due on the Ragusan brigantine Welcome, hired by him, - - -	$3,700

M.

Israel Whelen, Purveyor of Public Supplies.

1800.	To general account of moneys advanced, viz:	
July 28,	To warrant No. 1,015, for providing supplies for the service of the United States, - -	20,000 00
August 25,	To warrant No. 1,050, for do. -	10,000 00
Dec. 15,	Do. 1,371, for do. -	5,000 00
July 18,	Do. 999, for do. -	10,000 00
August 4,	Do. 1,023, for do. -	10,000 00
August 9,	Do. 1,028, for do. -	40,000 00
August 28,	Do. 1,056, for do. -	16,000 00
Sep. 22,	Do. 1,118, for do. -	5,500 00
Sep. 30,	Do. 1,182, for do. -	2,000 00
Oct. 22,	Do. 1,273, for do. -	3,543 23
1801.		
April 7,	Do. 1,782, for do. -	6,556 66
May 28,	Do. 1,867, for do. -	6,000 00
June 12,	Do. 1,897, for do. -	6,541 09
July 16,	Do. 2,073, for do. -	9,875 25
August 15,	Do. 2,128, for the purpose of discharging a bill drawn on him by E. Stevens, of New York, for the demurrage of the ship Peace and Plenty, loaded by said Stevens for Tunis, - - - -	1,450 00
		$152,466 23

N.

John Marshall, late Secretary of State.

1800.	To general account of moneys advanced, viz:	
August 28,	To warrant No. 1,057, for defraying the expenses incident to the treaty between the United States and the Dey and regency of Algiers, - -	4,389 95
Dec. 24,	To warrant No. 1,381, for do. -	41,000 00
August 19,	Do. 1,045, for the	
1801.	Mediterranean Powers, -	6,424 00
Jan. 16.	To warrant No. 1,524, for defraying the expenses incident to the treaty between the United States and the Dey and regency of Algiers, - - -	2,000 00
Feb. 2.	To warrant No. 1,552, for do. -	6,000 00
		$59,813 95

O.

James Madison, Secretary of State.

1801.	To general account of moneys advanced, viz:				
May 18,	To warrant No. 1,845, on account of the expenses incident to treaties with Mediterranean Powers,	40,000 00			
June 1,	To warrant No. 1,872, on account of the expenses incident to treaties with Mediterranean Powers,	2,761 46			
		$42,761 46			

P.

George Simpson, agent for the purchase of bills of exchange.

1801.	To general account of moneys advanced, viz:		1801.		
Sept. 12,	To warrant No. 2,177, being the cost of bills of exchange purchased by him for the purpose of being remitted to Bird, Savage, and Bird, bankers of the Department of State, to be applied towards the expenses of treaties with Mediterranean Powers, -	$30,956 21	Sept. 12.	By general account of remittances for this sum, being a part of £16,138 5*s.* 2*d.* sterling, in 13 sets of exchange, purchased for the purpose of being remitted to Bird, Savage, and Bird, bankers of the Department of State, in London, as a fund applicable by them to the objects mentioned in report No. 12,601, - -	30,956 21
					$30,956 21

Amount of payments of moneys drawn on account of the aforesaid appropriations on warrants on the Treasurer of the United States in favor of the following persons, whose accounts are herewith stated, showing the application of said moneys.

			Emperor of Morocco.	Dey of Algiers.	Mediterranean Powers.
Thomas Jefferson, late Secretary of State,	as per account marked	A,	13,000		
Edmund Randolph, late Secretary of State, - -	do. -	B,	-	-	807,500 00
Tench Francis, late Purveyor of Public Supplies, -	do. -	C,	-	169,746 63	217,785 67
Timothy Pickering, late Secretary of State, - -	do. -	D,	-	-	379,799 86
James Hackett, contractor for building a frigate, - -	do. -	E,	-	-	22,110 94
E. Hill and James Hill, contractors for making iron-work for frigate, - - - - - - - -	do. -	F,	-	-	5,821 36
Samuel Meredith, agent for the purchase of bills of exchange, - - - - - - - - - -	do. -	G,	-	-	87,271 08
Samuel Meeker, assignee of Matthias Irwin, - -	do. -	H,	-	710 00	
Willings and Francis, agents for the purchase of bills of exchange, - - - - - - - -	do. -	I,	-	-	12,640 00
Jacob Sheaffe, contractor for making moulds, &c. for frigate, - - - - - - - - -	do. -	K,	-	-	231 96
William Eaton, consul at Tunis, - - - - -	do. -	L,	-	-	3,700 00
Israel Whelen, Purveyor of Public Supplies, - -	do. -	M,	-	35,000 00	117,466,23
John Marshall, late Secretary of State, - - -	do. -	N,	-	53,389 95	6,424 00
James Madison, Secretary of State, - - - -	do. -	O,	-	-	42,761 46
George Simpson, agent for the purchase of bills of exchange, - - - - - - - - - -	do. -	P,	-	-	30,956 21
Total amount of expenditures carried back to appropriation statement, folio 1, - - - - - - - - - -			13,000	258,846 58	1,734,468 77
	Total amount, -		-	-	$2,006,315 35

Statement of reimbursements of certain sums advanced by the following individuals, for their ransom from captivity in Algiers.

1796.	CHARLES COLVILL,		
June 16,	For warrant No. 6,180, in favor of John R. Smith, attorney for Charles Colvill, for this sum, being the amount granted by an act of Congress of 30th May, 1796, for reimbursing a certain sum advanced by him for his ransom from captivity in Algiers, per Comptroller's certificate of 16th instant,		2,269 53
1797.	JOHN ROBERTSON,		
March, 18,	For warrant No. 6,997, in favor of John R. Smith, attorney for John Robertson, for this sum, being so much allowed him per act of 3d March, 1797, to reimburse the amount he paid for his ransom from captivity in Algiers, per Comptroller's certificate of 18th instant,		2,270 64
1797.	JOHN BURNHAM,		
Oct. 17.	For this sum paid him by David Humphreys, per report No. 9,235,	2,000 0	
	And for warrant No. 7,656, in favor of Jacob C. Wikoff, attorney for John Burnham, for this sum, being the amount of balance due said Burnham, pursuant to an act of Congress of 30th May, 1796, towards the reimbursement he paid for his ransom from captivity in Algiers, per Comptroller's certificate of 16th instant,	269 53	
			2,269 53
1797.	GEORGE SMITH,		
March 18,	For warrant No. 6,999, in favor of John R. Smith, attorney for George Smith, or order, for this sum, being so much allowed him per act of 3d March, 1797, towards the reimbursement of the amount he paid for his ransom from captivity in Algiers, per Comptroller's certificate of 18th instant,		873 60
			$7,683 30
	The above sums were paid out of the following appropriations, viz.—		
	Miscellaneous expenses, for this sum,	5,683 30	
	Treaties with Mediterranean Powers, for this sum charged to Col. Pickering*	2,000 00	
		$7,683 30	

TREASURY DEPARTMENT, REGISTER'S OFFICE,
January 26, 1802.

JOSEPH NOURSE, *Register.*

S. 1.

DR. *John and Francis Baring.—Sketch of their account current from Novr.* 13, 1795, *to Aug.* 1, 1797. CR.

To amount credited by them for proceeds of $800,000, six per cent. stock,	£ s. d. 152,253 5 8	By amount charged by them for the following payments:	£ s. d.
Dividends on stock,	8,076 5 1	On the drafts of C. Voght,	20,352 17 5
Bills remitted by the Treasurer,	20,875 0 0	On the drafts of David Humphreys, and remittances to him,	4,111 17 6
Insurance on ship or ships, cancelled,	1,068 15 0	On the drafts of Jacob Dohrman & Co.	70,907 3 8
Balance due them on the 1st August, 1797,*	5,498 10 0	Paid Mr. O'Brien,	31 10 0
		On the drafts of H. and A. Fonnereau,	23,151 5 9
* Bills for this balance were remitted by the Treasurer, viz:		Do. of Joseph Donaldson, Jr.	41,941 6 8
On 2d October, 1797, £3,000 00		Do. of Parish & Co.	23,365 8 1
3d April, 1798, 2,498 10		Paid Mr. Andrews,	21 0 0
£5,498 10		Insurance on ship or ships,	2,079 7 3
		Loss on reimbursement of bills drawn, protests, and charges,	857 5 2
		Commission, brokerage, and postage	952 14 3
Pounds sterling,	187,771 15 9	*Pounds sterling,*	187,771 15 9

DR. *John and Francis Baring.—Sketch of their account current from Decr.* 12, 1797, *to Feb.* 22, 1799. CR.

To amount credited by them for fifteen bills received from R. King,	£ s. d. 20,600 0 0	By amount of the following charges made by them, viz:	£ s. d.
Balance due them February 22, 1799,*	53 9 10	Payments on the drafts of John Bulkeley and sons,	17,360 10 4
		Payments on the drafts of M. Doriser,	1,344 6 8
* A bill for this balance was remitted by Timothy Pickering on the 2d July, 1799.		Interest on advances,	1,010 8 10
		Commission and postage,	938 4 0
Pounds sterling,	20,653 9 10	*Pounds sterling,*	20,653 9 10

* Printed Public Accounts, 1797, page 70, warrant No. 7,489.

S. 2.

(No. 1.) Abstract of certain bills purchased by the Treasurer for remittances to Europe, on account of negotiations with the Mediterranean Powers, and charged to general account of remittances.

		Am't in sterling.	Cost in dolls.
1797, March 27,	Pragers & Co. on widow J. L. Solomons and Elliot, London, (*a*)	500 00 0	2,206 67
	Peter Blight on Henry Fentham, do. (*a*)	1,765 17 3	7,793 33
April 27,	Willings & Francis on J. & F. Baring, (*b*)	7,875 00 0	35,000 00
June 7,	ditto on ditto, (*b*)	7,000 00 0	31,111 11
1798, April 3,	James Crawford & Co. on George Barclay & Co. (*c*)	1,000 00 0	4,466 67
	Pratt & Kintzing on Persent & Boduker, (*c*)	1,498 10 0	6,693 30
	Willings & Francis on J. & F. Baring, (*c*)	3,000 00 0	12,640 00
		£22,639 7 3	$99,911 08
Of the above bills—			
Those marked (*a*) were remitted to John & F. Baring, for account of James Simpson, consul of the United States in Morocco, and amount to		2,265 17 3	
Those marked (*b*) are credited to John & F. Baring, in their account ending August 1, 1797, and amount to		14,875 00 0	
Those marked (*c*) were remitted to J. & F. Baring, in payment of the balance of their account, ending August 1, 1797, and amount to		5,498 10 0	
		£22,639 7 3	

	Sterling.	Value in dolls.
(No. 2.) Timothy Pickering, in his general account current, claims credit for bills remitted by him to John & Francis Baring, amounting to	26,653 9 10	118,459 96
Of these bills, Messrs. J. & F. Baring credit—		
In their first account, ending August 1, 1797,	6,000 0 00	
In their last account, ending February 22, 1799,	20,600 0 00	
Add balance of said last account, and in payment of which a bill drawn by Willings & Francis on themselves, was remitted July 2, 1799, being part of the above, for	53 9 10	
	£26,653 9 10	

N. B.—For the eighty thousand dollars stock, see credit in the account of J. & F. Baring, ending August 1, 1797.

T.

The balance stated by the Register, on the account of Timothy Pickering, late Secretary of State, in relation to treaties with the Mediterranean Powers,		352,736 74
The balance stated by the Auditor on said account,		347,394 59
Difference,		$5,342 15

This difference arises from a statement of the Auditor, No. 11,918, which has not yet reached the Register's office, and lies before the Comptroller for his decision thereon, viz:

Timothy Pickering is credited for amount of his expenditures from 6th January to 12th May, 1800, for carrying into effect the aforesaid treaties, after deducting the nett proceeds of the polacre Dey, &c.		10,713 44
He is also debited in said statement—		
To Nathaniel Cutting, for this sum advanced him from the treasury, to be accounted for with the Department of State,	1,000 00	
To Tench Francis, for this sum advanced Henry Geddes,	4,371 29	
		5,371 29
As above,		$5,342 15

TREASURY DEPARTMENT, REGISTER'S OFFICE,
January 26, 1802.

JOSEPH NOURSE, *Register.*

U.

Credits claimed by Mr. Pickering, as per account of Kimball, exclusively of sums paid to the Barings.

Joseph Donaldson, Jun.	2,181 33
Joel Barlow,	672 00
James L. Cathcart, part of $7,731 59,	3,383 20
Richard O'Brien, part of $182,546 55,	180,000 00
Thomas Thompson,	1,350 65
Robert Montgomery, part of $10,058,	3,058 00
John Smith,	100 00
Benjamin Rawle,	45 00
William Cox,	60 00
John Ward,	45 00
Liberty Montgomery,	33 00
William Burns, Jun.	28 00
Nathaniel Cutting,	1,000 00
Philip Filiechy,	80 00
Jeremiah Fisher,	400 00
Due from T. Williams, and charged to T. Pickering, in account settled per report 11,405,	96 25
	$192,533 43

Deduct for the following items credited to T. Pickering, in account settled per report 11,405, and since accounted for by the individuals with him, viz:

Stephen Cathalan, Jun.	100 00	
Samuel Williams,	32 67	
George Clarke,	393 55	
		526 22
		$192,006 21

NOTE.—Amount per preceding statement, 192,006 21
Do. advanced to and acknowledged by J. and F. Baring, 118,459 96

Total amount of credits claimed under this head, by account rendered by Kimball, $310,466 17

V.

Abstract of credits claimed by Tench Francis, late Purveyor of Public Supplies, under the head of treaties with the Mediterranean Powers, extracted from a general account current rendered to the Treasury by his representatives, viz:

1797.				
Sept. 2,	Amount of cargo per the ship Newport for Algiers, including insurance and commission,			1,977 18
" 30,	Do.	of sundry disbursements on account of the Algerine frigate built at Portsmouth, and cargo,		531 50
1798.				
April 17,	Do.	of do. for do. do.		23,519 73
" "	Do.	of do. per the Abigail for Portsmouth, to be reshipped on board the Crescent frigate for Algiers, with commissions,	3,328 74	
	Do.	of cargo of the schooner Hamdullah for Algiers,	1,948 81	
	Do.	for insurance on said vessel and cargo, with commissions,	754 66	
				6,032 21
" "	Do.	of sundries shipped per the Hamdullah as presents, with commissions,	4,606 09	
	Do.	for insurance on do. with commissions,	224 36	
	Do.	of sundries shipped in the Crescent frigate by Thomas Thompson at Portsmouth, including commissions for effecting insurance,	3,842 63	
				8,673 08
" "	Do.	of sundries purchased on account of treaty with Algiers, including commissions,	6,876 29	
	Do.	of insurance on the Jupiter and frigate Crescent, with commissions,	7,136 50	
				14,012 79
" "	Do.	for the cost and outfit of the schooner Hamdullah, including commission and insurance,		7,391 51
1799.				
Aug. 27,	Do.	of cargo per the ship Hero for Algiers, including commissions, &c.		3,309 57
" "	Do.	do. per the brig Sophia, Captain Geddes, with commissions and insurance,		16,917 38
" "	Do.	of sundries delivered consul William Eaton, by direction of the Secretary of State, with commissions,		1,897 59
" "	Do.	for insurance on frigate Crescent and cargo, with commissions,	3,306 31	
" "	Do.	for sundries furnished polacre Dey, with commissions,	320 51	
" "	Do.	for sundries purchased, with commissions,	12,219 10	
1800.				
April 2,	Do.	of cargo per the brig Sophia, Captain Smith, with do.	11,751 37	
				27,597 29
May 19,	Do.	for cost and outfit of the brig Hassan Bashaw, with commissions,		42,101 21
" 21,	Do.	do. do. of the schooner Schijoldebrand, with do.		24,773 91
" "	Do.	do. do. of the schooner Le la Eisha, with do.		20,415 05
July 14,	Do.	of premium of insurance obtained by Timothy Williams on the frigate Crescent and cargo, including commission,		3,202 43
Aug. 23,	Do.	for Ebenezer Steven's account of expenditures on the ship Hero for Algiers, including commissions,		23,301 60
Oct. 18,	Do.	of sundry purchases, with commission,		32,095 91
Nov. 24,	Do.	of invoice of the cargoes of the three Algerine vessels, brig Hassan Bashaw, schooner Le la Eisha, and schooner Schijoldebrand, including commissions,		16,290 94
" 26,	Do.	of sundries omitted in foregoing invoice, with commissions,		221 95
				$274,262 83

W.

Abstract of credits claimed by Israel Whelen, Purveyor of Public Supplies, under the head of the Barbary Powers, extracted from accounts rendered to the Treasury, viz:

1800.

Amount of disbursements in purchasing cargo of the ship Geo. Washington for Algiers, insurance, &c.		74,932 96
Ditto	for freight of ship Hero's cargo, for Tunis,	20,435 62
Ditto	for insurance on cargo of brig Sophia,	2,526 50
Ditto	of cargo of the ship Anna Maria for Tunis, freight, and insurance,	23,161 27
Ditto	of sundry articles purchased, which remain on hand,	1,311 18
Ditto	of expenses, at various times, on timber shipped to Algiers,	924 06
Ditto	of cargo of the ship Grand Turk, for Tunis, freight and insurance,	15,351 62
Ditto	of cargo of the ship Peace and Plenty, for Tunis, including freight and demurrage,	17,745 70
Ditto	of cargo of the ship George Washington, second voyage to Algiers,	11,914 70
		168,303 61
To which add this sum, being the value of sundry articles received from the Navy Department, shipped on board the ships Peace and Plenty and George Washington, for Algiers and Tunis,		31,493 08
		$199,796 69

Y.

Abstract of expenditures for and on account of the George Washington, for the voyage to Algiers in 1800.

Paid sundry expenses, fitting out, &c. and for provisions while at Philadelphia,	1,626 55
Provisions expended in the voyage,	9,518 00
Pay of the crew,	22,136 27
Extra and undrawn rations,	2,973 00
	$36,255 82

NAVY DEPARTMENT, ACCOUNTANT'S OFFICE, *December* 14, 1801.

THOMAS TURNER, *Accountant.*

Z.

DR. *Joseph Donaldson, Jun.—Sketch of his account current from June* 14, 1795, *to April* 6, 1796. CR.

To amount of the following sums credited by him, viz:		By amount of the following sums charged by him, viz:	
Cash of James Simpson, Gibraltar,	400 00	Expenses at Gibraltar, Malaga, and Alicant,	201 53
Do of Robert Montgomery, Alicant,	1,576 80	Do. at Algiers,	913 96
Balance due J. Donaldson on April 6, 1796, to new account,	38,529 09	A year's salary, ending Mar. 31, 1796,	1,200 00
		Amount of *peace* presents to Dey and his officers,	38,188 40
	$40,505 89	(Over added two dollars,)	$40,505 89

DR. *Joseph Donaldson, Jun.—Sketch of his account current from April* 6 *to December* 31, 1796. CR.

To amount of the following sums credited by him, viz:		By amount of the following sums charged by him, viz:	
Cash received from H. and A. Fonnereau, (*a*)	140,000 00	Balance of preceding account,	38,529 9
Do. for one bill on D. Humphreys, payable in London, £100 stg. $400 (*b*)		Payments to Joel Barlow, viz:	
Do. for one bill on American minister in London, £100 stg. 400 (*c*)	800 00	In specie shipped from Leghorn, per the Divina Providentia, Jack and Frendling, 109,760 00	
Do. from Bareri for discount on Barclow's bills,	3,755 05	In a bill remitted on Stogoldebrand, 1,281 70	
Amount of bills drawn, viz:		On his drafts paid in Leghorn, 263,702 96	
On J. and F. Baring, £41,941 6*s.* 8*d.* sterling, (*d*)			374,744 66
John Parish, Hamburg, 80,000 florins, } (*e*)		Freight of cash paid brig Jack,	500 00
Do. 127,000 marks banco, }		Expenses at Leghorn,	1,291 69
R. Montgomery, Alicant, Dollars of old plate, $85,000		Salary to 31st December,	910 00
Yielding in the whole,	263,702 96		
Balance due J. Donaldson,	7,717 41		
(Two cents under added,)	$415,975 44		$415,975 44

(*a*) See bills charged by Messrs. Baring, supposed to be in part reimbursement of this.
(*b*) Paid and charged by J. Bulkeley and Sons, (see accounts of Timothy Pickering.)
(*c*) Paid and charged by Thomas Pinckney.
(*d*) Agrees with Barings' charge.
(*e*) See bills charged by Messrs. Baring, supposed in reimbursement of these.

7th CONGRESS.] No. 170. [1st SESSION.

BARBARY STATES.

COMMUNICATED TO CONGRESS, MARCH 1, 1802.

MARCH 1, 1802.

Gentlemen of the Senate and of the House of Representatives:

I transmit, for the information of Congress, letters recently received from our consuls at Gibraltar and Algiers, presenting the latest view of the state of our affairs with the Barbary Powers. The sums due to the Government of Algiers are now fully paid up; and of the gratuity which had been promised to that of Tunis, and was in a course of preparation, a small portion only remains still to be finished and delivered.

TH: JEFFERSON.

Extract of a letter from John Gavino, Esq. Consul of the United States of America at Gibraltar, to the Secretary of State.

"DECEMBER 29, 1801.

"On the 22d instant, arrived Captain M'Neale, in eight days from L'Orient, in the State frigate Boston, and proceeded next day into the Mediterranean in quest of Commodore Dale. By said gentleman I was honored with

your letter of 3d October last, with two enclosed for consul Cathcart, which I have forwarded by different posts to consul Appleton, of Leghorn, to be delivered him, if there; else to be sent him by some safe conveyance.

"Three Swedish frigates, commanded by an admiral, arrived at Malaga from Sweden, to cruise against the Tripolines.

"I am just informed from Malaga, that the Swedish admiral Cedestron has four frigates, and his orders from the King of Sweden are to consult and co-operate with Commodore Dale regarding the Tripolines."

Extract of a letter from John Gavino, Esq., American Consul at Gibraltar, to the Secretary of State.

"JANUARY 11, 1802.

"The last despatch I had the honor of addressing you was No. 178, to which refer, as well as the copy of consul O'Brien's letter, then enclosed you.

"On the 7th instant arrived an English frigate from England, with a British consul on board, and the Algerine ambassador, who had been some time in England. The consul, Mr. Hargrave, had a box entrusted to him from our minister, Mr. King, for consul Eaton, of Tunis, which contained jewels, as a present from our President for the Bey. They sailed said day, and I informed consul O'Brien thereof, to be on the look out for their safety, as Mr. Hargrave meant to go from Algiers to Tunis by land.

"I now enclose you a copy of a letter from Commodore Dale, dated at Toulon, the 7th ultimo, duplicates of which I delivered to Captain Bainbridge, whose frigate is at anchor in Algeziras bay. Captain M'Neale, in the Boston, sailed from Malaga for Toulon, to see Commodore Dale. Consul Simpson writes me from Tangier that the Tripoline ambassador had gone up to see the emperor, and that the commander of the cruiser laid up here had been with him some time.

"P. S. The Swedish admiral has left Malaga to join Commodore Dale."

Captain O'Brien to Consul Gavino, at Gibraltar.

ESTEEMED SIR: ALGIERS, *November* 28, 1802.

On the 14th instant called off this port the United States' ship President, Commodore Dale. He landed the money thirty fathoms, and I have therewith made a cash payment to the regency for one year's annuity. The President steered [for] Mahon. On the 22d sailed the United States' ship George Washington, having under her convoy for Tunis the ship Peace and Plenty. There was no alternative for the detention of those two vessels at Algiers, owing to severe weather to unload and ballast; the which, and the fitting out of six sail of the largest corsairs, occupied the marine entirely for nineteen days. They sailed on the 5th instant, and since I have not heard more of them. I suppose the westerly winds have driven them to the east.

We have finally paid all our debt to the regency on the annuities. We are square for six years, from the 5th September, 1795, to the 5th September, 1801. We owe to the Bey and Bashaw of Algiers fifteen fathom and some rope yarns; and I have, besides, given bills to Captain Shaw, on the Secretary of State, for eight fathom and some strands and rope yarns. This information please to forward to the Secretary of State, and communicate the same to the captains of the United States' frigates which should be at or call at Gibraltar. I am, sir, &c.

O'BRIEN.

N. B. The Washington, from Tunis, will run down the other shore, and offer convoy to all that will be ready to accept of her protection.

7th CONGRESS.] No. 171. [1st SESSION.

GREAT BRITAIN.

COMMUNICATED TO THE SENATE, MARCH 29, 1802.

MARCH 29, 1802.

Gentlemen of the Senate:

The commissioners who were appointed to carry into execution the sixth article of the treaty of amity, commerce, and navigation, between the United States and His Britannic Majesty, having differed in opinion as to the objects of that article, and discontinued their proceedings, the Executive of the United States took early measures, by instructions to our minister at the British court, to negotiate explanations of that article. This mode of resolving the difficulty, however, proved unacceptable to the British Government, which chose rather to avoid all further discussion and expense under that article, by fixing at a given sum the amount for which the United States should be held responsible under it. Mr. King was consequently authorized to meet this proposition; and a settlement in this way has been effected, by a convention entered into with the British Government, and now communicated for your advice and consent, together with the instructions and correspondence relating to it. The greater part of these papers being originals, the return of them is requested at the convenience of the Senate.

TH: JEFFERSON.

Convention between the United States and Great Britain.

Difficulties having arisen in the execution of the sixth article of the treaty of amity, commerce, and navigation, concluded at London, on the 4th day of November, 1794, between His Britannic Majesty and the United States of America, and, in consequence thereof, the proceedings of the commissioners under the seventh article of the same treaty having been suspended; the parties to the said treaty being equally desirous, as far as may be, to obviate such difficulties, have respectively named plenipotentiaries to treat and agree respecting the same, that is to say: His Britannic Majesty has named for his plenipotentiary the right honorable Robert Banks Jenkinson, commonly called Lord Hawkesbury, one of His Majesty's most honorable privy council and his principal Secretary of State for Foreign Affairs; and the President of the United States, by and with the advice and consent of the Senate thereof, has named for their plenipotentiary Rufus King, Esquire, minister plenipotentiary of the said United States to His Britannic Majesty; who have agreed to and concluded the following articles:

ART. 1. In satisfaction and discharge of the money which the United States might have been liable to pay in pursuance of the provisions of the said sixth article, which is hereby declared to be cancelled and annulled, except so far as the same may relate to the execution of the said sixth article, the United States of America hereby engage to pay, and His Britannic Majesty consents to accept, for the use of the people described in the said sixth article, the sum of six hundred thousand pounds sterling, payable at the time and places, and in the manner following, that is to say: the said sum of six hundred thousand pounds sterling shall be paid at the city of Washington, in three annual instalments of two hundred thousand pounds sterling each, and to such person or persons as shall be authorized by His Britannic Majesty to receive the same; the first of the said instalments to be paid at the expiration of one year, the second instalment at the expiration of two years, and the third and last instalment at the expiration of three years next following the exchange of the ratifications of this convention. And to prevent any disagreement concerning the rate of exchanges, the said payments shall be made in the money of the said United States, reckoning four dollars and forty-four cents to be equal to one pound sterling.

ART. 2. Whereas it is agreed by the fourth article of the definitive treaty of peace, concluded at Paris on the 3d day of September, 1783, between His Britannic Majesty and the United States, that creditors oneither side should meet with no lawful impediment to the recovery of the full value in sterling money of all *bonâ fide* debts theretofore contracted: it is hereby declared, that the said fourth article, so far as respects its future operation, is hereby recognized, confirmed, and declared to be binding and obligatory on His Britannic Majesty and the said United States, and the same shall be accordingly observed with punctuality and good faith, and so as that the said creditors shall hereafter meet with no lawful impediment to the recovery of the full value in sterling money of their *bonâ fide* debts.

ART. 3. It is furthermore agreed and concluded that the commissioners appointed, in pursuance of the seventh article of the said treaty of amity, commerce, and navigation, and whose proceedings have been suspended, as aforesaid, shall, immediately after the signature of this convention, re-assemble and proceed in the execution of their duties, according to the provisions of the said seventh article; except only, that instead of the sums awarded by the said commissioners being made payable at the time or times by them appointed, all sums of money by them awarded to be paid to American or British claimants, according to the provisions of the said seventh article, shall be made payable in three equal instalments: the first whereof to be paid at the expiration of one year, the second at the expiration of two years, and the third and last at the expiration of three years, next after the exchange of the ratification of this convention.

ART. 4. This convention, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the respective ratifications duly exchanged, shall be binding and obligatory upon His Majesty and the said United States.

In faith whereof, we, the undersigned plenipotentiaries of His Britannic Majesty, and of the United States of America, by virtue of our respective full powers, have signed the present convention, and have caused the seals of our arms to be affixed thereto.

Done at London, the 8th day of January, 1802.

HAWKESBURY, [L. S.]
RUFUS KING. [L. S.]

CORRESPONDENCE AND NEGOTIATIONS RELATING TO THE CONVENTION.

The Secretary of State to Rufus King, Esq. Minister Plenipotentiary of the United States.

DEPARTMENT OF STATE, *February* 5, 1799.

The differences of opinion among the commissioners here, under the sixth article of the British treaty, will doubtless suspend their proceedings. The claims not only surpass immensely, in amount, whatever was contemplated by us, but are advocated on principles which appear quite inadmissible. They go the length to make the United States at once the debtor for all the *outstanding* debts of British subjects contracted before the peace of 1783, and, in effect, reduce the Board to a company of clerks, whose chief business would be to examine and see that the accounts were rightly cast. The amount of the claims presented exceeds nineteen millions of dollars. I expect a statement will be made of the claims and arguments on one side, and the reasons with which they are combated on the other; which, with the requisite documents, will be transmitted to you. They will, in that case, be the subject of instructions from the President.

The Secretary of State to Mr. King.

DEPARTMENT OF STATE, *September* 4, 1799.

SIR:

A letter received last evening from Mr. Fitzsimmons informed me that Mr. Macdonald and Mr. Rich, commissioners appointed by Great Britain, under the sixth article of the treaty of amity and commerce, were going to embark for England, in the packet to sail this week from New York. It appears, from Mr. Fitzsimmons's letter, to have been to him a sudden and unexpected movement. But I do not know that this step, if it could be prevented, should be objected to, because I see no probability that the business of the Board can ever be executed by the present members. Independently of the opinions strongly expressed, which it would not be easy to retract, there appears to me *an incompatibility of temper:* if I am rightly informed, it would be difficult for any set of American commissioners to act harmoniously with Mr. Macdonald unless they possessed such meek and yielding dispositions as to submit implicitly to his dogmas. Such meekness is in his colleagues, Mr. Rich and Mr. Guillemard; who though they appear, and I verily believe them to be, worthy men, have not in a single instance dissented from Mr. Macdonald, or started an objection to any thing he has advanced: so that it would be perfectly equal, as to the final issue of their proceedings, whether they continued members of the Board, or that Mr. Macdonald were authorized on every question to give three votes. It has even appeared, as I have been informed, that Mr. Guillemard, who, as an *umpire* should have kept himself aloof, and formed his opinions upon discussions before the *Board*, has been so little aware of what propriety and dignity imposed on him as a duty, that he has entered into the *private* deliberations of the two British commissioners, and come to the Board with all the decisive prepossessions which such *private*, *partial* consultations were calculated to produce. If I am rightly informed, Mr. Macdonald is not only thus predominant, but that, towards the American commissioners, he has been in the highest degree overbearing and arrogant, and not very delicate towards our *country*.

I think it fortunate that you are acquainted with the individual characters of the American commissioners. You know also all the members of the Executive Government, except the Secretary of the Navy; and you know the members of the two houses of Congress, of leading influence in the measures of the United States; and you know that all these, besides detesting every species of fraud and evasion, and that, above all things, they are ambitious of maintaining the character of unblemished integrity and good faith, are particularly desirous of completely executing, what they so indefatigably labored to establish, the treaty of amity and commerce between the United States and Great Britain. Here is a pledge on which Great Britain may rely. But the commissioners differ essentially in the construction of the treaty. The points of difference must then become the subjects of further negotiation between the two Governments. These points have been laid before the President by the Attorney General: the American commissioners will do it more fully, and the result will undoubtedly be an instruction to you to confer with the British minister, and agree on an explanatory article, which may be satisfactory to both countries. In the meantime, I send for your information a copy of the Attorney General's letter, and the copy of a more concise summary drawn up by Mr. Sitgreaves, and of a long letter which I received from the American commissioners in March last.

Secretary of State to Mr. King.

DEPARTMENT OF STATE, *October* 4, 1799.

I was misinformed respecting the British commissioners when I last wrote you. Mr. Rich *only* embarked for England; but Mr. Macdonald might as well have taken his departure, for there exists "an incompatibility of temper" which will necessarily prevent any further harmony between him and the commissioners on the part of the United States. Indeed, the other two British commissioners have been so absolutely under the influence of Mr. Macdonald, and have committed themselves so far in his spirit and temper, that I conceive it impossible that the business of the Board can hereafter be conducted with them, with the requisite harmony and mutual confidence to ensure a satisfactory result. The President will be here before the expiration of this month, and, as soon as practicable, a full state of this business will be prepared and transmitted for your information. But Mr. Sitgreaves, who is a perfect master of the subject, has engaged to make such a digest of the claims, and such an ample statement of the points in controversy, as will vastly facilitate the ultimate adjustment of the principles and constructions which must govern the future proceedings of the Board. This, however, he informs me, will take up much time; so much, that it cannot probably be accomplished earlier than the usual time of the departure of the December packet.

Secretary of State to Mr. King.

DEPARTMENT OF STATE, PHILADELPHIA, *December* 31, 1799.

SIR:

The proceedings contemplated by the sixth article of the treaty of amity, commerce, and navigation, concluded between the United States and His Britannic Majesty, having been interrupted, in consequence of an essential diversity of opinion between the commissioners named on the part of the United States, and the other members of the Board, the President has determined to propose that the true interpretation of that article should be settled by such a mutual and friendly explanation as will give full effect to the just engagements which were thereby formed on the part of the United States.

That you may be fully informed of the points in dispute, you will receive herewith a collection of documents comprising a variety of claims, the arguments of the agents on both sides, upon those claims, the reasonings and opinions of the members of the Board, and the decisions adopted by a majority of the commissioners. It is believed that these papers contain every thing essential to be known. The same documents will doubtless be transmitted by the British agents or commissioners to the minister of His Britannic Majesty, to whom the cognizance of the business may belong: but, if otherwise, those sent to you may be communicated to him. To these documents, exhibiting the proceedings before the Board, are added the correspondence between the commissioners named on the part of the United States, after their secession from the Board, and the other members thereof; and a letter from the Attorney General, dated the 1st of last August, to the President, presenting a general view of the subject, the nature of the claims of the British creditors, or persons assuming that character; the leading principles relative to those claims, as maintained by three of the commissioners; and the sweeping effects of those principles, were they to be carried into execution, according to the ideas entertained of them by the Attorney General.

Although an examination of these documents will satisfy you that the commissioners, named on the part of the United States, had just cause for their secession, yet it has not been found an easy matter to define, on every subject of difference, the limits of *concession* and *demand* on the part of the United States: and hence the necessity of postponing full and final instructions. It is, however, important that, with the voluminous documents now transmitted, you should receive information of the view which the President has taken of the subject at this time: and he considers the following to be

Principles proper to form the basis of an article or articles explanatory of the sixth article of the treaty of amity, and for facilitating its due execution.

First. The description by which claimants are designated in said sixth article of the treaty of amity, shall be deemed to include all persons, whether resident in Europe or America, who were on the side of His Britannic Majesty at the commencement of the late war, and so continued throughout the war, and until the exhibition of claim. But no person shall be deemed to be a British creditor within the meaning of the said article, who shall, at any time before the peace, have been openly on the American side, or actually subject to the laws of the States respectively, or who shall since the peace have become a citizen of the United States, or have declared his intention to become a citizen agreeably to the provisions of the act of Congress.

Second. A claimant possessing the character before defined shall be held to prove to the satisfaction of the Board of Commissioners:

1st. That the debt was *bonâ fide* contracted before the peace, and due and unpaid to the creditor at the exhibition of claim. Accounts shall be stated, with the date and amount of each item; and the claimant shall in every instance make oath or affirmation that all the credits are disclosed to which the debtor is believed to be entitled.

2d. That the debtor was solvent at the peace, and for such a reasonable time afterwards, within which the debt might have been recovered by judicial process, if lawful impediments had not been interposed.

3d. That the creditor used reasonable diligence to obtain payment from his debtor; although the prosecuting of suits is not to be deemed a necessary evidence of such diligence.

4th. That some lawful impediment affecting the claimant's demand did exist to delay or prevent his recovery, or to impair or diminish his security.

5th. That, by the operation of such lawful impediments, he has sustained a loss or damage which cannot, at the time of the exhibition of claim, be repaired in the ordinary course of judicial proceedings. And to this end he shall prove either that the debtor became insolvent during such operation of lawful impediment, or during such reasonable time thereafter, within which the debt might otherwise have been recovered, and is yet insolvent; or that the creditor is barred, in whole or in part, by judicial decision had against him, in the particular case, during such operation of lawful impediment, and on the principles thereof.

Third. Lawful impediments shall be deemed to include legislative acts, passed during the war, and judicially determined by the superior courts of the respective States to remain in force after the peace; legislative acts passed after the peace, and also judicial decisions of the superior courts of the respective States; by the operation whereof creditors of the description in the first section were prevented or delayed from recovering the full value, in sterling money, of debts *bonâ fide* contracted before the peace. But the act, consent, acquittance, or release of the creditor or his authorized agent or lawful representative, shall in all cases be held to be conclusive upon him, and no lawful impediment shall be deemed to have continued after the 24th day of September, 1789: *Provided always*, That the consent of the creditor shall not be implied to any judgment, rendered against him in an adversary suit: *and provided also*, That all claims for interest, or balances of interest, shall be left to the decision of the commissioners, except in cases adjusted between the debtor and creditor, or their lawful agents or representatives respectively.

Fourth. The various modes of execution for the satisfaction of judgments which were in use before the war, in the States, respectively; and all proceedings in the established courts, whether of law or equity, for the discovery of fraud, and the recovery of the property of debtors, real or personal, in the hands or possession of fraudulent assignees, shall be deemed and held to be, in the ordinary course of judicial proceedings, within the meaning of the said sixth article of the treaty of amity.

Fifth. The United States shall be deemed bound by the said article to make compensation only for the loss or damage occasioned by lawful impediments, and actually sustained by the creditor; and, therefore, in cases where

a part of the debt, whether of principal or interest, might have been or may yet be recovered, compensation may not be awarded for such part.

Sixth. And for the purpose of facilitating the due execution of the said sixth article of the treaty of amity, according to the true intent and meaning thereof, as herein explained, it is further agreed, that the present Board of Commissioners for carrying into effect the said sixth article of the treaty of amity, &c. shall be dissolved from the date of the final ratification of these presents, and, instead thereof, another board shall be constituted, to consist of five commissioners, two of whom shall be appointed by His Britannic Majesty, and two by the President of the United States, by and with the advice and consent of the Senate thereof; and the fifth commissioner (who shall be so named and designated) shall be appointed by His Britannic Majesty. And the said five commissioners shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other, which oath or affirmation, being so taken and duly attested, shall be entered on the record of their proceedings, viz: "I, A, B, one of the commissioners appointed in pursuance of the explanatory articles of the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, do solemnly swear (or affirm) that I will honestly, diligently, impartially, and carefully examine, and, to the best of my judgment, according to justice and equity, decide all such complaints as have been preferred to the commissioners heretofore appointed under the said sixth article of the said treaty of amity, commerce, and navigation; and that I will forbear to act as a commissioner in any case in which I may be personally interested.

Three of the said commissioners shall constitute a board; and shall have power to do any act, appertaining to the commission: *Provided*, That one of the commissioners named on each side, and the fifth commissioner, shall be present: and all decision shall be made by a majority of the voices of the commissioners then present.

The said commissioners shall first meet at Philadelphia; but they shall have power to adjourn from place to place, as they shall see cause. All claims preferred to the Board heretofore appointed, and not dismissed by the said Board, shall be considered as depending before the commissioners to be appointed in virtue hereof. But the commissioners appointed in virtue of this article shall not be bound by any acts or resolutions passed or proposed to be passed in the former Board, in any cases not dismissed by the said former Board.

The said commissioners, in examining the complaints, as aforesaid preferred, are empowered and required, according to the true intent and meaning of the said sixth article of the treaty of amity, &c., and of these explanatory articles, to take into their consideration all claims, whether of principal or interest, or balances of principal and interest, and to determine the same, respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require; and shall have the same powers in regard to the examination of parties and witnesses, and the reception of evidence, as by the said sixth article of the treaty of amity, &c. were given to the commissioners heretofore appointed in pursuance thereof. And the awards of the said commissioners shall be final and conclusive in like manner, and shall in like manner be paid and satisfied, and on the like conditions, in all respects, as by the said sixth article of the treaty of amity, &c. has been directed and agreed.

The said commissioners shall be respectively paid in such manner as has been agreed between the two parties, comformably to the eighth article of the said treaty of amity, &c. And all other expenses of the said commissioners shall be in like manner borne and defrayed.

In case of the death, sickness, or necessary absence of the fifth commissioner, his place shall be supplied in the manner directed by the sixth article of the said treaty of amity, &c., for the appointment of the fifth commissioner. And in case of the death, sickness, or necessary absence of either of the other four commissioners, the place of every such commissioner shall be respectively supplied in the same manner as such commissioner was first appointed; and the new commissioner shall take the same oath or affirmation, and do the same duties.

Seventh. The evidence in support of the claims which have been preferred, as aforesaid, shall be exhibited by the claimants, respectively, within ——— from the first meeting of the said Board; and public notification thereof, in such manner as the said commissioners shall direct: and no evidence shall be received on the part of the claimants after the said term, except in special cases, wherein the Board shall deem it just, or cause shown to prolong the said term. And the commissioners shall also have power to limit, in each case, a time within which the evidence shall in like manner be exhibited on the part of the United States: *Provided*, That such term shall not be less than ——— from the expiration of the time limited for the exhibition of evidence on the part of the claimant.

Of these articles, the following should be ultimately insisted upon:

The first.

The second, except the third point of proof.

The third, unless an exception should be deemed proper in the case of judgments since 1789, on the statute of limitations.

The fifth, except the words " might have been or."

And the sixth, requiring the appointment of a new set of commissioners.

I have further to inform you that Mr. Sitgreaves having, as one of the commissioners, assiduously and thoroughly investigated the subject, and thereby acquired an accurate knowledge of every question to be discussed between you and the British Government, the President has thought it expedient that he should go to London to facilitate your researches, and render you every assistance which his intimate acquaintance with the business will enable him to give. It is also apprehended that you may derive much useful information from Mr. Sitgreaves relative to transactions in the Board, which the written documents either do not contain or will not suggest; and, finally, that by this measure the conclusion of the negotiation may be *expedited.* For although Mr. Macdonald, Mr. Rich, and Mr. Guillemarde, in their letter of the 14th of August to Mr. Fitzsimmons and Mr. Sitgreaves, as plainly as indecorously insinuate that the two latter seceded from the Board for the purpose of delaying payments by the United States, you well know that nothing can be more unfounded than this imputation. The President is anxious to have the expected explanations speedily agreed on, that the business of the Boards in London and Philadelphia may be resumed. There is not any branch of the Government, nor, within my knowledge, an individual officer, who would not view with disdain the insinuations above mentioned. But the disposition and opinions predominating with the commissioners from Great Britain are utterly incompatible with harmony in the proceedings, and, as we conceive, with justice and equity, in the adjustment of British claims. Besides, the personalities which have taken place between the members, rendering any future cordiality between them hopeless, show the dissolution of the present Board to be indispensable. Mr. Liston has been informed that Mr. Sitgreaves is to go to London, because it was supposed that he would think it proper that Mr. Macdonald should repair thither also; and doubtless he will speedily embark.

To the documents before enumerated are added *draughts* of an explanatory article, and a letter referring to it, prepared by the Attorney General, which, though not prescribed by way of instruction, yet, containing ideas proper to be known by you, the President has thought it expedient to have forwarded. Definitive instructions will be committed to the care of Mr. Sitgreaves, who proposes also to take with him copies of the laws of different States, referred to as legal impediments, or the causes of them, reports of cases adjudged in American courts, and some other documents which he thinks will be useful in the course of your negotiation. Your full powers to conclude an explanatory article are enclosed, and a list of all the papers hereinbefore referred to.

It is expected that Mr. Sitgreaves may be ready to embark in two or three weeks, if a convenient passage can within that time be obtained.

With perfect respect and esteem, I am, dear sir, &c.

TIMOTHY PICKERING.

The Secretary of State to Mr. King.

DEPARTMENT OF STATE, *February* 7, 1800.

DEAR SIR:

My letter of the 31st of December expressed to you the ideas and conclusions of the President, on the several subjects of negotiation, relative to the execution of the sixth article of the treaty of amity, commerce, and navigation between the United States and Great Britain. It was then expected that a further consideration of the matter would have suggested and required additional instructions; but the President is satisfied to leave it on the basis at that time proposed. The additional documents, which Mr. Sitgreaves takes with him, will give you a more perfect knowledge of the extent and nature of the claims, the equitable adjustment of which is the object of the proposed negotiation; and, with views mutually upright, the President trusts it may soon be brought to an honorable conclusion.

But this letter cannot be closed, without expressing to you the President's sense of the injury done to the American commissioners and Government, by the suspicion, which appears to have been suggested to, if not entertained by, the British administration, that the final secession of the American commissioners from the Board was caused or influenced by any considerations of interest, either to individuals or the States, to arise by delaying awards and payments. Such a suspicion should be repelled with earnestness, and even with disdain.

I have the honor to be, &c.

TIMOTHY PICKERING.

The Secretary of State to Mr. King.

DEPARTMENT OF STATE, *August* 23, 1800.

SIR:

Your letters, stating your negotiations with Lord Grenville respecting the differences which have arisen in executing the sixth article of our treaty of amity, commerce, and navigation with Great Britain, have been laid before, and considered by, the President.

He still retains the opinion that an amicable explanation of that article is greatly to be desired; and, therefore, receives with much regret the information, that the British cabinet is indisposed to enter on the discussion of this interesting subject.

He perceives with a concern, not entirely unmixed with other sensations, that the secession of two commissioners from the Board lately sitting in Philadelphia, has been attributed, not to its real cause, but to motives which in no instance have ever influenced the American Government.

That Government is, as it has ever been, sincerely desirous of executing, with perfect and scrupulous good faith, all its engagements with foreign nations. This desire has contributed, not inconsiderably, to the solicitude it now manifests for the explanatory articles you have been instructed to propose. The efforts of the American commissioners to proceed and decide on particular cases, instead of laying down abstract principles, believed to be untrue in themselves, ought to have rescued their Government from suspicions, so very unworthy, and so little merited by the general tenor of its conduct. The resolutions, maintained by a majority of the late Board of Commissioners, are such as the Government of the United States can never submit to. They are considered, not as constructive of an existing treaty, but as imposing new and injurious burthens, unwarranted by compact, and to which, if in the first instance plainly and intelligibly stated, this Government never could and never would have assented.

This opinion is not lightly taken up; it is a deep and solemn conviction, produced by the most mature and temperate consideration we are capable of bestowing on the subject.

This being the fixed judgment of the United States, it is impossible not seriously to apprehend, unless we could forget the past, that no attempt by arbitration to adjust the claims of individuals under the sixth article of the treaty, previous to an explanation of it by the two Governments, can be successful. A second effort at this adjustment, by the proposed modification of the Board, while the principles heretofore contended for receive the countenance of the British Government, would most probably, unless, indeed, the Board should again be dissolved, subject us to the painful alternative of paying money, which, in our best judgment, the commissioners had no power to award, or of submitting the public faith to imputations from which it could only be freed by a correct and laborious investigation of the subject. In such a situation, presenting to us only such an alternative, we are extremely unwilling to be placed.

It is, then, very seriously desired that the explanations required by this Government should be made. They are believed to be so reasonable in themselves, and to be so unquestionably in the spirit, and to the full extent of the existing treaty, that it is hoped the difficulties, on the part of the British cabinet, may yet be removed.

The President, therefore, requests that you will take any proper occasion, should one in your judgment present itself, to renew your application to Lord Grenville on this subject. Perhaps a change of temper may be produced by a change of circumstances; and there may be a state of things in which you may perceive a disposition favorable to the accomplishment of an object which ought to be desired by both nations, because it is just in itself, and because it will remove a subject of controversy, which may, in the course of events, have a very unhappy influence on that good understanding and friendly intercourse, which it is the interest of both to preserve.

The note of the 18th of April, addressed to you by Lord Grenville, stating the determination of the British cabinet, not to modify, but to reject, without discussion, the explanatory articles proposed by you on the part of the United States, assumes, as the base of its decision, a principle not only so different from those admitted by this Government, but so different from those recognized by both nations in the treaty of amity negotiated between them, and which ought, therefore, to be adhered to in all explanations of that treaty, as to warrant a hope that the determination announced in that note may not be unalterable.

His lordship assumes as a fact that "the fourth article of the treaty of peace not having been duly executed on the part of the United States, the British Government withheld the delivery of the forts on the frontier of Canada, in order that these might serve as a pledge for the interests and rights secured to the British creditors under that article."

But this is a fact which the American Government has ever controverted, and which has never yet been established.

Without entering into the always unavailing and now improper discussion of the question, which nation committed the first fault, it ought never to be forgotten that the treaty in which the claim of the British creditors, on the United States originated, was avowedly entered into for the purpose of terminating the differences between the two nations "in such a manner as, without reference to the merits of their respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding."

In questions growing out of such a treaty, neither nation can be permitted to refer to and decide the merits of those respective complaints and pretensions, by asserting that the other, and not itself, has committed the first fault.

Lord Grenville, then, proceeds on the idea that the commissioners appointed by the American Government have withdrawn from the Board, merely because awards were rendered against their opinion, and on claims which they believed to be unjust.

But this idea is neither warranted by the conduct or declarations of the American Commissioners, nor of the Government which appointed them. It has been, and still is, expressly disavowed. The commissioners and their Government acquiesced under opinions which they conscientiously believed to be formed on erroneous principles, but on principles submitted by the treaty to their decision. Awards conforming to such opinions, unless by mutual consent the subject shall assume some other form, will be paid by the United States. It was not until a majority of the Board had proceeded to establish a system of rules for the Government of their future decisions, which, in the opinion of this Government, clearly comprehended a vast mass of cases never submitted to their consideration, that it was deemed necessary to terminate proceedings believed to be totally unauthorized, and which were conducted in terms and in a spirit only calculated to destroy all harmony between the two nations.

We understand the treaty differently from what Lord Grenville would seem to understand it, when he says the decision of the Board, constituted according to the provisions of that instrument, "was expressly declared to be in all cases final and conclusive."

These terms have never been understood by us as authorizing the arbiters to go out of the special cases described in the instrument creating and limiting their powers. The words "all cases" can only mean those cases which the two nations have submitted to reference. These are described in the preceding part of the article, and this description is relied on, by the United States, as constituting a boundary, within which alone the powers of the commissioners can be exercised. This boundary has, in our judgment, been so totally prostrated, that scarcely a trace of it remains. The reasoning on which we have formed this judgment it would be unnecessary to detail to you, because you are in perfect possession of it.

Believing the British cabinet disposed to act justly and honorably in a case in which we conceive their reputation, as well as ours, to be concerned, we have been confident in the opinion, that to obtain their serious attention to the subjects of difference between the two nations, was to secure the establishment of that reasonable and liberal construction of the article for which America has contended. We shall abandon this opinion with reluctance and regret.

Although the President decidedly prefers the amicable explanations which have been suggested to any other mode of adjusting the differences which have arisen in executing the sixth article of our treaty with Great Britain, yet it is by no means the only mode to which he is willing to resort. He does not even require that you shall press this proposition in a manner which, in your judgment, may lessen the probability of settling existing differences, or further than may comport with the interests of the United States. Your situation, your full and near view of all the circumstances which can influence the negotiation, enable you to decide more certainly than can be done on this side the Atlantic, on the precise course which it may be most advantageous to pursue. To your discretion, therefore, the President entirely submits this part of the subject.

If the explanatory articles so much desired by the United States be unattainable, the substitution of a gross sum, in full compensation of all claims, made or to be made on this Government, under the sixth article of our treaty of amity, commerce, and navigation with His Britannic Majesty, is deemed the most eligible remaining mode of accommodating those differences which have impeded the execution of that article.

It is apparent that much difficulty will arise in agreeing on the sum which shall be received as compensation. The ideas of the two Governments, on this subject, appear so different, that, without reciprocal sacrifices of opinion, it is probable they will be as far from agreeing on the sum which ought to be received, as on the merits of the claims for which it will be paid. This difficulty is, perhaps, increased by the extravagant claims which the British creditors have been induced to file. Among them are cases believed to be so notoriously unfounded, that no commissioners, retaining the slightest degree of self-respect, can establish them. There are many others where the debtors are as competent to pay as any inhabitants of the United States; and there are others where the debt has been fairly and voluntarily compromised by agreement between creditor and debtor. There are even cases where the money has been paid in specie, and receipts in full given. I do not mention these distinct classes as comprehending all the cases of claims filed, which can never be allowed; but as examples of the materials which compose that enormous mass of imagined debt, which may, by its unexamined bulk, obstruct a just and equitable settlement of the well-founded claims which really exist.

The creditors are now proceeding, and, had they not been seduced into the opinion that the trouble and expense inseparable from the pursuit of old debts, might be avoided by one general resort to the United States, it is believed they would have been still more rapidly proceeding in the collection of the very claims, so far as they are just, which have been filed with the commissioners. They meet with no obstructions, either of law or fact, which are not common to every description of creditors, in every country, unless the difficulty, with respect to interest during the war, may be so denominated. Our judges are even liberal in their construction of the fourth article of the treaty of peace, and are believed, in questions growing out of that treaty, to have manifested no sort of partiality for the debtors. Indeed, it is believed that, with the exception of the contested article of war, interest, and, possibly, of claims barred by the act of limitations during the war, the United States are justly chargeable with the debts of only such of their citizens as have become insolvent subsequent to the peace, and previous to the establishment of the federal courts. This opinion is founded on a conviction that our judges give to the fourth article of the treaty of peace a construction as extensive as ought to be given to it by commissioners appointed under the sixth article of the treaty of amity, commerce, and navigation.

Those, who have attended most to this subject, are of opinion that the sum which might properly be awarded against the United States would fall far short of any estimate which has probably been made of it in England, or by the British creditors or agents in this country. We are, however, sensible that commissioners, acting within their powers, may extend the sum further than justice or a fair construction of the article would extend it; and we have been taught to apprehend a construction, of which, at the ratification of the treaty, no fear was entertained. From this persuasion, and from a solicitude to perform what even rigid and unfavorable judges may suppose to be enjoined by good faith, the interests of the United States may require, and the President is, therefore, willing, that the agreement should not be strictly limited by the sum for which, in our opinion, we ought to be liable. He will be satisfied with four millions of dollars. He will not consent to exceed one million sterling.

If a gross sum, in satisfaction of all other claims, be accepted, you will of course stipulate for the lowest possible sum, and for the most favorable instalments which may be attainable.

Should it be found impossible to negotiate reasonable explanatory articles, or to agree on a sum to be received as compensation for the claims of the creditors, much doubt is entertained concerning the proposition for new modelling the Board, as proposed by the British minister. While the Government itself professes to approve the conduct of its late commissioners, much fear is entertained that their successors may bring with them those extravagant and totally inadmissible opinions which have dissolved the past, and will most probably dissolve any future Board. Before the United States proceed to take a new step in a case where experience has done so much to teach them caution, some assurances of the temper in which the commissioners to be appointed will meet ought to be received. And yet we are not satisfied that good faith does not require that, notwithstanding the past, we should consent to make a second effort for the execution of the sixth article of the treaty, in the forms it has prescribed.

On this part of the subject, however, the President has come to no determination; so soon as his decision shall have been made, it shall be communicated to you.

With very much respect, &c.

J. MARSHALL.

No. 87.

Mr. King to the Secretary of State.

LONDON, *March* 25, 1803.

SIR:

It is now nearly a fortnight since Lord Hawkesbury informed me that he had lately ascertained that the American commissioners, under the seventh article of the treaty of amity and commerce, with the concurrence of the fifth commissioner, conceived themselves authorized to allow interest upon the claims before them for the time during which the proceedings of the Board had been suspended. That, as this suspension had taken place, in consequence of the suspension of the commission in America, it did not appear to him that the Board here had authority to allow interest for this portion of time. That he made me this communication in hopes that we might agree in the just interpretation of the powers of the commissioners, as it would be disagreeable, particularly at the juncture of affairs when he was speaking, again to arrest the proceedings of the commissioners. I replied that the subject was both unexpected and new, that it should receive my immediate consideration, and that I would take the earliest opportunity in my power of conversing with him respecting it.

After maturely reflecting upon the objection which originated with and was entertained by Doctor Swabey before the conclusion of the convention, in virtue of which the Board has resumed its proceedings, I informed Lord Hawkesbury that I was ready to meet him; but, owing to the discussions going on with France, he has not yet appointed a day to receive me. In the meantime, the commission proceeds in examining and deciding the cases before it, leaving open the ascertainment of the amount of the respective claims. As the first instalment of the six hundred thousand pounds sterling, to be received by Great Britain, is payable in July, and as, from the nature of the negotiations with France, I may not be able to meet Lord Hawkesbury soon, it has appeared to me proper to apprise you of this objection to the powers of the commissioners, which may be followed up by a suspension of their proceedings.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to the Secretary of State.

LONDON, *April* 23, 1803.

SIR:

In my No. 87, I mentioned the difficulty which had arisen respecting the proceedings of the commissioners under the seventh article of the treaty of 1794. Several conferences have since taken place between me and Lord Hawkesbury, but the impediment is not yet removed. At my first meeting with Lord Hawkesbury, after the communication he had made to me on this subject, I stated to him the arguments that, in my opinion, ought to remove the objection which had been raised; and I was in hopes that, on a further conversation between his lordship and Dr. Swabey, the objection would have been given up.

Some days afterwards, the under secretary, Mr. Hammond, on the part of his lordship, proposed to me, as a compromise, that three per cent. instead of six per cent. interest should be allowed upon the whole of the claims during the suspension of the commission. In my last conference, I informed Lord Hawkesbury that I could not consent to the proposed compromise, seeing no just principle upon which I could do so. He desired me, however, to confer with the Lord Chancellor upon the subject; which I shall do to-morrow, or the day after. If the objection be persisted in, the British commissioners will be instructed not to sign the awards unless the interest, in whole or in part, during the suspension of the commission, be omitted. In this case, our commissioners will enter their protest against this instruction; and, from a conversation I have had with the fifth commissioner, I perceive it to be his opinion that the awards should then be made, although lessened in their amount, by a total or partial deduction of the interest during the suspension of the commission. This course, in his opinion, will avoid the delay and uncertainty of a negotiation between the two Governments respecting the instruction that may be given to the British commissioners, and, moreover, secure to the claimants their compensation, except so much thereof as may be withheld by the instruction of the British Government, which may become the subject of future demand and negotiation.

As I understand the objection, on the side of the British commissioners, it is founded on the allegation that the treaty of 1794 did not foresee the suspension of the commission that has taken place; that the convention has not provided for it, and, therefore it is to be regarded as *casus omissus*. Our answer is, the treaty of 1794 sufficiently described the cases, or, in other words, creates the competenceor jurisdiction of the Board; and, moreover, lays down the riule by which they are to ascertain the full and complete compensation to be given to the claimants. The convent on, subsequent to the suspension of the commissioners, re-assembles them, and authorizes them to proceed in all respects (except one, which is irrelative to the point in discussion,) as is provided by the treaty: it therefore authorizes them, posterior to and including the time of their suspension, to examine and decide, and to grant full and complete compensation in all cases submitted to their decision by the treaty of 1794.

This reply has appeared to me so solid, that I haveben willing to believe the cabinet would feel its force: and, therefore, although a moderate interest is better than none, I have thought it my duty to reject the overture for a compromise, in confidence that the British commissioners would either be instructed to waive the objection, and consent to the entire interest; or, at worst, that they would be authorized to proceed on condition that a moiety only of the interest should be allowed.

With perfect respect and esteem, I have the honor to be, sir, &c.

RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

"LONDON, *April* 30, 1803.

"SIR:

"The objection of the British commissioners, under the seventh article of our treaty of 1794, has been given up: and the Board having to-day completed a number of awards, including interest, during its late suspension, there is reason to believe that no further difficulty is likely to occur in the satisfactory conclusion of the business of this commission.

"With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

"RUFUS KING."

J. Marshall, Secretary of State, to Samuel Sitgreaves, Esquire, London, dated

DEPARTMENT OF STATE, *December* 2, 1800.

DEAR SIR:

I have had the pleasure of receiving your letters to the 29th of September, and among them that of the 23d, enclosing a copy of your letter of the 22d of April, the original of which had unfortunately miscarried.

It is probable that, before this can reach you, the negotiation respecting the sixth article of our treaty of amity, commerce, and navigation with Great Britain will have terminated, and that Mr. King will have come to some agreement with Lord Grenville, or will be able to state precisely the ultimata of the British cabinet on this subject. Should it, contrary to our expectation, remain open, the President is of opinion that informal explanations may be received in lieu of the articles required, provided sufficient assurances accompany them that the commissioners, on the part of His Britannic Majesty will, in the true spirit of conciliation, conform to those explanations.

The idea suggested to Lord Grenville by Mr. King, of sending over confidential characters to the United States, with power to make arrangements for facilitating the just and impartial execution of the treaty, and with an eventual appointment as commissioners, is a valuable one. If no positive agreement can be made which will enable us to enter again on the execution of the sixth article without submitting to injurious and disgraceful imposition, this idea may perhaps be so improved as to become the foundation of a reasonable accommodation. It is certainly recommended by the probabilities you have suggested.

If the system of informal explanation should be adopted, and a new Board be constituted, in the mode intimated by Lord Grenville, there will undoubtedly be considerable difficulty in agreeing on rules which shall guide its proceedings, and in obtaining security that these rules will not be departed from. The explanatory articles which before your departure were digested by this Government, and committed to you, are believed to be a liberal as well as just construction, and would be, therefore, with reluctance receded from: indeed, there are among them some from which we never ought to recede. Such, for example, as that, to charge the United States, the British creditor must bring his case completely within the treaty, and not require that the United States should furnish evidence to dis-

charge themselves from every claim which may be at present, or, on the signature of the treaty of amity, may have been unpaid. Such a construction appears to us so totally unreasonable, that we should never have deemed it necessary to guard against it, had not the principle been already asserted, and it is of course a construction to which we never can and never ought to submit. Other principles were insisted on which seem to us not less objectionable. But if it shall be found that a new Board is to be resorted to, it will become necessary to revise the instructions which have been given, and to modify them so far as a proper respect for justice and our own character will permit.

The President allows your return to the United States as soon as the negotiation shall have taken a turn which in your opinion may render your longer continuance in England unnecessary, or so soon as you shall have communicated fully to Mr. King all the ideas on the interesting subject of your mission, which your intimate acquaintance with it has enabled you to acquire.

With very much respect and esteem, I am, sir, &c.

J. MARSHALL.

SAMUEL SITGREAVES, Esq. *London.*

J. Marshall, Secretary of State, to Rufus King, Esquire, dated

DEPARTMENT OF STATE, *December* 4, 1800.

DEAR SIR:

Your letters to No. 85, inclusive, have been received.

In my No. 2, I stated to you the opinion of the President that an adjustment, by explanatory articles of the differences which arose on executing the treaty with Great Britain, was preferred to the stipulation of a sum in gross, to be paid in lieu of the compensation to creditors demandable from the United States.

This opinion is still retained. But it has been suggested that, however unreasonable the principles asserted by the British commissioners may be, it will be difficult, perhaps impossible, to induce the British cabinet formally to abandon them. That the same thing may probably be obtained in an informal way, which would be withheld if required in the shape of a solemn public stipulation.

Under the impression that this may be the fact, the President directs me to inform you that an informal agreement, provided it be perfectly understood, will be satisfactory to this Government.

If, however, on any such agreement, a new Board should be constituted, it is of the last importance that the persons appointed to act as commissioners should possess dispositions inclined to conciliation, and characters which impress you with a favorable opinion of the impartiality to be expected in their decisions. These are requisites, the materiality of which we have been taught by experience, and on them must greatly depend our assent to another Board.

If you have brought the negotiation to a conclusion respecting the sum in gross mentioned in a former letter, or if it is in such a train that no change can, without embarrassment, be made, it is not intended to derange or unsettle the business. But if no agreement has been concluded, or has progressed so far as to pledge the United States, it is decidedly the judgment of the President that it will be most advisable to execute the treaty in the manner originally agreed on, provided satisfactory informal assurances can be obtained, that we shall not be subjected, by a majority of the Board, to an enormous burthen not imposed by the original contract.

If persons could be deputed to make arrangements here, for facilitating the execution of the treaty, with an eventual appointment as commissioners, some difficulties might perhaps be surmounted which, at present, appear very considerable, and the business might be greatly expedited.

As we cannot know the precise state of the negotiation, it is impossible to do more than to communicate, in general terms, the course which the President most wishes it to take. Having done this, to your judgment it must be submitted.

The most desirable plan of accommodation is by public explanatory articles, placing the treaty on its true principles, in terms not easily to be misunderstood.

Second to this is the system of informal explanation, by which we may be enabled, without great injustice, to execute the treaty in the mode originally designed. If, in neither the one way nor the other, a new Board can be so constituted as to comply with the engagements we have made according to their real import, without exposing the United States to the immense losses threatened by that which has been dissolved, then the stipulation for a sum in gross will be deemed more eligible than to permit things to remain in their present unsettled situation.

We are surprised that, at the date of your No. 85, no letter on this subject had been received from this Department.

With the most respectful esteem, &c.

RUFUS KING, Esq. J. MARSHALL.

Extracts of a letter from Levi Lincoln, Acting Secretary of State, to Rufus King, Esq., dated

"DEPARTMENT OF STATE, WASHINGTON, *April* 25, 1801.

"DEAR SIR:

"From various sources you will have learned, probably, before this reaches you, the situation of the new administration, and the circumstances generally on which the new Government commenced. It is not yet fully organized. Mr. Madison, whose duties I am appointed to perform, will enter the office the beginning of the next month. * * * * The administration will then have its attention particularly called to its foreign concerns."

"It is proper, however, that I should acknowledge the reception of yours, from No. 91 in your second, to No. 5 in your third series, (with the exception of No. 95 only) which have reached the office since I have been acting in it. Having no special instructions from the President on subjects as the objects for the particular attention of foreign ministers, I can only state to you his great solicitude of convincing all nations with which this country is connected, and especially the united nation of Great Britain and Ireland, of the continued friendly disposition of the United States towards it. That he will, on all occasions, and by every means in his power, endeavor to cultivate harmony and a good understanding; that, adhering strictly to the principles and laws of neutrality, he will, on a just and liberal policy, encourage that correspondence and commercial intercourse which is so essential to the interest and prosperity of both countries.

"The United States are deeply interested in your securing the objects about which you have been treating with Lord Grenville; and especially of closing the business of the sixth article, if it can be effected on the principles and for the sum you have mentioned.

"I have the honor to be, &c.

"LEVI LINCOLN."

RUFUS KING, Esq.

James Madison, Secretary of State, to Rufus King, Esq., dated

DEPARTMENT OF STATE, WASHINGTON, *June 15th*, 1801.

SIR:

Your communications by Mr. Sitgreaves, on the subject of the proposed conversion of the claims against the United States, under the sixth article of the treaty of 1794, into a definite sum, have been duly received and taken into consideration by the President. Although there may be good ground to contest the real justice of the amount of debt which will be assumed by such a stipulation, yet, considering all the actual circumstances which are now to be taken into view, allowing particularly due weight to the advantage of substituting an amicable and final adjust-

ment of the controversy, in place of the apparent improbability of obtaining any proper amendment of the sixth article, and of all the demands, embarrassments, and uncertainties, incident to its present form, before a tribunal composed as is the Board of Commissioners under it, the President has determined on the expediency of your pursuing into effect the negotiation in which you are engaged. It is his express instruction, however, that no encouragement be given to pretensions on the British side, by carrying into the negotiation a sum higher than that of six hundred thousand pounds, as mentioned in your No. 6, of the 7th of March last, and that no sum beyond that be finally admitted into the commutation.

It is taken for granted, that, in case the claims against the United States be liquidated into a net sum, there will be no difficulty in so arranging it as to be applicable to the payment of the indemnification awarded from time to time under the seventh article of the treaty in favor of our citizens, whose claims, according to an estimate of Mr. Samuel Cabot, of May 9th, 1798, amount to £ 1,250,000. Such an arrangement must be the less objectionable, as a discharge of the debt by instalments would no doubt be the alternative mode, and it will have the advantage of putting aside all possible inducement to delay the award of indemnifications, with a view to avoid the immediate advances of money necessary to satisfy them.

The President considers it as a matter of course, also, that an adjustment of the controversies under the sixth article will be followed by an instant renewal of the proceedings under the seventh article, and by every reasonable exertion for hastening them to a just conclusion.

A number of your letters hitherto received remain to be acknowledged. But the subject of the despatches by Mr. Sitgreaves has appeared to claim an answer distinct, and without delay. I cannot but briefly add, however, that we have the mortification to find that, notwithstanding all the forbearances and endeavors of the United States for the establishment of just and friendly relations with Great Britain, accounts continue to arrive from different quarters of accumulating trespasses on our commerce and neutral rights. This is particularly the case, not only with respect to the Bahama islands, but to Jamaica. Mr. Savage, under date of 11th April last, states that, "since the 15th January, thirty vessels, which appear to be American property, have been detained, and brought into this port, and, from the best information I have been able to obtain from the several masters, their value has been computed by me at the enormous sum of seven hundred and sixteen thousand dollars. Some few have been acquitted, after being decreed to pay both relators' and defendants' costs, which, upon the smallest calculation, is never less than fifteen hundred dollars, and, in some instances, three times the sum."

It will be an agreeable circumstance if the result of your correspondence with the British ministry shall be found to mitigate these outrages; it being the sincere desire of the United States and of their Government to see every obstacle removed to that entire confidence, harmony, and good will between the two countries, which can be firmly established on no other foundations than those of reciprocal justice and respect.

With very great respect, &c.

JAMES MADISON.

RUFUS KING, Esq.

Extract of a letter from James Madison, Secretary of State, to Rufus King, Esq. dated

" DEPARTMENT OF STATE, WASHINGTON, *July 24th*, 1801.

"Having already communicated to you the decision of the President with regard to the proposed commutation of the clims againstthe United States, under the sixth article of the treaty of 1794, into a net sum of six hundred thousand pounds sterling, I have nothing now to add on that subject beyond my wishes that the negotiation may be brought to a speedy as well as a final issue. Your letter of May 30th, (the last one received,) countenances such an expectation more than the preceding appearances. There is, notwithstanding, much room to remark that, with due allowances for other pressures on the attention of the British Government, a due share of it has not been given to a subject which they profess to consider of so much importance to that good understanding between the two countries, which they also profess to have so sincerely at heart."

DESPATCHES, &c. OF MR. KING TO THE DEPARTMENT OF STATE.

Extract of a letter from Mr. King to the Secretary of State.

"SIR: " LONDON, *May* 25, 1799.

" With the exception of your No. 43, I have received your letters to No. 47, inclusive. Although you are silent upon the subject, I am sorry to learn that embarrassments of so serious a character have occurred in the commission under the sixth article of the English treaty. Lord Grenville sent me, a few days since, a printed copy of the proceedings in the case of Bishop Inglis, which he received from Mr. Liston by the last packet; and, at the same time, inquired of me whether I could give him any further information upon the subject. In a conference that we have since had, his lordship intimated to me, that they should find it difficult to allow their commissioners under the seventh article, to assist in any further awards, so long as the business of the American commission remained suspended. We went a little way into the proceedings in Bishop Inglis's case; and I endeavored to show his lordship, which, indeed, is satisfactorily done by Messrs. Fitzsimmons and Sitgreaves, that the ground taken by their commissioners could not be defended. As Mr. Liston's despatch, which was intended to have been sent with the printed proceedings, was not sent, and as I had received no information from you upon the subject, it was thought best to postpone a further discussion of the business, with an understanding that the commission here, which happens to be adjourned for a few weeks, should continue adjourned until we receive more precise information from Philadelphia: but whether we are right, or otherwise, it appears to me extremely probable that the commission here will be suspended until that at Philadelphia is again put in motion. Lord Grenville observed, and I think with justice, that we have found, by the discussions relative to the powers of the commissioners under the seventh article, that constructions, in either extreme, might be given up; and I think he felt the full effect of my observation, that, whatever may be the importance of the claims before the commissioners at Philadelphia, it was very subordinate to the harmony and good understanding that happily subsists between the two countries."

Mr. King to the Secretary of State.

SIR: LONDON, *June* 14, 1799.

I last evening received a note from Lord Grenville, requesting to see me this morning. I waited upon his lordship, in Cleveland row, who said that he had read with care the proceedings of the commissioners, under the sixth article of our treaty, in the case of Bishop Inglis, and that he was sorry that the difficulties that had arisen at Philadelphia had not been removed in some such way as we had found successful here; that he thought construction had been pushed too far, and doubtful points more pertinaciously insisted on by both sides at Philadelphia than was consistent with the real object of the commission, the attainment of justice to the British creditors, and, in a manner, as far as practicable, compatible with the ordinary course of our judiciary. He was moreover ready to confess that, on one side, there did not appear to him sufficient evidence to warrant the conclusion that Bishop Inglis could not have recovered his debt in the ordinary course of judicial proceedings; and, on the other side, it must be evident, if the construction of our commissioners was insisted upon, that it would, in a great measure, perhaps wholly, defeat the end of the article. Under these circumstances, he said he had concluded to write Mr. Liston, by the next packet, to open a new negotiation with our Government, withthe view of making some such agreement, respecting the

provisions of the sixth article, as had taken place between him and me relative to those of the seventh. A time might be agreed on, as was the case here, within which our courts should decide the cases brought before them. This must be a convenient time, having regard to the nature of the business; and, being mutually understood, would require no formality. A number of cases in each class might in this way be decided by our courts. He presumed that we should not insist that each case should go through the courts. Assignments might then be made, and the money paid, as had been agreed to be done here.

They had given up the posts, and hitherto done whatever depended on them to carry into full effect the stipulations of the seventh article. This they had done from a confidence that, on our side, correspondent exertions would be made to give full effect to the provisions of the sixth article. Though Mr. Liston had given them but little information respecting the commission at Philadelphia, what he had given was important. In his last despatch, which informed them of the secession of our commissioners, he expressed his opinion that the commissioners would not agree in any awards, and that nothing would be recovered under the commission. In this situation of that commission, they could not consent that the commission here should proceed. He had no idea of breaking it up; but it must be suspended until that at Philadelphia was again put in motion.

From the tenor of this communication, as well as from some expressions made use of by Lord Grenville, I plainly saw that the measure had been considered and settled in the cabinet, and, consequently, that it was very little likely that any observations of mine would effect a change in what had been so agreed on; still, I judged it suitable to observe, that I received with much concern the communication that his lordship had just made; that true it was that the proceedings in the case of Inglis bore strong marks of a temper ill suited to the occasion; but that we could not consent to take any portion of blame on this account, as, most clearly, the construction asserted by their commissioners, and from which we only exhibited the reasons of our dissent, was extravagant, and not to be acquiesced in or defended: we had promised compensation for loss and damage of British creditors, where the same could not be recovered in our courts: there was no evidence, in Bishop Inglis's case, that compensation could not there be recovered; and, consequently, no case was made out for the interference of the commissioners. So important did the questions appear to me, and especially in respect to our national faith, that I did not see how we could acquiesce in the reproach that would be fixed upon our character by consenting to the inferences attempted to be established by their commissioners, and that I had entertained the hope that the conduct of their commissioners would have appeared to them in such a light as to have produced an instruction calculated to have removed the embarrassment that had arrested the progress of the commission.

That if, from considerations of expediency, it should be thought advisable to suspend, for the present, awards upon their treasury by the commission here, I hoped there would be no objection to the commissioners proceeding in such preliminary examinations as would bring the business to a state to be soon finished after the satisfactory removal of the embarrassments which at present stop the commissioners at Philadelphia. Lord G. made some further remarks, and we entered into a fruitless conversation respecting the construction given by their and our commissioners to the provisions of the sixth article, and concluded by saying, that it would be most satisfactory that the two commissioners should proceed *pari passu;* and, therefore, the stopping of one should be the signal for the stopping of the other. If, during the suspension of the commission at Philadelphia, that at London should be employed in carrying on its business to its last stage, nothing would remain to be done here, when the present suspension at Philadelphia should cease, but to sign awards, which might be completed in a week, and the commission here brought to an end before any real progress had been made at Philadelphia, where new difficulties and further suspension might occur. With perfect respect and esteem, I have, &c.

RUFUS KING.

Mr. King to the Secretary of State.

SIR: LONDON, *October* 11, 1799.

In a late conference with Lord Grenville, he asked me if I had received any account of the interruption of the commission at Philadelphia; and, upon my answer in the negative, he said that he had, by the last packet, received information that the American commissioners had withdrawn from the Board; that such withdrawing might be considered as a resignation; and that he proposed instructing Mr. Liston to apply to our Government to appoint other persons to succeed them, according to the provisions of the treaty. I observed that, though I was not authorized to say any thing, officially, respecting the suspension of the commission, I had reason to expect, by the next packet, full information and instructions respecting it; and, without pretending to judge of the expediency of the measure proposed by his lordship, I would take the liberty of saying, that it did not appear to me likely to hasten a satisfactory termination of the misunderstanding that had taken place, and especially if, as I conjectured to be the case, the conduct of the American commissioners was not disapproved by their Government.

Lord Grenville replied, certainly, the approbation of their conduct by their Government would very much alter the case; and, after a conversation at some length which, without an intention on either side, entered into the discussion of several of the controverted points, Lord Grenville said he would defer writing to Mr. Liston upon the subject until I should receive my instructions respecting it. From the tenor of this conference, we may anticipate the difficulties to be expected in a further negotiation, and which the course of events may increase rather than lessen.

With great respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to the Secretary of State.

SIR: LONDON, *October* 11, 1799.

On the 1st of this month I received a note from Lord Grenville, requesting, in the usual form, to see me at 11 o'clock the next day at Cleveland Row. I was punctual in my attendance.

Lord Grenville began the conference by intimating his intention to instruct Mr. Liston to require of our Government to appoint other commissioners in the place of Fitzsimmons and Sitgreaves; and upon my suggestion that, though I had no such official information, it was not improbable that the conduct of the American commissioners was approved by the Government, and, therefore, that the proposed instructions would not be likely to remove the difficulties and disagreement that had arisen in the construction of the treaty; his lordship observed, with less moderation than usual: "If you are authorized, sir, to say that the secession of your commissioners was by order of your Government, certainly the subject presents itself in a quite different light." I have no doubt of the fact, my lord; but, as I have already said, I have no regular information upon the subject; and can, therefore, say nothing officially respecting it, except that I am informed that the American commissioners, in consequence of a disagreement in the interpretation of the sixth article of the treaty, have withdrawn; in like manner as the English commissioners, last year, seceded, in consequence of a disagreement in the construction of the seventh article of the same treaty; and, that, by the next packet, I expect exact information and instructions respecting this affair, which may, perhaps, become the subject of further negotiation. Ever since Mr. Jay's arrival here, we have pursued (said Lord G.) measures of conciliation towards the United States, and have cherished a disposition to overlook every unpleasant occurrence we met with; but I must say that we have not seen a like temper and disposition on the part of the United States; and it is easy to foresee that this spirit of conciliation must exhaust itself. I am told, continued his lordship, that Mr. Jay has declared that he had no notion of such a construction as has been given to the sixth article; and so I, upon oath, could declare that the seventh article has been construed in a way that I had never supposed it could be; but, notwithstanding, I advised His Majesty's Government to acquiesce in the award, and to pay the money. Mr. Jay and I endeavored to agree: we found it impracticable. I believe we honestly disagreed.

At length, however, we concluded the sixth and seventh articles, by which the subjects of our disagreement are submitted to arbitrators. A question arose whether their decision should be final, or subject to the confirmation of the respective Governments; and we thought it would be most prudent to make their decisions conclusive. How, under these circumstances, can it be expected that we shall consent to begin a new negotiation? However just, there would be no advantage in recrimination; but I have no reserve in assuring your lordship, whatever may have been the disposition of Great Britain, that one of equal sincerity has existed in the United States, to maintain the most perfect harmony and good understanding between the two countries; and I am wholly at a loss to conjecture to what facts your lordship can refer in evidence of a different temper. In respect to the interruption of the commission at Philadelphia, I must content myself with observing that, if England found sufficient reasons to justify an instruction to her commissioners to secede, she cannot think it extraordinary that the United States, from the same or similar reasons, have given the like instructions to their commission at Philadelphia. But, exclusive of this observation, what passes in respect to ordinary arbitrations between individuals, which differ nothing in principle from those between nations, teaches us that matters not submitted, or submitted with limitations, are sometimes attempted to be drawn within the arbitration, or to be decided absolutely, and without regard to the conditions; and, as in such cases, individuals are not bound by these irregular proceedings, so, in similar circumstances, nations must be free, in like manner, to refuse their acquiescence.

I think, said Lord G., I could show a distinction between what passed here, respecting the commission under the seventh article, and what has taken place at Philadelphia. It is, doubtless, true that arbitrators may exceed their powers; but I cannot conceal from you, on this occasion, that an opinion exists, and prevails very generally among the creditors, that it is the amount of the debts, and not any error in the interpretation of the articles, that is the real cause of the embarrassment.

I am convinced, my lord, that no opinion can be more erroneous or more unjust. I know the integrity of my own Government too well to suffer the smallest doubt on this point. No sum, however much it might exceed our expectations, that could be awarded upon any just interpretation of the treaty, would have the least influence upon our Government to elude its payment at the expense of the public faith. The interruption of the commission, as I learn through various and disinterested channels, has proceeded from the extravagant and injurious construction put upon the treaty by your commissioners; a construction in which we cannot acquiesce without humiliation, nor without opening a discussion respecting our revolution that was unalterably settled at the treaty of peace. I do not suggest, said Lord G., that your Government is unfriendly or unjust, but the clamor of the debtors, and the dissatisfaction produced in consequence of the law for granting protections to your seamen, (which, being without the requisite provisions for the security of our rights, the protections granted under it have not been respected,) may have had some influence upon your Government: this law has excited great irritation against England.

I must confess, my lord, that I never expected that the law alluded to would be cited as evidence of the want of a friendly disposition towards Great Britain, because I have considered it as a singular proof of an opposite temper. When and why was this law passed? Not until we had, without success, endeavored to conclude some agreement with England for the security of our seamen, nor then, but with the sole and just view of exempting our citizens from an injury and oppression practised upon the people of no other country.

Here a servant entered and announced Monsieur, late Count d'Artois. Lord G. immediately rose from his chair, and, observing that it would not be civil to keep Monsieur waiting, asked me if I could call upon him the next morning. I should readily have acquiesced had I not thought it incorrect that a conference asked by his lordship, and the only one that had existed for several months, should be terminated in this manner. I therefore replied that I was going in the evening to my house in the country, but that I would return in the morning, in case the Tuesday or Wednesday following would not be equally convenient to his lordship. He answered that Tuesday would be the same as to-morrow.

I attended in Cleveland Row, Tuesday, at eleven o'clock. It was two before I was received by Lord Grenville. During the time passed in the ante-chamber, Mr. Pitt and Mr. Dundas arrived, and had conferences with his lordship, as had likewise the under secretary, Hammond. We had had that morning a Gazette extra, with the account of the Duke of York's success in Holland on the 2d; but there was a gloom on the faces of all these gentlemen that excited the suspicion that bad news had been received from some quarter that more than balanced the success in Holland. The arrival of the French papers a day or two afterwards brought us the account of the victories of Massena in Switzerland.

Upon being admitted, I began by making his lordship my compliments upon the news from Holland, and a short conversation ensued concerning the situation of that country. I waited for his lordship to recommence the conference, which he did by saying, with less stateliness and more good humour than were shown in the conference of the second, that, as the September packet was not yet arrived, we had no further accounts from Philadelphia; and, until we had, he did not see that any thing could be done concerning the commission.

I observed that, on recurring to my last advices from Philadelphia, I found that I had no official account of the interruption of the commission; and that my letters only gave me reason to expect information on that subject by the September packet. I then added that, since I had seen his lordship, I had considered with great attention the import of certain observations that he had delivered in our last conference: and the result of my reflections had been a thorough conviction, not only of the error, but of the injustice of their observations. It was to two precise points that I alluded: one, that the American Government, from weakness or want of inclination, did not manifest towards England the same friendly disposition that, since the arrival of Mr. Jay, England had shown to the United States; and the other, that it was the amount of the debts, and not any well founded objection to the principles or manner of the proceedings of the commissioners, that had occasioned their suspension. I proceeded, by saying that I could not but regret that these sentiments should be entertained by any one, and much more so by his lordship. On an impartial review of the avowed principles and conduct of the American Government, since the epoch referred to by his lordship, I was constrained to say, if they were not thought to be satisfactory evidence of a disposition to live in harmony and friendship with England, I should not only despair of seeing such evidence, but I felt myself, in candor, obliged to avow that I could not wish to see it; and that it could only surprise me that any one who possessed the means of understanding the political situation of the United States should entertain a moment's doubt on this point. I then added that I could not avoid feeling the injury of his lordship's observation concerning the interruption of the commission at Philadelphia, as it imputed to our Government a want of sincerity and integrity that was alike refuted by the great efforts it had made to conclude the treaty with England, and by the good faith that invariably, and on all occasions, had guided its decisions. The sum, at its greatest estimate, and under the most abusive interpretation of the treaty, was nothing when weighed against the character of our nation. We know the value of reputation; and were we not restrained, as every moral society ought to be, to do right from duty, we were sufficiently enlightened to do so from interest. Besides, we were not a nation surrounded by more powerful neighbors, and to protect ourselves against whom the devices of the feeble were necessary; on the contrary, though not as numerous, we were as unassailable and secure as any nation of Europe; and, knowing our real independence, we were also awake to the destinies of our country, and influenced by the just notions of national honor that so properly belonged to our situation and prospects.

What were the chief points of disagreement between the commissioners? The treaty of peace provides that creditors, on either side, shall meet with no lawful impediments in the recovery of their debts. Such recovery could be had only through the agency of the courts. Complaints were made on one side, though denied on the other, that, notwithstanding the treaty, debts could not be recovered, by reason of the existence of lawful impediments; and, without reference to the merits of these complaints, the United States engaged, in the last treaty, to compensate all loss and damage that had arisen by reason of lawful impediments, and which could not, at the conclusion of the treaty, be recovered by the agency of the courts. The engagement is conditional: and the United States are not bound for any debt that, at the conclusion of the treaty, could, through their courts, be recovered of the debtor. The course of proceeding, in the execution of this engagement, could scarcely be misunderstood. Each creditor, in preferring his case to the commissioners, is required to show that he is of the class in whose favor

the fourth article of the treaty of peace was made; that, with due diligence, he had not been able, previous to the last treaty, to recover his debt, by reason of the operation of lawful impediments; and, moreover, that the same could not be recovered posterior to that treaty. Instead of this course, a majority of the commissioners had adopted certain resolves enlarging the class of persons included within the provisions of the treaty, releasing the creditors from the obligation of applying to the courts of law for the recovery of their debts, and, in effect, giving to them an absolute, in the place of a conditional, remedy against the United States: a construction of the treaty, not only incompatible with the guards and cautions that should attend the examination of the claims, but that impeaches the independence and purity of our tribunals. We, as well as others, desire to preserve the reputation of our judiciary. What was your lordship's language in a case by no means as strong, but that was attended by circumstances which bore an analogy to the present question? Our courts, said your lordship, on the occasion, cannot be presumed to be incompetent or unwilling to do justice. We cannot consent to see them set aside or discredited; and I am really at a loss, added your lordship, how any honest man upon his oath can say, when the experiment has not been made, that justice cannot be obtained in our tribunals.

I added, that I knew the integrity of the Government I served: I had been the witness of its sincere disposition and earnest efforts to live in harmony with England; I had long believed that harmony and friendship would be mutually advantageous; and that I had come to England with the desire of being, in this respect, useful to my country: but, if the sentiments that I had been controverting were really entertained by the English Government, I could not expect to see much good will or good humor between the two countries: and we should, I fear, differ so essentially upon the cause of the interruption of the commission at Philadelphia, that there would be but little prospect of a satisfactory negotiation on the subject.

Lord Grenville, whom I carefully attended to while I delivered these observations, and who, it was pretty plain, was not prepared to receive them, after making some attempts to discriminate between the commission here and that at Philadelphia, and to show, against all reason, that the courts here should be resorted to, but that such a course was not necessary at Philadelphia, added, that every letter he had seen agreed in the opinion that it was the amount of the debts, and not the construction of the treaty, that constituted the embarrassment.

I replied that the claimants would, doubtless, send over exaggerated reports and false opinions, and those of them who had the least pretensions to complain would probably complain the loudest; that, if my Government had formed its opinion of the Court of Appeal from the letters sent from this country, respecting the American claims depending for these six years before that court, it would not be much in favor of its competency or justice.

Lord Grenville said a new negotiation would be extremely difficult, as the creditors thought they had tried their cases, and obtained a decision in their favor; that, if the commissioners were changed, still the new ones would have before them the decisions of their predecessors. I answered that this was a consequence of an erróneous mode of proceeding. Lord Grenville said he certainly wished the business had been done in another manner.

The conversation being at a stand, I observed that I must say something to you by the packet that was soon to sail, but that I could write nothing decisive upon the subject of our conference. His lordship said that he should defer writing to Mr. Liston until the arrival of the next packet, in expectation that she would bring my instructions. If nothing could be agreed between me and him, he should then instruct Mr. Liston to make such representation to our Government as the occasion called for. They had given up the pledge they held for the fulfilment of the treaty of peace, and they must consider the non-performance of the last treaty, on our part, as a breach of faith.

RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

SIR: LONDON, *January* 22, 1800.

A disposition has appeared to couple the delay that has occurred in the transmission of the instructions, concerning the disagreement between the commissioners at Philadelphia with the mission to France. The influence of this suspicion upon the present relation between the United States and England need not be suggested. It has been my aim to do away this impression, by ascribing the delay to the derangement, in consequence of the fever, and to other causes equally foreign from those which have been imagined; and I believe I am not mistaken in supposing that the subject will not be brought before the cabinet, as was intended, before the arrival of the next packet; though I have taken care not to state positively, or with confidence, that the instructions will be sent by the December packet. I shall deeply regret, and may be much embarrassed, in case they should not be; for, with the temper I have for some time perceived, and after the evidence of its character that I have sent you, I should not be disappointed if it manifests itself to our disadvantage on the first occasion that may be deemed convenient. I receive no answers to the notes, copies of which I have transmitted to you, nor shall I receive any until the injurious suspicions of our views are removed. I omit no means proper to be employed to keep things in a condition favorable to a candid and satisfactory explanation and adjustment: in doing so, you may be assured that I maintain with firmness the rectitude of our Government, preserving always a due respect for those to whom I address myself. My language is, that we are, and shall continue to be, just to every nation; that we desire to avoid misunderstandings with any; and, having entered into no engagements which oblige us to depart from this system, our efforts to remain at peace with all nations cannot be the occasion of dissatisfaction to any.

We have no account that our envoys have reached France, though they sailed from Lisbon on the 21st of December. It is mere conjecture, but I am inclined to believe that they will be received with marks of respect and esteem, and that they will conclude a treaty. Should this be the case, I hope we may not be precipitate in relinquishing our naval and military preparations. If France is insincere, or incapable to perform what she promises, we shall again want them: if the contrary should happen, we may not have less occasion for them.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

"SIR: "LONDON, *February* 3, 1800.

"The Grantham packet, which arrived after a short passage, brought me your despatch concerning the sixth article of the British treaty, and I have this day sent a note to Lord Grenville upon this subject, that will probably lead to the commencement of the negotiation. At present, therefore, I cannot give you any opinion respecting it: no exertion on my part will be wanting to bring it to a satisfactory conclusion, and I can be answerable for nothing further."

Extract of a letter from Mr. King to the Secretary of State, dated

"LONDON, *February* 25, 1800,

"In a conference with Lord Grenville on the 18th instant, I delivered to him a verbal note containing such explanations as, on our part, are deemed requisite to the satisfactory execution of the sixth article of the treaty of amity: these additional articles were accompanied by such short observations as appeared to me calculated to explain and recommend them. As it was the first interview upon this subject, I was not disappointed in his reserve, who only remarked that it would be best to waive any observation upon the subject until he should have had an opportunity of giving it a full consideration. I have not since heard from him."

Extract of a letter from Mr. King to the Secretary of State, dated

"SIR: "LONDON, *April* 7, 1800.

"As I may not be able to see Lord Grenville again for some days, he having gone to his country house, where he will probably remain through the Easter holidays, I think it proper to acquaint you that, in a conference I had with his lordship the day before yesterday, he distinctly informed me that it was the unanimous opinion of himself and colleagues not to enter into the formal discussion of the explanatory articles which I had proposed to him on the 18th of February, as they saw no probability that the two Governments would be able to agree in any explanations upon that subject; but that they would consent to the dissolution of the present Board, and to the appointment of a new set of commissioners, who should be governed by the stipulations already concluded, without regarding the constructive resolutions of the former commissioners; the fifth commissioner to be named by the King, and, instead of two Americans being appointed by the President, and two British subjects by the King, that the President should appoint one American, and name a British subject, to whose appointment the King's consent should be requisite; and that the King should appoint one British subject, and name an American, to whose appointment the President's consent should be requisite. This modification of the choice of the commissioners, it was suggested, might diminish the influence of national prejudice on both sides; but I conclude that it is not thought of sufficient importance to be insisted upon, if the former mode of choice should be preferred. I cannot now send you a detail of the reasons upon which his lordship placed their refusal to agree to or to discuss the explanatory articles that we had proposed. After hearing the few words in which he communicated this decision, I only replied that I would consider of what he had informed me, and take the earliest opportunity of communicating to him the result of my reflections. I accordingly called to-day at his lordship's house, but he had left town early in the morning. It was my intention to have represented to him the reasons why, upon the appointment of a new Board of Commissioners, it would be necessary that certain explanatory rules should be settled for the government of their proceedings, and to inform him that I was not authorized to agree to a new commission without such rules."

Mr. King to the Secretary of State, dated

DEAR SIR: LONDON, *April* 22, 1800.

So much impatience had appeared, in respect to the delay that happened in the transmission of my instructions concerning the separation of the commission at Philadelphia, that I judged it expedient to lose no time after their arrival in beginning the negotiation. I accordingly informed Lord Grenville, the day after the receipt of your No. 71, that I was ready to proceed, and would either write him an official note, as the commencement of the negotiation, or prepare and deliver to him an informal paper containing the propositions we had to offer, and which might become the subject of free discussion in future conferences: his lordship intimated a preference of the latter course; and I accordingly delivered to him the paper, mentioned in my No. 65, a copy of which is annexed. In my No. 66, I gave you an account of what passed between Lord Grenville and me in our next conference; in addition to which, I might have added that his lordship asked if I was authorized to offer any specific sum of money, on the payment of which Great Britain should engage to satisfy the claims of the whole of the British creditors? Having no such power, my answer was of course in the negative.

On the 19th instant, I received his lordship's written answer to the proposals I had delivered to him on the 18th of February, corresponding, as you will perceive by the subjoined copy, with the verbal answer that had before been given to me. As this answer precludes all discussion of the articles we had proposed, on the plea that the whole subject had been finally settled by the treaty of amity, and that the United States are bound by the decision of the majority of the commissioners, whether the matter decided is within or above their powers, my first thought was to prepare and send to his lordship a note, exposing the error of a principle that confounds the distinction between a limited and an unlimited delegation of authority, and which should, at the same time, support, by further arguments, the justice and expediency of the explanatory articles that we had offered.

But, as the language of Lord Grenville in our conference was equally explicit and decided as that of the paper delivered in answer to our proposals, I, on reflection, changed my first opinion, from the persuasion that nothing would be gained by that course in favor of the future execution of the article; and, as the answer had placed the negotiation in a situation that had not been foreseen, that it was my duty to refer it, in its present stage, to the further consideration of the President.

The written answer of Lord Grenville having intimated a disposition to accede to certain regulations, which, it was supposed, might facilitate the execution of the treaty, I yesterday asked a conference with his lordship, for the purpose of obtaining a precise idea of the nature and extent of these regulations: this was immediately granted, and afforded an opportunity for a free conversation upon the general topic, as well as respecting the particular subject that brought us together. Many things were said on both sides that it would be useless to repeat: these, therefore, are omitted in this report.

His lordship observed, that the object of the delay that took place at London was to allow time to the Court of Appeals to decide the several prize cases before their examination by the commissioners, and that a like arrangement might be made in respect to the cases before the commissioners at Philadelphia. With regard to the questions of impediment, solvency, insolvency, and some others of equal importance, Lord Grenville said, their decision must be left to the provisions of the treaty, to the particular circumstances of each case, and to the sound discretion of the commissioners; adding that, upon a full investigation of the subject, he was convinced that no new and general rule upon these points could be made, without affecting cases and claims that ought not to be affected; and that, even with respect to an agreement to delay the cases before the commissioners at Philadelphia, in order that the claimant should have an opportunity first to obtain the decision of our courts, it would be difficult, not to say impossible, for him to form any satisfactory idea of what would be a convenient time, unless he had a more adequate knowledge of our judiciary proceedings, and a particular instead of a general acquaintance with the claims. Upon this point, as on most others, there seemed to be wanting a discretionary power, always present, and ready to act as occasions arose, and according to the nature and circumstances of the particular question; that the persons whom he had thought of, as two of the commissioners to be appointed by the King, were men of prudence and discretion, and with whom, he thought, we should be satisfied; that Mr. Liston, having repeatedly asked, and lately received, leave of absence on account of his health, might not be at Philadelphia; and he saw no preferable course, in case we acceded to the suggestion, to that of sending these two persons to Philadelphia, to concert with us such analogous regulations, in respect to the commission there, as were agreed to with regard to the commission here. We should, by this means, have an opportunity of knowing the character and dispositions of the persons sent to prepare and agree to these regulations, and who would afterwards be appointed to assist in the execution of the treaty.

Lord Grenville asked me in what time I supposed the courts would be able to go through the whole of the cases? I answered that this must chiefly depend upon the diligence of the creditors, and that I could not form any satisfactory estimate of the time that might be necessary: on the one hand, it should not be so short as, with a disposition in the courts to avoid delay, would defeat the object of the regulation; and, on the other, it should not be so long, as to afford any ground, from the delay, to infer that there was a denial of justice. No precise time was settled here, and, perhaps, none should be at Philadelphia. His lordship asked if there could be no means found to accelerate the trials? I repeated the observation, that more would depend on the diligence of the creditors than upon the courts, of whose disposition to give the greatest despatch there could be no doubt; that a law requiring extraordinary sessions of the courts, or prescribing a more summary proceeding, would not only interfere with the established course of our judiciary, but give birth to other and still more difficult questions, which it would be unwise to agitate.

His lordship asked whether the cases before the Board are, any of them, in a state for the new commissioners to take up, suggesting that it would be desirable that the new Board should, at their commencement, have something

to do? I replied that, though I could not then answer the question with any degree of accuracy, I was inclined to believe that many cases were in a situation that, without recourse to the courts, might soon be prepared for the commissioners to decide, and that the progress of the trials would be constantly furnishing additional cases. Lord Grenville expressed his opinion that the new Board ought to proceed in a different manner from their predecessors, by deciding cases singly, one after another, instead of attempting to decide them by general resolves, and in classes.

I observed that it was possible that new difficulties might arise in the course of future proceedings; and, should Mr. Liston be absent, there would be no one with whom we could confer for the purpose of removing them. Lord Grenville replied, that, in this case, he must endeavor to find out a proper character to supply Mr. Liston's place.

I then asked Lord Grenville if he had formed any idea of the gross sum, on the payment of which they would engage to compensate the claims of the British creditors. His lordship replied that he had not; adding, that he thought the creditors had not been wise in swelling, as they had done, their claim to four or five millions sterling; though it might have no influence upon our Government, it would be likely to have some upon the people; that he himself did not like the idea of the payment of a gross sum, and that he had mentioned it to me in compliance with the opinion of his colleagues; but that, on the supposition that the debt due to British creditors did not exceed two millions, they might be willing to accept a gross sum of between one and two millions.

I shall, as opportunities offer, endeavor to acquire further information on this subject, as it may possibly lead to the satisfactory conclusion of a most difficult business.

If it is probable that we shall ultimately be required to pay, upon the award of the commissioners, a sum equal to, or not far short of, one for which the business could at once be settled, would it not be the part of a wise policy to engage to pay such sum by instalments, or in some other convenient manner? All further expense to individuals, as well as to the public, would, in this mode of settlement, be saved; we should, moreover, escape the embarrasment of any future disagreement among the commissioners, and consequent misunderstanding between the two countries: the trouble and vexation of numberless law-suits would be prevented; and, instead of the dissatisfaction and ill will towards the Government that they would unavoidably excite, a general release to the debtors would be a boon that could not fail to produce opposite sentiments.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to Lord Grenville.

Without discussing the disagreement, that ended in the suspension of the Board of Commissioners acting under the sixth article of the treaty of amity, commerce, and navigation between the United States and Great Britain, it not being perceived that any advantage, in reference to the future and satisfactory execution of that article would be likely to arise from such discussion, it is proposed, on the part of the United States, that the plenipotentiaries of the two countries should endeavor to agree in such explanations respecting the said article, as shall secure to the creditors, on the side of Great Britain, the full benefit of the rights to which they are entitled, whether in virtue of their respective contracts, or from the provisions of the treaties between the two countries; and, at the same time mark more clearly the limits of the engagements of the United States.

From the extensive commercial dealings between Great Britain and America, debts to a considerable amount were due to British creditors at the commencement of the American war: these debts, exclusive of the irrecoverable losses, occasioned by the insolvency of debtors in the course of that war, were affected by various laws passed in several of the States, as well as by the apprehension lest the creditors might, after the peace, be obliged to receive payment in a depreciated paper money: to guard against this apprehension, as well as to remove every obstruction proceeding from the laws of any of the States, the fourth article of the treaty of peace provided, "That creditors on either side shall meet with no lawful impediments to the recovery of the full value, in sterling money, of all *bonâ fide* debts heretofore contracted." Complaints were afterwards made by divers British creditors, that lawful impediments had been suffered to exist within the United States, contrary to the aforesaid provision of the treaty of peace, and that, by the operation thereof, they had sustained losses and damages, which could not be repaired in the ordinary course of justice; in consequence of which complaints, it was agreed, by the sixth article of the treaty of amity, that in all such cases, where full compensation for such losses and damages could not be obtained in the ordinary course of justice, the same should be made by the United States: it being, at the same time, understood, and further agreed, that this provision should include such losses only as were occasioned by the said lawful impediments, and not losses occasioned by such insolvency of the debtors, or other causes, as would equally have operated to have produced the same if the said impediments had not existed, nor to losses and damages occasioned by the delay, negligence, or wilful omission of the claimant. From hence it appears that the aim of the treaty of peace was in this respect to do away every impediment in law to the recovery of all *bonâ fide* debts therein described, and to leave to the creditors the free legal remedy, to which they were respectively entitled at the time when the debts were created; and that the object of the treaty of amity, so far as it respects this subject, was not the removal of lawful impediments, for none existed at its conclusion; nor pledge the United States to pay the debts due to British creditors, but to secure to the creditors, under certain limitations, compensation from the United States, for all such losses as had been occasioned by the operation of lawful impediments since the treaty of peace, and which could not, at the conclusion of the treaty of amity, &c. be recovered from the debtors in the ordinary course of justice.

To establish a claim, then, against the United States, in virtue of the treaty of amity, it is conceived that the creditor should give satisfactory proof to the commissioners:

1st. That the debt was *bonâ fide* contracted before, and remained unpaid at the peace.

2d. That the debtor was solvent at the peace, and that the creditor used reasonable diligence to obtain payment.

3d. That lawful impediments prevented his recovery of payment; and that, during their operation, the debtor became insolvent, and continued to be so at the conclusion of the treaty of amity, &c.

To avoid misapprehension, it is thought advisable informally to present, in the shape of separate articles, such principles as, according to the spirit and object of the sixth article of the treaty of amity, are deemed, on the part of the United States, proper to constitute the basis of the desired explanation: these are also accompanied by a few observations, suggesting some of the reasons on which they severally depend for support.

REMARKS.

1. The description contained in the fourth article of the treaty of peace has a manifest reference to the state of war, and not to the epoch of peace. By "creditors on either side" cannot be meant those who were of both sides: if the words are made to include more than those who were uniformly on one side, will not such construction involve the absurdity of giving to the same person a right to claim in a double character, and of both sides?

ARTICLES.

1. The description by which claimants are designated in the said sixth article of the treaty of amity, shall be deemed to include all persons, whether resident in Europe or America, who were on the side of His Britannic Majesty at the commencement of the late war, and so continued throughout the war, and until the exhibition of claim. But no person shall be deemed to be a British creditor, within the meaning of the said article, who shall, at any time before the peace, have been openly on the American side, or voluntarily and actually subject to the laws of the States respectively, or who shall, since the peace, have become a citizen of the United States, or have declared his intention to become a citizen, agreeably to the provisions of the acts of Congress.

2. *Sect.* 1. The equity of this provision renders any observation in its support unnecessary.

Sec. 2. The creation or continuance of a lawful impediment may be considered as evidence that some of the debtors residing within its operation were solvent: but it would be not only illogical, but contrary to notorious facts, to consider it as *prima facie* evidence even that every such debtor was solvent. From the purport of the engagement of the United States, the creditor should therefore be held to prove, in every case, that the debtor was solvent at the conclusion of the peace, inasmuch as he cannot have sustained a loss by reason of the operation of a lawful impediment, unless the debtor was solvent at the peace, and became insolvent during the operation of such impediment.

Sect. 3. It seems due to equity, and is moreover required in the ordinary administration of justice, that the creditor, to charge the provisional guarantee of his debtor, should prove that reasonable diligence had been used to obtain payment of the debtor; the omission whereof, in legal estimation, amounts to wilful negligence: and common and daily practice on this subject shows that the creditor must prove that he endeavored to recover of his debtor before he can resort to his guarantee.

Sect. 4. Unless a lawful impediment existed, no loss can have proceeded from it, and, consequently, no claim can be sustained against the United States. The impediment must, therefore, in every case, be proved by the creditor.

Sect. 5. The creditor must also prove that he sustained a loss by the operation of a lawful impediment, for which he could not, at the conclusion of the treaty of amity, obtain compensation in the ordinary course of judicial proceedings; and this can only be done by proving that the debtor became insolvent during the operation of the lawful impediment, and that he remained so at the conclusion of the treaty: for if he became insolvent after the lawful impediment ceased, the loss cannot have proceeded from the impediment; and if he was solvent at the conclusion of the treaty, the debt might have been recovered in the ordinary course of judicial proceedings.

3. It does not occur that any other acts can be considered as lawful impediments. The law of nations requires that foreigners proceed to the tribunal in the last resort before they complain of a denial of justice; and no nation considers a complaint against the justice of its judiciary as regular, or entitled to examination, unless the complainant has obtained the sentence of the highest tribunal established for the decision of his case.

It is for losses arising from the operation of lawful impediments that the sixth article provides. Losses proceeding from the acts of the parties are distinct from those which have arisen from the operation of law, and cannot, therefore, be deemed to be within the provisions of the article. If lawful impediments existed in some parts of the United States, they existed in opposition to the repeated efforts of Congress to remove them, and their continuance must be ascribed to the imperfection of our first system of national Government and Union. This remark is not made with a view to infer, from this defect of our first constitution, an exemption from a full and complete compensation for all losses that may have been sustained in consequence of even an unavoidable delay in the performance of our engagements. It is the inclination of the United States, exclusive of the stipulations of the treaty of amity, to compensate all such losses, according to the spirit of those stipulations. But we perceive no obligation that requires of us to allow (on the contrary, the most weighty considerations forbid us to admit) that any delay in the execution of the treaty of peace continued a single moment after the period when, by a reform, and, so far as respects this point, a complete correction of our constitution, we put an end to and entirely removed the impediments which are alleged to have stood in the way of the full and complete execution of our previous stipulations. The judiciary of the United States was established on the 24th of September, 1789, since when, whatever may have been the case before, no lawful impediment has existed in any part of the United States to the recovery of debts due before the peace to creditors of the side of Great Britain.

4. The creditor may reasonably expect the assistance of the same laws and process that existed when his debt was contracted: he ought to be contented with the remedy on which he depended when he gave the credit, and he has no claim in this respect for any thing further.

5. If the creditor receives his whole debt, he is satisfied; and whether it is paid by the debtor or by the United

2. A claimant, possessing the character before defined, shall be held to prove to the satisfaction of the Board of Commissioners:

1st. That the debt was *boná fide* contracted before the peace, and due and unpaid to the creditor at the exhibition of claim. Accounts shall be stated, with the date and amount of each item, and the claimant shall, in every instance, make oath or affirmation that all the credits are disclosed to which the debtor is believed to be entitled.

2d. That the debtor was solvent at the peace, and for such a reasonable time afterwards, within which the debt might have been recovered by judicial process if lawful impediments had not been interposed.

3d. That the creditor used reasonable diligence to obtain payment from his debtor, although the prosecuting of suits is not to be deemed necessary evidence of such diligence.

4th. That some lawful impediments, affecting the claimant's demand did exist to delay or prevent his recovery, or to impair or diminish his security.

5th. That, by the operation of such lawful impediments, he has sustained a loss or damage which cannot, at the time of the exhibition of claim, be repaired in the ordinary course of judicial proceedings; and to this end he shall prove, either that the debtor became insolvent during such operation of lawful impediment, or during such reasonable time thereafter, within which the debt might otherwise have been recovered, and is yet insolvent; or that the creditor is barred, in whole or in part, by a judicial decision had against him, in the particular case, during such operation of lawful impediment, and on the principles thereof.

3. Lawful impediments shall be deemed to include legislative acts passed during the war, and judicially determined by the Superior Courts of the respective States to remain in force after the peace. Legislative acts, passed after the peace, and also judicial decisions of the Superior Courts of the respective States, by the operation whereof creditors of the description in the first section were prevented or delayed from recovering the full value in sterling money of debts *boná fide* contracted before the peace. But the act, consent, acquittance, or release of the creditor, or his authorized agent or lawful representative, shall, in all cases, be held to be conclusive upon him, and no lawful impediment shall be deemed to have continued after the 24th day of September, 1789: *Provided always*, That the consent of the creditor shall not be implied to any judgment rendered against him in an adversary suit: *And provided also*, That all claims for interest, or balances of interest, shall be left to the decision of the commissioners, except in cases adjusted between the debtor and creditor, or their lawful agents or representatives, respectively.

4. The various modes of execution for the satisfaction of judgments which were in use before the war, in the States, respectively, and all proceedings in the established courts, whether of law or equity, for the discovery of fraud, and the recovery of the property of debtors, real or personal, in the hands or possession of fraudulent assignees, shall be deemed and held to be in the ordinary course of judicial proceedings within the meaning of the said sixth article of the treaty of amity.

5. The United States shall be deemed bound by the said article to make compensation only for the loss or

States, or partly by one, and partly by the other, must be indifferent to him. The courts may, in particular instances, give the principal, and, on the circumstances of the case, refuse interest; the commissioners may think both are due: in such instances, the principal should be received of the debtor, and the interest of the United States, and so in other supposable cases. This course agrees with the unanimous interpretation of and practice under the seventh article of the treaty. The simple restitution of property captured under the orders of November, 1793, is decreed by the Court of Appeals in prize cases, without interest, damages, or costs, and the amount of such simple restitution is received from the captor, the difference between which sum and the just demand of the claimant is awarded by the commissioners, and paid out of the British treasury.

6. After what has passed, no reasonable expectation can be entertained of a satisfactory execution of the sixth article of the treaty of amity by the present commissioners.

Whoever reads their correspondence, or the minutes of their proceedings, whatever may be his opinion of their respective merits, must agree in this conclusion. The appointment of other commissioners appears, therefore, to be indispensable; and that they may not succeed to the controversy, in succeeding to the duties of their predecessors, the proposed provision, with respect to the decision of the present Board of Commissioners, seems equally necessary.

damage occasioned by the lawful impediments, and actually sustained by the creditor; and, therefore, in cases where a part of the debt, whether of principal or interest, [might have been or] may yet be recovered, compensation may not be awarded for such part.

6. And, for the purpose of facilitating the due execution of the said sixth article of the treaty of amity, according to the true intent and meaning thereof, as herein explained, it is further agreed, that the present Board of Commissioners for carrying into effect the said sixth article of the treaty of amity, &c. shall be dissolved, from the date of the final ratification of these presents, and, instead thereof, another Board shall be constituted, to consist of five commissioners, two of whom shall be appointed by His Britannic Majesty, and two by the President of the United States, by and with the advice and consent of the Senate thereof; and the fifth commissioner (who shall be so named and designated,) shall be appointed by His Britannic Majesty. And the said five commissioners shall, before they proceed to act, respectively take the following oath or affirmation, in the presence of each other, which oath or affirmation, being so taken and duly attested, shall be entered on the record of their proceedings, viz: "I, A. B., one of the commissioners appointed in pursuance of the explanatory articles of the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, do solemnly swear, (or affirm,) that I will honestly, diligently, impartially, and carefully examine, and, to the best of my judgment, according to justice and equity, decide all such complaints as have been preferred to the commissioners heretofore appointed under the said sixth article of the said treaty of amity, commerce, and navigation; and that I will forbear to act as a commissioner in any case in which I may be personally interested."

Three of the said commissioners shall constitute a Board, and shall have power to do any act appertaining to the commission: *Provided*, That one of the commissioners named on each side, and the fifth commissioner, shall be present: and all decisions shall be made by a majority of the voices of the commissioners then present.

The said commissioners shall first meet at Philadelphia; but they shall have power to adjourn from place to place, as they shall see cause. All claims preferred to the Board heretofore appointed, and not dismissed by the said Board, shall be considered as depending before the commissioners to be appointed in virtue hereof. But the commissioners appointed in virtue of this article shall not be bound by any acts or resolutions passed, or proposed to be passed, in the former Board, in any cases not dismissed by the said former Board.

The said commissioners, in examining the complaints so as aforesaid preferred, are empowered and required, according to the true intent and meaning of the said sixth article of the treaty of amity, &c. and of these explanatory articles, to take into their consideration all claims, whether of principal or interest, and to determine the same respectively, according to the merits of the several cases, due regard being had to all the circumstances thereof, and as equity and justice shall appear to them to require; and shall have the same powers in regard to the examination of parties and witnesses, and the reception of evidence, as by the said sixth article of the treaty were given to the commissioners heretofore appointed in pursuance thereof: and the awards of the said commissioners shall be final and conclusive in like manner, and shall in like manner be paid and satisfied, and on the like considerations, in all respects, as, by the said sixth article of the treaty of amity, &c. has been directed and agreed.

The said commissioners shall be respectively paid in such manner as has been agreed between the two parties, conformably to the eighth article of the said treaty of amity, &c.; and all other expenses of the said commissioners shall be in like manner borne and defrayed.

In case of death, sickness, or necessary absence of the fifth commissioner, his place shall be supplied in the manner directed by the sixth article of the said treaty of amity, &c. for the appointment of the fifth commissioner; and in case of the death, sickness, or necessary absence of either of the other four commissioners, the place of

every such commissioner shall be respectively supplied in the same manner as such commissioner was first appointed; and the new commissioners shall take the same oath or affirmation, and do the same duties.

7. It is proper that there should be a convenient limitation of the time within which each side should produce their proofs. The article leaves the commissioners a discretion to prolong the time in particular cases.

7. The evidence in support of the claims which have been preferred as aforesaid, shall be exhibited by the claimants, respectively, within ———, from the first meeting of the said Board, and public notification thereof, in such manner as the said commissioners shall direct: and no evidence shall be received on the part of the claimants, after the said term, except in special cases wherein the Board shall deem it just, on cause shown, to prolong the said term. And the commissioners shall also have power to limit, in each case, a time within which the evidence shall, in like manner, be exhibited, on the part of the United States: *Provided*, That such term shall not be less than ——— from the expiration of the time limited for the exhibition of evidence on the part of the claimant.

LONDON, *February* 18, 1800.

Lord Grenville to Mr. King.

DOWNING STREET, *April* 19, 1800.

The fourth article of the treaty of peace not having been duly executed on the part of the United States, the British Government withheld the delivery of the forts on the frontier of Canada, in order that these might serve as a pledge for the interests and rights secured to the British creditors under that article.

Matters were in this situation when Mr. Jay arrived in England, charged with a mission of a conciliatory tendency; and authorized finally to settle these, as well as all other grounds of dissension between the two Governments.

Desirous of meeting, by a corresponding conduct, the disposition which Mr. Jay's mission announced, and satisfied with the spirit in which he executed that commission, the British Government, in the course of negotiation, consented to an article for the immediate surrender of the forts, and agreed to consider the good faith of the United States, and the express stipulations of a new treaty, as affording that security which had before been looked to from the possession of a valuable pledge.

Those new stipulations, in so far as they regarded the matter of the debts, were formed with the view of meeting and providing for the difficulty which arose from the great difference of opinion between the two Governments on some of the leading principles affecting the execution of the fourth article of the treaty of peace. For the final settlement of the claims of the British creditors under that article, as well as of other claims respecting which similar differences of opinion subsisted, and which could not, therefore, satisfactorily be adjusted by any detailed agreement between the two parties, it was stipulated that two commissioners should be appointed, with full power to examine and to decide; and their decision, upon oath, or that of any three of them, forming a Board, according to the provisions of the treaty, was expressly declared to be, in all cases, final and conclusive, both as to the justice of the claim and as to the amount to be paid to the claimant: which payment the respective Governments undertook to make in consequence of such award.

Two commissioners being named to each commission by the respective Governments, the choice of a fifth commissioner to each was decided by lot, and it happened that, in constituting the commission for losses by capture or condemnation, the lot fell on a citizen of the United States, while in that by which the claims of the British creditors were to be decided, the lot fell on a subject of His Majesty. In the course of their proceedings, the majorities of both commissions formed their decisions on principles adverse to the opinions of the Government against which the claims were preferred. The awards of the commission under the seventh article have, nevertheless, been faithfully executed by the British Government. The temporary difficulties which arose in the execution of that commission led immediately to amicable explanation between His Majesty's Government and the minister of the United States, in pursuance of which some regulations adapted to one class of cases were proposed to the commissioners with a view to conciliation. In consequence of this proposal, a variation took place in the order and time of proceeding on those cases, but no change was made in the principles adopted by the majority as the ground of their awards: and considerable sums have actually been paid to American claimants in cases where the award of the commissioners has rested on doctrines which are decidedly held to be erroneous, and which would not, therefore, have been recognized in any transaction with a foreign State.

In America, a contrary course has been pursued. The two commissioners nominated on the part of the United States to the commission under the sixth article, have finally claimed the right to invalidate, by their dissent, both the principles and the effect of the decisions of the majority, and have at length, by completely withdrawing from the Board, endeavored, as far as in them lay, to arrest all its proceedings.

In this state of things, the question of good faith and reciprocal execution of treaty can admit of no doubt.

Under the commission for losses by capture, a majority, consisting of three American commissioners, acting upon their oaths, has admitted American claims, and has rejected British, in contradiction to the opinions of the two British commissioners, and of the British Government. In all these decisions, the British Government has acquiesced. Under the commission for debts, a majority, consisting of three British commissioners, acting also upon their oaths, has sanctioned British claims, and rejected American defences, in contradiction to the opinions both of the two American commissioners and of the Government of the United States. On what ground of justice or good faith can the United States hesitate to abide by the arbitration to which they have agreed; or deny to the British subject the benefit of the same principle, the benefits of which have been already received by their own citizens?

It was neither required, nor even imagined, that the opinions of either commission could be unanimous on points on which the two Governments had found it impossible to agree. In both of them possible differences of opinion were foreseen, and they were provided for in both by the stipulation which gave full force and validity to the acts of the majority.

The secession of the two American commissioners can afford no ground to their Government for declining to execute its solemn engagements. If those gentlemen have chosen to relinquish the duty which they undertook, this case is also provided for by the stipulation of the treaty, the eighth article of which contains a stipulation directly applicable to these very circumstances, and expressly points out in what manner the places of commissioners absenting themselves are to be supplied.

Nothing, therefore, can of right remain to be done on this subject, but that the Government of the United States should supply the means of executing its own engagements by nominating (as the treaty prescribes) two fresh commissioners to act with the remaining three, and by instructing them to repair by their diligence the injurious loss which the British creditors have already sustained by the long delay which the conduct of their predecessors has occasioned.

To attempt, instead of this, to enter into a new discussion on the merits of the particular decisions of either commission, would be to abrogate the present treaty, and to transfer the questions back again to negotiation between the same parties, who, from their past experience of the impossibility of coming to a satisfactory conclusion upon them, have long since mutually agreed to submit to an arbitration.

This objection applies not only to all retrospective examination of the particular cases already decided, but also with equal force to any such prospective explanations as may tend to prejudge, by a positive stipulation, the judgment of the sworn commissioners respecting any of the points on which the claimants and defendants are at issue.

The injustice of such a revision might, perhaps, be thought more striking and palpable in those cases where, by the award of the sworn arbitrators, a new ground of right has actually accrued to the claimant. But it would be no less unjust in principle to deprive the other creditors, whose cases are yet undecided, of their share in the benefit of the treaty, and to take from them, by an *ex post facto* agreement, the advantages of that full discretion which the treaty has already vested in the commissioners.

This view of the case must preclude any detailed discussion of the principles adopted by either commission; or of such explanatory rules as might be proposed on either side, to limit their future discretion, or to revise their past judgments.

Nor is there any ground to hope that such discussions, even if they were not liable to the strong objections already stated, would lead to any satisfactory conclusion between the two Governments. The points in question are for the most part those on which they have already and uniformly differed, and, from the difficulty of deciding which, they agreed to abide by the judgment of arbitrators. The articles contained in the paper delivered by Mr. King, so far from diminishing, tend to increase that difficulty: for they bring forward pretensions, some of which had not before been advanced in discussion between the Governments, and were not expected to be so advanced: they limit, beyond all reasonable construction, the description of the persons entitled to benefit by the treaty: they impose conditions of proof, not only unreasonable, but in some cases manifestly impossible to be complied with, and they prejudge (uniformly to the injury of the British creditors) the most important questions concerning the nature, effect, and duration of those impediments by which, contrary to treaty, the recovery of their just debts has been prevented.

No reason is assigned why these particular questions should be selected from among the great number which must arise out of the causes brought before the commissioners, and should be specially exempted from their jurisdiction by an extraordinary interposition of the two Governments. Nor is any expectation held out that such interposition, had it been possible to have admitted it with respect to these questions, could be confined to these alone. Fresh differences of opinion must naturally arise in the execution of so complicated and detailed a business. The minority on either side, encouraged by this proceeding, would again secede; fresh interpositions would be required from the Governments; till, at length, nothing would be concluded without their intervention, except in those cases only where the five commissioners should be unanimous.

Nor would these inconveniences be confined to the commission under the sixth article alone. The principle of reciprocity, and the evident parity which, by the whole tenor of the treaty, is established between the two commissions, would require that the same course of proceeding should be applied to the commission for captures as to that for debts.

All the past decisions made by the majority in that commission, contrary to the opinions of their colleagues and of the British Government, must therefore undergo a like revision. The compensations actually paid to Americans must be refunded; the British claims rejected (in the opinion of the British Government) without sufficient reason must be re-examined; the principles adopted by the majority must become matter of fresh negotiation between the two Governments; and explanatory rules must be proposed and treated of, limiting, according to the opinions of the parties, those awards which the treaty has referred to the judgment of arbitrators.

From such a course as this nothing can arise but endless dissension between the two countries.

Had the proposals delivered by Mr. King been confined, after the example of what was done here, to such rules of practical convenience and arrangement of business as might have smoothed and facilitated the execution of the treaty, without interfering with its principles, the same disposition which was shown in the former instance would in this case also have induced His Majesty's Government cheerfully to depart from the strict ground of right with a view to good understanding and conciliation, whenever such a conduct was not incompatible with the claims of justice. But it is impossible not to perceive that the explanatory articles are of a totally different nature; that they are not only not warranted by the proceeding here, but are in direct contradiction to it; and that they affect the very essence of the treaty itself, by prejudging the most important questions which the commissions are appointed and sworn to decide.

The last of those articles, that which proposes a change in the persons constituting the Board, is therefore the only one which affords to His Majesty's Government any opportunity of manifesting a conciliatory disposition, without injury to the manifest rights of the King's subjects.

His Majesty is very far from seeing ground to entertain any other sentiment than that of approbation, respecting the conduct of the British commissioners in America, who have, with great ability, diligence, and integrity, discharged a most laborious and difficult duty, under circumstances of peculiar and unexpected embarrassment.

But His Majesty perceives that the disagreements between the persons composing the present Board have proceeded so far, to render it less likely that the business should satisfactorily proceed in their hands than in those of persons to be newly appointed. His Majesty, therefore, always wishing to contribute to conciliation and harmony, does not object to the proposal of withdrawing the present commissioners, and of forming, under the conditions proposed, a new Board, to execute the same duty, and to be invested with the same discretion, which the treaty has given to the present commission.

To that Board, either constituted as the present is, or with the alteration which might be made by allowing each Government to nominate one only of its subjects, and reciprocally, one person taken from the other country, His Majesty would consent to refer all the questions now brought forward by the Government of the United States, as well as every other point respecting the execution of the sixth article; preserving always, in order to avoid needless delays and expenses, the evidence which has been given before the present Board, but agreeing that the new commissioners should be no further bound by the resolutions of the present Board than as it might concur in them, with the exception only of ultimate decisions finally made in any particular case, which, as with respect to such case, could not, as His Majesty thinks, be reversed without manifest injustice.

Mr. King to the Secretary of State, dated

LONDON, *December 13th*, 1800.

DEAR SIR:

Parliament is still in session, and chiefly employed in devising means to economize and increase the food of the country, whose embarrassments are increased by the various impediments which will materially diminish the supplies expected from the north of Europe. America is the only country from which a considerable and certain importation is looked for; and such is the deficiency of corn, that all we can spare, and of every species, will find here a high and certain market.

I am not unmindful that the present is a favorable moment for the discussion of the questions of disagreement between us and this Government; and, in one or two conferences with Lord Grenville, I have thought I perceived a temper which promises rather more than I have of late been accustomed to expect; but owing to his constant engagements between the business of Parliament, and the duties of his office, I have not yet been able to make any positive progress in the negotiation. Having long believed that Governments which have distinctly expressed an opinion upon a controverted point are rarely induced to change it by reasons which are subsequently presented, I have preferred to begin with the proposal to get rid of the sixth article, instead of renewing the attempt to explain and amend it. This has been done in a way that will not prejudice our demand of an explanatory article, should we fail to agree upon terms which will wholly supersede it. Having mentioned to Lord Grenville that I was authorized to consent to the payment of a precise sum, in lieu of whatever might, pursuant to the sixth article, be awarded against the United States, and he having consented to discuss any proposition to that effect which I might offer, I prepared and sent to him the annexed paper. He has since informed me that measures have been taken on his part, with a view to ascertain how far my estimates are correct, adding, that as soon as he is able to proceed, he will give me notice, in order that we may resume our conferences. In the meantime, some other points are brought

forward, and put in a train for discussion. But I am bound to add, that so little progress has yet been made, and all that has passed has been of so general a nature, that nothing with certainty can be inferred in respect to the issue of the negotiation.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

It seems impracticable to ascertain, with any degree of precision, the amount of debt due at any one time from American debtors to British creditors, and every estimate must, therefore, be liable to considerable uncertainty. As the debt arose from the supply of goods furnished by British merchants, the list of British exports seems to offer the best materials for forming an estimate. So far as the American merchants and planters purchased their goods in England with cash, which, to a limited extent, they are understood to have done, the list of exports will require correction; as the value of the goods paid for before they were exported, should be taken from the aggregate amount of the exports, in order to ascertain the value of goods annually supplied on credit. It is reasonable to infer from a long series of annual credits, a correspondent series of annual payments; but although the payments may be supposed to have nearly kept pace with and balanced the new debt annually contracted, since otherwise the trade would have been discontinued, it is, nevertheless, probable that there was, at all times, an average arrearage of old and doubtful debts, upon the recovery of which there was little reliance, and against the loss whereof the creditors indemnified themselves in the prices at which their goods were charged. It may, however, seem proper to make some allowance on account of these doubtful debts, in forming an estimate of the amount of the American debt at the breaking out of the war. As it is wholly uncertain at what sum this arrearage should be estimated, it seems to be a fair manner of disposing of it, to place its uncertain amount against the equally uncertain amount of the goods paid for by American merchants and planters before their exportation, and which should be deducted from the value of the annual exports, if the amount thereof be taken as the amount of new debt annually contracted. Assuming, then, which may be done without much risk of error, the average amount of the annual exports of Great Britain to the United States, for a certain number of years before the war, as the best evidence of the amount of the debt due from American debtors to British creditors when the war commenced, it remains only to ascertain the average amount of the exports, in order to fix the amount of the debt.

Mr. Chalmers, in his Estimate of the Comparative Strength of Great Britain, states the average exports of *British manufactures* to the United States, for six years ending with 1774, (the period immediately preceding the war,) at	£2,216,324
If this sum be increased by one-fifth, (which is a large proportion) on account of goods not of British manufacture,	443,264
The result will stand at,	2,659,588
Lord Sheffield states the average exports of England to the United States for ten years, ending with 1770, at	1,763,409
If this sum be increased by adding one-fourth of the amount of the whole exports of Scotland, estimated at eight hundred thousand pounds,	200,000
The result is,	1,963,409
The average of the two estimates gives an annual export of	£2,311,498

A sum that probably approaches pretty near the true amount of the American debt at the period before mentioned.

If the condition of the debtors, the influence of the war, and, above all, the operation of the paper money, be understood and considered, it will be thought a moderate estimate that the British creditors suffered a loss of fifty per cent. upon the whole of their debt, by the insolvency of the debtors, between the commencement and conclusion of the war. To judge from the proportion recovered by the creditors in those parts of the United States, in which it is not pretended that any legal impediments have stood in their way, the loss by insolvency, during the war, would come nearer to two-thirds than to one-half of the original debt. Estimating it at one-half, the debt, on the return of peace, would be one million one hundred and fifty-five thousand seven hundred and forty-nine pounds.

As in a majority of the States, including the large commercial towns, the creditors have experienced no material difficulties in collecting their debts, it is reasonable to believe, that at least as much as one-half of the sum which the debtors were able to pay at the close of the war, has since been recovered. This deduction would leave five hundred and seventy-seven thousand eight hundred and seventy-four pounds of the sum due at the return of peace, which, by the addition of interest, having nearly doubled itself, may now amount to the sum of one million one hundred and fifty-five thousand seven hundred and forty-nine pounds.

The amount of the claims exhibited at Philadelphia will not serve to invalidate the foregoing observations, when it is understood, besides their general and acknowledged inaccuracy, some of them presenting only the debtor side of the account, and others no account at all, that these claims include the debts due from persons insolvent before the war, as well as from those who became so during its continuance; so that, without the trouble of a particular examination, it will be found that they will rather corroborate than weaken the preceding estimates.

If it could be ascertained how much of this sum can be recovered of the debtors, the difference would show the amount for which the creditors have a claim upon the United States.

Notwithstanding the complaints of the creditors, it is certain that such of them as have taken the requisite pains have been gradually recovering their debts; and it is probable that their success would at this time have been much more complete, had they not, in many instances, been seduced from the pursuit of their judicial remedies, by the expectation they believed themselves authorized to entertain, from the proceedings of the Board of Commissioners at Philadelphia. At present, no legal impediments obstruct their suits; and, from the general prosperity of every part of the United States during the last ten years, there is reason to conclude that the circumstances of British debtors have improved in common with those of their neighbors.

The debt still outstanding is chiefly due in those States which produce the principal staple articles of American commerce; the aggregate value of which articles, exported from the five southern States, from the year 1700 to 1770, exceeded, according to Lord Sheffield's tables, by ten millions sterling, the aggregate value of the goods imported into those States from Great Britain during the same period. Another circumstance, in respect to the ability of the debtors, deserves consideration. In most of the States the British debtors were American merchants, who resided in the large towns, and sold their goods on credit to the traders and shopkeepers dispersed throughout the country. When the paper money had depreciated, the country traders and shopkeepers paid their debts to the American merchants, who, having no way of making remittances to their British creditors, lost, by further depreciation, the payments received from their debtors, and the chief means of paying their own debts. In some of the States, including those from whence the largest portion of the remaining debt is supposed to be due, it was the usual practice, that a partner or agent of the British house came with the goods to America, where he retailed them on credit among the planters, and, being on the spot, received his payment in the productions of the country. On the breaking out of the war, these partners and agents returned to Great Britain, and thereby avoided the payment of their debts in a medium which finally suffered a ruinous depreciation: their debtors were numerous, and in general owed but moderate sums, and, though sufferers in the course of the war, by the loss of slaves, and the dilapidation of their estates, their property was not diminished in an equal degree with that of the American merchants, who received, in a depreciated paper the debts upon which they depended to pay their British creditors.

The tendency of these reflections is to prove that, in the present unobstructed course of justice, the creditors may be able, with the care and diligence which it is their duty to employ, to recover a great proportion of their outstanding debts: if this proportion should be equal, as it is believed it would be, to two-thirds of the whole, the claim against the United States would not exceed four hundred thousand pounds.

LONDON, *November*, 1800.

Extracts of a letter from Mr. King to the Secretary of State, dated

LONDON, *November* 22, 1800.

"I have duly received your letters to No 5, inclusive. Soon after the receipt of No. 2, which was not before the sixth instant, I sent a note to Lord Grenville, informing him that I was ready, in consequence of the answers I had received to my despatches transmitting to America what had passed between him and me concerning the sixth article, to resume our conferences upon that subject. His lordship appointed an early day for this purpose, but no meeting has yet taken place, owing to his having been wholly engaged in the negotiation for peace begun by Austria."

"Not a moment shall be lost, on my part, in the endeavor to concert a satisfactory arrangement respecting the sixth article of the treaty of amity and commerce; but, as the subject is of inferior consideration it will be obliged to give place to the business which, at present, engrosses the attention of the cabinet."

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *January* 17, 1801.

"SIR:

"I wish I could send you a more satisfactory account of the negotiation with this Government with which I am charged. Some time ago, Lord Grenville informed me that, on account of his numerous and pressing engagements, he should be obliged to employ some person to discuss with me the arrangement respecting the sixth article which I had proposed; and, after mentioning Mr. Anstey, one of the commissioners under the seventh article, asked me if I had any objection to confer with him; adding that, although it had occurred to him that any definitive article might better be concluded between himself and me, if I had any scruple in holding the preliminary discussions with Mr. Anstey, he would give him a commission, not only to treat, but to sign. As I preferred that the final decision of the business should remain with Lord Grenville, I signified my acquiescence in the course he had suggested, and several papers have been exchanged between Mr. Anstey and me. Though I cannot yet determine what may be the issue of our discussions, I think I shall be able, in a short time, to ascertain the expectations of this Government. Should a satisfactory conclusion become unattainable in the course in which we are now engaged, it will be my duty to terminate the conferences upon the proposition I have made, and insist upon the justness and propriety of the explanatory articles which we have before demanded."

Extracts of a letter from Mr. King to the Secretary of State, dated

LONDON, *February* 25, 1801.

"The progress which had been made in our negotiation with this Government was such as must have brought it to a speedy conclusion, had not a change taken place in the Department of Foreign Affairs. That the result would, in the main, have been satisfactory is more than I am authorized to say, though I flattered myself with the hope that it would be so."

"I yesterday received the duplicate of your No. 9. Such is the situation of the negotiation, that we cannot, with propriety, relinquish the attempt to adjust the disagreement respecting the sixth article, upon the principle of paying a sum in lieu of what might be awarded under its provisions."

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *March* 7, 1801.

"I am assured that our affairs shall be taken into consideration as soon as the new cabinet is settled; and I am not without hopes that they may be satisfactorily adjusted. Having caused it to be understood that we should not consent to pay more than ten hundred thousand pounds in lieu of what might be awarded under the sixth article, I shall await a decision upon this offer."

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *March* 26, 1801.

"In respect to our own affairs, I can do no more than repeat, what I am weary of having repeated to me, that the King's illness, the change of ministers, and the attention to more urgent and indispensable business, have, against the inclination of the Government, hitherto prevented it from coming to a decision concerning them. I have been very lately assured that the business shall be soon taken up; and, as the several points have been fully discussed, a little time only will be requisite to decide them. I have not thought it necessary to send you copies of my correspondence, preferring to transmit it entire, together with the result, whatever it may be, of the negotiation. It will then be seen that I have not been insensible to the disadvantages arising from this delay, which, as far as prudence and decorum would permit, I have endeavored to prevent."

Mr. King to the Secretary of State, dated

LONDON, *April* 20, 1801.

DEAR SIR:

Annexed, I have the honor to send you a copy of my correspondence with Mr. Anstey upon the subject of the British debts. Although I might, by an analysis of the claims exhibited at Philadelphia, have been able to add much support to the estimate which I had formed of these debts, I thought it advisable to bring the discussion to a close; as well on account of the little probability that any further arguments which could be offered would be likely to induce Mr. Anstey to acquiesce in an estimate of the debts which should not correspond with a sum that had been named to him, as proper to demand of us, as because it did not appear to me certain that his opinion, upon this subject, would have the same weight with the new ministry as it might have had with their predecessors.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

List of papers.

No. 1. Note from Mr. Anstey to Mr. King, asking a conference, dated 28th December, 1800.
2. Letter from Mr. Anstey to Mr. King, dated January 2, 1801.
3. Paper from Mr. Anstey, of the same date.
4. Note from Mr. King to Mr. Anstey, in reply, dated January 3.
5. Note from Mr. Anstey to Mr. King, dated January 6.
6. Paper from Mr. Anstey, accompanying certified statement of exports, of the same date.
7. Statement of exports, from the office of the Inspector General.
8. Note from Mr. King to Mr. Anstey, asking a conference, of the same date.
9. Note from Mr. King to Mr. Anstey, requesting further accounts of exports and imports, dated January 8.
10. Note from Mr. Anstey to Mr. King, in answer, same date.
11. Paper from Mr. King to Mr. Anstey, (observations on No. 6,) dated January 10.
12. Note from Mr. Anstey, with further statements from the custom house, in compliance with No. 9, dated 16th January.
13. Letter from George Hammond, Esq. to Mr. Anstey, enclosing the above statements, of same date.
14 and 15. Note and paper from Mr. Anstey, in reply to Mr. King's remarks, (No. 11,) dated January 17.
16. Note from Mr. King to Mr. Anstey, acknowledgment of statements of exports, &c. dated 18th January.
17. Note from Mr. Anstey to Mr. King, fixing the 23d for a conference, dated 21st January.
18. Paper from Mr. Anstey, being continuation of his remarks, (No. 15,) of same date.
19. Note from Mr. King to Mr. Anstey, 23d January, with
20. Extract of a letter from Mr. King to Colonel Pickering.
21. Note from Mr. Anstey to Mr. King, of same date.
22. Paper from Mr. King, in reply to Mr. Anstey's observations of 17th and 21st January, (Nos. 15 and 18,) dated 29th January.
23. Note from Mr. King to Mr. Anstey, in answer to No. 21, dated 30th January.
24. Note from Mr. Anstey to Mr. King, acknowledging Nos. 22 and 23, and propounding certain questions, dated 31st January.
25. Mr. King to Mr. Anstey, in answer, dated 2d February.
26. Mr. Anstey to Mr. King, dated 18th March, enclosing
27. Paper from Mr. Anstey, dated 14th February, in answer to Mr. King's of 29th January.
28. Note from Mr. King to Mr. Anstey, in reply, 20th March.

Correspondence between Rufus King, Esq., and John Anstey, Esq., relative to the sixth article of the Treaty of Amity and Commerce, &c.

No. 1.

GLOUCESTER PLACE, *Sunday, December* 28, 1800.

Mr. J. Anstey presents his compliments to Mr. King. Should he come to town in the early part of this week, Mr. J. A. will be obliged to him to appoint an hour when he may have the honor of waiting upon him.

Endorsement on the original: "Received 29th, and returned an answer desiring him to meet in Cumberland Place, at twelve o'clock, of the 30th."

No. 2.

GLOUCESTER PLACE, *January* 2, 1800.

DEAR SIR:

I beg leave to accompany this note with a paper for your consideration, agreeably to the plan of proceeding in this business agreed upon between us at our last interview.

I have the honor to be, with great respect, &c.

J. ANSTEY.

RUFUS KING, Esq., &c.

No. 3. (1.)

47, GLOUCESTER PLACE, PORTMAN SQUARE, *January* 2, 1801.

There seems to be no objection to adopting (as far as it will reach) the principle suggested by Mr. King, of taking "a valuation of British exports" as the ground-work of a calculation to be made of the American debt, due to British creditors, at the commencement of the American war; such augmentations being made to any estimate formed on that principle as may be found wanting and necessary to complete the calculation proposed.

Of course it will be an object equally desirable on both sides, "that the valuation of British exports" should be derived from the best possible source of information which the subject matter is capable of.

It is therefore proposed to substitute, in lieu of the estimate suggested by Mr. King, (in his letter to Lord Grenville of the 23d November last) a statement of the actual amount of British exports for *three* years immediately preceding the war, certified from the office of the Inspector General of His Majesty's customs, subject to such explanations as may be necessary, and at the same time to state such general heads of augmentation as it is conceived will be found indispensably necessary to perfect the estimate, and render it effectual to the object.

From the amount of the debt thus ascertained, or agreed to be due at the commencement of the war, it will come in course to consider the several deductions which it may be necessary to make, with a view to the present state of the debt, on the grounds suggested by Mr. King, and with reference to all circumstances connected with the execution of the fourth article of the treaty of peace, and the predicament of the British creditor under the provisions of the sixth article of the treaty of amity, &c.

RUFUS KING, Esq. &c.

No. 4.

MILL HILL, MIDDLESEX, *January* 3, 1801.

Mr. King presents his compliments to Mr. Anstey, and has the honor to acknowledge the receipt of his letter of yesterday. With the view of abridging discussion, Mr. King having, in the paper delivered to Lord Grenville, connected the several estimates with each other, as well as with the result to which they seemed to lead, was in hopes that Mr. Anstey would have been inclined to pursue the same course, in preference to that of bringing forward the several points one after another, for the purpose of separate and successive discussion; a mode of proceeding which it is apprehended will inspire mutual caution, and which may, moreover, give birth to disquisitions more minute than can be made to correspond with the principle upon which it is believed the business may be adjusted. If, however, Mr. Anstey shall continue to be of the opinion that this mode of conducting the negotiation is, under all circumstances, preferable to that of which Mr. King has given the example, Mr. King consents to receive, for the purpose specified in the paper delivered to Lord Grenville, and subject to such correction as the same may, on examination, be found to require, the estimate of the American debt, which Mr. Anstey proposes to derive from the average valuation of British exports to the United States for a number of years before the American war.

JOHN ANSTEY, Esq.

No. 5.

GLOUCESTER PLACE, *January* 6, 1801.

Mr. J. Anstey has the honor to acknowledge the receipt of Mr. King's note of Saturday's date, and takes an early opportunity of expressing an equal desire, on his part, to agree on any mode of conducting the negotiation which may be most likely to answer the object proposed, and at the same time shorten the discussion. It was with this view that he thought it might be more expedient, and perhaps more agreeable to Mr. King, to propose for his consideration, in the first instance, a mode of estimating the debt which might lead to a result more corresponding with Mr. Anstey's ideas of the amount, than to begin with observations in detail upon Mr. King's statement, which, from the different point of light in which Mr. Anstey inclines to view the subject, might ultimately lead him to the very ground upon which he conceives it may be desirable to commence the business.

The amount of debt at the period of the war being ascertained or agreed, Mr. Anstey has no desire to draw into discussion more of the circumstances connected with the subject than may appear absolutely necessary, but will confine himself chiefly to the consideration of the several heads of deduction proposed by Mr. King: at the same time he does not hesitate to remark that he by no means inclines to think at any valuation of British exports calculated upon a *credit of one year only*, upon an average of a given number of years, will furnish any thing like an adequate criterion of the debt, as it stood at the commencement of the war.

In his paper, No. 1, Mr. Anstey proposed, "as a groundwork of the estimate, a statement of the actual amount of British exports for the three years immediately preceding the war, *subject to explanation*." Accordingly, he has the honor to present at this time the accompanying paper, (No. 2,) together with the statement of British exports therein alluded to, certified from the office of the Inspector General of His Majesty's customs.

P. S. All the names of the Glasgow committee of merchants which have come to Mr. Anstey's knowledge, in addition to those mentioned by Mr. King, are Messrs. Gilbert Hamilton, Robert Findlay, and Alexander Oswald.

RUFUS KING, Esq. &c. &c.

No. 6. (2.)

Paper accompanying statement of exports certified from the customs.

Mr. King will observe, that the statement, certified from His Majesty's customs, comprehends the term of *ten* years, prior to the 5th of January, 1776. The term, however, of *three* years, immediately preceding the war, is, perhaps, as much as it may be necessary to implicate in the question.

It will be seen that the amount of each of these *three* years is made up to the time above mentioned, with reference to two distinct and established modes of valuation: the one entitled the *official value*, and the other the *real value:* the former purports to be the custom house valuation of the individual articles actually exported, according to a standard established at a remote period, (above a century ago) viz: in 1669, and is, of course, infinitely below the selling price of the same articles in Great Britain at the time they were actually exported. The real value, as stated, is made up (as is mentioned at the foot of the certificate) with relation "to the proportions which the custom house valuation of the same quantities of similar articles has been found to bear to the real value as ascertained by reference to the declaration of the merchants under the *convoy act*." Upon which it is obvious to remark, that the *convoy act* was passed since the credit was given for the debt in question; and that, what is entitled the *real value* of the same articles at this time must, in general, have been considerably enhanced, in the course of twenty-five years, above the price at which they were shipped for exportation; the natural effect of the alteration in the value of money compared with the selling prices of the articles; an observation equally applicable to both statements.

It is, therefore, proposed to balance the amount of the *official value* against the amount of the real value, as stated, in order to arrive at a middle proportion which may approach, as nearly as possible, to the actual value of the exports from Great Britain for the three years previous to the war.

It is understood that the course of the trade to the American colonies was to allow of three years' credit upon articles of British export. It is proposed, however, to assume, only for the present, (as the groundwork of the calculation) the actual amount of the two years' valuation of exports; of which the credits of the first year, immediately preceding the war, (dated with reference to the custom house year, ending the 5th of January, 1775) may be considered as the *unquestionable debt fixed by the war*; which having suddenly broken in upon the credits, immediately after they were given, suspended the course of the payments altogether.

The credits given on the exports of the next preceding year may be taken as the *ordinary annual arrear of good debt*, due and payable according to the course of the trade, and the credits which arose on the exports of the third or remaining year may be reserved to be taken into *consideration*, with reference to the head of deductions suggested by Mr. King, on the score of the doubtful debt of each year, insolvency during the war, and of the old arrearages of desperate debts for any antecedent period.

To the amount of the actual exports, for the two last years before the war, it is proposed, that such augmentations shall be made as may be necessary to perfect the estimate of the whole amount of debt due to British merchants and others, His Majesty's subjects, at that period, under the following heads of augmentation, viz:

1st. On account of debts due such of His Majesty's subjects, loyalists, and others, who were not traders, and whose debts cannot be comprehended in any estimate of British exports.

2d. Augmentation on the score of credits given for importations of West India produce from the British West India islands, into the colonies, before the war, also not included in any estimate of British exports.

3d. Augmentation on the score of incidental charges, inseparable from the nature of export traffic; namely, the expenses of freighting, landing, and delivery, and warehousing goods, insurance, commission, &c.

4th. Augmentation on the score of mercantile profit, also not included in the statement of British exports.

5th. Augmentation on the score of interest, to the extent proposed by Mr. King in his letter of the 23d November last.

RUFUS KING, Esq. &c.

No. 7.

*A statement of the value, as estimated at the Custom House, of all the exports from Great Britain to the Provinces now composing the United States, in each year, for the last ten years antecedent to July 4, 1776. Also, of the real value of the articles so exported, as far as the same can be ascertained by any possible ground of calculation.**

Years.	OFFICIAL VALUE.			REAL VALUE.		
	British Manufactures.	Foreign Merchandise.	Total.	British Manufactures.	Foreign Merchandise.	Total.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
1766	1,559,080 17 10	422,422 5 1	1,981,503 2 11	2,627,090 12 7	402,574 10 9	3,029,665 3 4
1767	1,763,693 19 9	404,419 10 0	2,168,113 9 9	2,971,868 17 10	385,418 8 7	3,357,287 6 5
1768	1,878,388 6 7	511,933 12 8	2,390,321 19 3	3,165,132 9 9	487,881 2 3	3,653,013 12 0
1769	1,267,613 4 6	337,362 7 5	1,604,975 11 11	2,135,961 2 8	321,511 17 6	2,457,473 0 2
1770	1,796,336 18 3	465,202 12 1	2,261,593 10 4	3,026,873 4 1	443,345 14 0	3,470,218 18 1
1771	3,345,125 6 5	722,891 0 5	4,068,016 6 10	5,636,623 4 7	688,927 1 0	6,325,550 5 7
1772	2,778,887 17 6	531,848 13 5	3,310,736 10 11	4,682,497 1 10	506,860 13 3	5,189,357 15 1
1773	1,778,238 19 6	535,388 0 0	2,313,626 19 6	2,996,377 12 0	510,234 3 11	3,506,611 15 11
1774	2,336,536 3 4	506,911 6 6	2,843,447 9 10	3,937,124 7 0	483,095 2 3	4,420,219 9 3
1775	170,593 12 7	44,318 13 9	214,912 6 4	287,505 6 2	42,235 16 8	329,741 2 10

Inspector General's Office, *Custom House, London, December* 13, 1800.

WILLIAM IRVING,
Inspector General of the Imports and Exports of Great Britain.

No. 8.

Mill Hill, Middlesex, *January* 6, 1801.

Mr. King has the honor to acknowledge the receipt of Mr. Anstey's note of this date, and as he may possibly misconceive its import, takes the liberty of proposing to Mr. Anstey a conference, in order to ascertain its precise meaning. For this purpose, Mr. King will be glad to see Mr. Anstey at half after eleven o'clock to-morrow, in Cumberland Place.†

John Anstey, Esq.

No. 9.

Great Cumberland Place, *January* 8, 1801.

Mr. King presents his compliments to Mr. Anstey, and for the purpose of assisting the discussion in which they are engaged, requests Mr. Anstey to furnish him with an annual account of the imports into Great Britain from the colonies, now forming the United States of America, from the 5th of January, 1766, to the 5th of January, 1776, distinguishing the imports from Georgia, South Carolina, North Carolina, Virginia, and Maryland, from those of the other colonies, as well as the imports of each of the said five colonies separately.

If the quantity of rice, indigo, and tobacco could be specified, in addition to the value of the whole imports, the statement would be deemed more perfect; if the value only be given, it is requested that the rule of valuation be explained.

If the Inspector General of the imports and exports have the means of making out an account for the above period of ten years, of the exports from the said colonies, with the like distinctions as are above stated in respect to Georgia, South Carolina, North Carolina, Virginia, and Maryland, such account would be useful.

Mr. King will likewise be obliged to Mr. Anstey to furnish him, from the office of the Inspector General, with a dissection of the account of exports from Great Britain to the colonies now forming the United States, which he sent to Mr. King in his note of the 6th instant, distinguishing the amount, according to the official value as well as the convoy value of the exports to Georgia, South Carolina, North Carolina, Virginia, and Maryland, from those to the other colonies, as well as the amount of the exports to each of the said five colonies separately.

No. 10.

Gloucester Place, *January* 8, 1801.

Mr. J. Anstey presents his compliments to Mr. King, has received his note of this morning, and has forwarded an application for the papers Mr. King has deemed necessary to the better ascertaining the immediate object of the present discussion, which Mr. Anstey conceives to be simply to establish, in the first instance, on the best possible ground, the amount in value of the British *exports* to the American colonies, for a given number of years preceding the war, conformably to the principle of estimating the American debt proposed by Mr. King in his letter of the 23d November last, and adopted in Mr. Anstey's paper of the 6th instant.

Though Mr. Anstey does not directly foresee in what manner the details of British imports prior to the war, requested by Mr. King, will apply to the subject immediately in question, he has lost no time in forwarding Mr. King's request, that the answer he expects the honor of receiving from Mr. King, to his paper of the 6th instant, may (as far as regards himself,) experience as little delay as possible; he is fearful, however, that the specifications required may occupy some considerable time in preparing at the custom house.

R. King, Esq. &c.

No. 11.

Mill Hill, *January* 10, 1801.

Mr. King presents his compliments to Mr. Anstey, and has the honor to send him the following observations, arising from the consideration of his note of the 6th instant. Mr. Anstey, in this communication, aims at the establishment of two points: first, the substitution of a more authentic statement of the annual exports of Great Britain to America, before the year 1776, in lieu of one derived from the accounts of Lord Sheffield and Mr. Chalmers; and secondly, a more correct estimate of the debt due from American debtors to British creditors, in the place of the

* The above account has been prepared for ten years antecedent to 5th January, 1776. As the books of this office are made up annually to the 5th of January of each succeeding year, it is therefore impossible to make an annual return, in terms of the order, from the middle of the year. The real value of the respective articles exported in each year, during the period above mentioned, has been estimated by the proportion which the custom house valuation of the same quantities of similar articles has been found to bear to the real value, as ascertained by the declarations of the merchants under the convoy act.

† Conference held the next day.

estimate drawn up by Mr. King. The principles upon which Lord Sheffield and Mr. Chalmers prepared their accounts of the exports to America were probably such as, in their opinion, gave to those accounts a title to public confidence. Lord Sheffield says, his tables were made up from official documents; and the statements of both possess the advantage of having been composed before the present war, in the course of which the price of almost every article has experienced a sudden and irregular advance.

Mr. Anstey proposes to ascertain the value of the exports of the years 1773 and 1774, by taking the mean of what the Inspector General calls the official and the real value of the articles exported in those years; the official valuation being stated to be the true value of the goods about the beginning of the last century, and the real valuation their true value at the present time.

Upon the supposition that the advance in the price of commodities has been uniformly progressive from the beginning to the end of the century, the application of the mean difference to the exports of 1773 and 1774 would not have the effect of augmenting their true value: but so far from the increase in prices having been uniformly progressive throughout the century, the advance has been greater in the course of the last thirty years than during the seventy years which preceded; and for the purpose of ascertaining the true value of commodities at the commencement of the American war, it is believed that the addition of a third of whatever increase they may have experienced in the course of the century, would be more correct than the addition of one-half. This opinion rests for its support, first, upon the extraordinary depreciation of money within the last thirty years, owing to the increase of specie or of its representative; and, secondly, upon the increased demand for British manufactures, arising from the derangement, during present war, of the manufactures of the continent. Notwithstanding the estimates, drawn from the accounts of the Inspector General, vary so materially from those which have been deduced from the accounts of Lord Sheffield and Mr. Chalmers, and the reason there is to suppose that this variation proceeds in a considerable degree from the present high price of commodities and low value of money, the former possess an official character, which gives them a preference over the latter; and if what in the Inspector General's statement is called the official value be corrected according to the above suggestion, his account may be admitted as the ground-work of future discussion.

In respect to the second point, the substitution of a more correct estimate of the American debt at the breaking out of the American war, it will, in the first place, be necessary, according to the principle by which it is agreed that the estimate shall be formed, to ascertain the term of credit which was given by the British to the American merchants. Mr. Anstey suggests, that it is understood to have been a credit of three years; a supposition which refutes itself by the excessive amount to which an estimate formed upon this principle would carry the debt. Fortunately, this point, which is of primary importance, admits of the most satisfactory proof; and the result of an extensive inquiry upon this head, among the British merchants formerly engaged in this trade, has been a uniform opinion that the credits in some cases were for nine months, but in none for more than twelve months. Although the credits were for a year, yet it should be recollected that the exports were made, not all at once, but half yearly; or, in other words, the goods exported within a year were divided into two parts, one of which arrived in America in the spring, and the other in the fall. The effect of this division was to reduce the aggregate credit to an average of only nine months; for when the spring goods arrived, half the term of credit upon those of the preceding fall had expired; and, in like manner, when the fall goods arrived, half the term of credit upon those of the preceding spring had expired. A year was the term of credit assumed by Mr. King, in his note of the 23d November, and he has not discovered, from subsequent investigation, that this term requires enlargement.

Admitting that the credits did not exceed a year, still, in case an habitual course prevailed, by which, in effect, the credit operated for a longer term, the inference proposed to be drawn from the limitation of a year will in some degree be unsupported. It becomes necessary, therefore, to pursue the inquiry a little further, for the purpose of ascertaining how far the payments were, in fact, made within the term of the credit. Not only the limitation of the credit, but the nature and course of the trade, must be received as evidence of perodical payments, which, though not precisely punctual or complete, must, in a long succession of years, have nearly kept pace with the new debt annually contracted. This observation will be found to apply with peculiar force to the southern States, from which the principal part of the remaining debt is supposed to be due. These States produce the chief staple commodities exported from the United States. By the English navigation act, their trade was essentially confined to the parent country, and nearly the whole of their produce was sent to Great Britain, in like manner as the produce of the British West Indies continues to be sent. In reference to the point under consideration, it is certainly pertinent to remark that this restraint upon the planters and provincial merchants, to send the colonial productions to foreign markets, had the effect to secure the payment of debts due in Great Britain, inasmuch as the prohibition operated in the nature of a mortgage upon the annual crops in favor of the British creditors, whose agents took care to collect and send them to their principals: to conclude upon this point, if the annual credits did not exceed the value of the annual crops, which, in respect to the southern States, the account of exports will prove to have been the fact; and if the crops were sent to Great Britain, and the navigation act prohibited their going to a foreign market, the conclusion seems unavoidable that the payments, in effect, kept pace with the credits.

Supposing it to be ascertained that the credits and payments were annual, still, the following objections against the assumption of the value of the annual exports, as the standard of the contemporary debt, require to be considered.

First. The whole of the exports were not upon credit, part of them being paid for in cash, which part should be deducted, if the value of the entire exports be assumed as the standard of the debt annually contracted.

Second. Besides the debt annually contracted, there at all times existed a given sum, of old or outstanding debt, which should be added to the value of the annual exports, if the same be taken as the standard of the contemporary debt.

In respect to the first of these objections, it has never been doubted that a portion of the annual exports to America was purchased with cash: the proportion which such purchases bore to the whole has been the subject of a variety of opinions. Lord Sheffield estimates it at one-fifth; others may decide in favor of a greater proportion. Exclusive of men of good estates, and who had no occasion for credit, the merchants of America, like those of other countries, had, without doubt, acquired riches; and whether we regard the number and tonnage of the American ships, or other visible tokens of property in their possession, before the American war, we must be persuaded that, to a certain degree, they had the means, and, if so, they employed them to purchase their supplies with cash instead of credit. In this view of the objection, it is presumed that the estimate of Lord Sheffield will not be thought extravagant.

With regard to the second objection, it will not be alleged that the crops were always the same, or that the annual debt was regularly discharged, according to the terms of the credit; notwithstanding the general course of the trade, a given arrearage of old debt was, without doubt, always outstanding: its amount, which must have varied in different States, and in the same State at different times, cannot be satisfactorily ascertained. The reasoning which has been offered in favor of the adoption of the value of the annual exports as the standard of the contemporary debt, may satisfy us that this arrearage could not have been very considerable. Should it be estimated, at the commencement of the American war, at a fifth, or even at a fourth of the new or annual debt, it may be balanced against the proportion of annual exports purchased with cash; and thus the value of a year's exports will continue to be the standard by which to estimate the debt at the breaking out of the war.

It remains only to consider the augmentations suggested by Mr. Anstey, under the following heads: 1. The debt due to the loyalists. 2. The debt for goods imported from the British West Indies. 3. The debt for freight, commissions, &c. 4. The debt for mercantile profit; and 5. The debt for interest.

A few observations will suffice upon these topics.

First head. Something may be added on account of debts due to loyalists. These claims, in general, divide themselves into two classes: those which are desperate on their merits, as the claims of Mr. Penn, and of the heirs of Lord Baltimore, which, relating to real estates, have been decided not to be included within the provisions of the treaty of peace; and, secondly, those which are allowed to be well founded, and against the recovery of which, in the ordinary course of justice, no impediments are supposed to exist.

Second head. Instead of any thing being due for goods imported from the British West Indies, the course of that trade yielded a cash balance; and, for several years before the war, according to Lord Sheffield's tables, this

balance amounted to three hundred and fifty thousand pounds annually. It probably exceeded that sum, and formed an important remittance to Great Britain in payment of the annual debt.

Third head. The Americans were their own freighters: the goods, as soon as shipped, became their property, and were at their risk. Commissions are never charged on goods sold: nothing can, therefore, be added under this head.

Fourth head. Mercantile profit upon goods sold in Great Britain is included in the price, or, what is the same thing, in the custom-house valuation: nothing, therefore, can be added on this account.

Fifth head. An addition on account of interest is certainly to be made.

Should Mr. Anstey agree in the justness of the foregoing observations, upon a subject which claims the liberal consideration of all parties, and which can only be decided upon general principles, the discussion will be closed upon the rule, by which the amount of the American debt, at the breaking out of the war, is to be ascertained. It will then be in course to consider of the deductions to be made from this sum, on account of insolvencies during the war, and payments since; as well as of the addition to be made on account of interest, and of the debts due to loyalists.

No. 12.

GLOUCESTER PLACE, *January* 16, 1801.

Mr. Anstey presents his compliments to Mr. King. Has the honor to enclose him the documents he requested, which he has this instant received from the Secretary of State's office.

No. 13.

MY DEAR SIR: DOWNING STREET, *January* 16, 1801.

I send you enclosed the accounts* which I have received from Mr. Irving, and which I have every reason to believe to be accurate. The great labor which was required to prepare them prevented me from receiving them before last night.

Be assured that I am ever, my dear sir, most faithfully yours,

GEO. HAMMOND.

JOHN ANSTEY, Esq.

No. 14.

GLOUCESTER PLACE, PORTMAN SQUARE, *January* 17, 1801.

Mr. Anstey presents his compliments to Mr. King. Has the honor to accompany this note with a paper of observations, in reply to Mr. King's communication of the 10th instant.

In the course of a day or two, Mr. Anstey will beg leave to trouble Mr. King with an additional paper of remarks upon the remaining topics, and will close the discussion on the subject of the estimate, upon which, *should it be approved of*, the deductions proposed by Mr. King will be allowed to operate upon such a liberal scale as, it is hoped, will admit of a satisfactory adjustment of the business.

No. 15. (3.)

GLOUCESTER PLACE, PORTMAN SQUARE, *January* 17, 1801.

Mr. Anstey has the honor to acknowledge the receipt of Mr. King's communication under date of the 10th instant, and to submit the following observations upon it.

The fact mutually regarded as of the first importance to be ascertained, is the amount of the American debt as it stood at the commencement of the war; the truth, as near as it can be approached, must be an object equally desirable on both sides; the fact will, therefore, be sought for rather than contested upon the present occasion.

Mr. King has candidly acknowledged that a preference is due to the statement from the office of the Inspector General, on account of the official character it bears; it is not, however, upon any ground that affects the public confidence to which Lord Sheffield's and Mr. Chalmers's statements may be justly entitled that Mr. Anstey conceives the statements from the office of the Inspector General of His Majesty's customs may be more safely relied on, with a view to the information immediately applicable to the point in question.

The fact sought for from the statements in Lord Sheffield's tables (which refer to a distinct term of ten years, prior to the year 1770,) can only be approached by inference and analogy to the supposed amount of exports at a subsequent period, or supplied, with reference to Mr. Chalmers's statement, for ten years prior to the war, calculating (as proposed by Mr. King) an average upon an average by blending both periods together; by which process, half the term of the last average is unnecessarily twice calculated upon; and from the whole, a result is concluded varying, as Mr. King justly observes, very materially from the accounts of the Inspector General, but which, Mr. Anstey conceives, is liable to a greater risk of uncertainty than the estimate proposed to be substituted in their stead.

In the Inspector General's account, the *fact itself*, which is to form the ground-work of the estimate of the American debt, is officially found, and certified as the amount of the actual exports for three years immediately preceding the war. Upon this ground-work the estimate of the American debt is agreed to be raised. But Mr. King proposes a correction of the method suggested by Mr. Anstey (of estimating the value of the exports, by taking a middle proportion, between what is termed the *official* and the *real value* in the Inspector General's certificate,) by adding one-third only of the balance of the two valuations to the official statement, in lieu of a moiety as proposed by Mr. Anstey; for which correction of the plan proposed, are assigned all the general reasons already considered, and stated by Mr. Anstey, which, in his view of the subject, justified the addition of a moiety, upon a liberal principle of an equal division of the excess; and also a conjecture that the advance in the price of the articles, during the last century, has been greater in respect of the last *thirty* years than for the seventy years preceding. It is believed that the fact, could it be mathematically proved, would justify the principle of adding even more than a moiety, in preference to confining the official estimate to the addition only of one-third of the balance.

But Mr. Anstey, not being aware of the ground upon which it is proposed to adopt the principle of a *third*, in preference to any other given proportion, will beg leave to suggest, in support of his proposal of confining it to a moiety, that, although (as already admitted in his paper, No. 2,) what is entitled the *real value* "must, *in general*, have been considerably enhanced in the course of the last twenty-five years, above the price at which the same articles were shipped for exportation in the years 1773 and 1774," the fact is not universally true, and in every instance. Some articles of British manufacture, it is presumed, have by no means increased in value in the proportion imagined by Mr. King. Cotton, in particular, it is believed, bore as great a price in the year 1774 as it would be estimated at at this day, with reference to the declaration of the merchants under the convoy act. At any rate, it is not considered that "the sudden and irregular advance in the price," which, to a certain extent, is admitted, has been for the last thirty years in any degree equal to two parts out of three of the progressive and accumulative increase of the whole century.

And it must be observed, that, in the proportions assumed of seventy to thirty years, there is a term of five years connected with the latter period more than strictly belongs to it, with reference to the commencement of the war; which term should be added to the seventy years, for the purpose of founding a *corrected statement*.

* It is deemed unnecessary to insert these diffuse accounts, which are made up agreeably to Mr. King's directions contained in No. 9, with the omission of a return of the exports *from* the colonies during the same period, the amount whereof the Inspector General had no means of ascertaining. The essential information afforded by the accounts, as applicable to the points under discussion, is stated, by way of illustration, in Mr. King's paper of the 29th January. Vide No. 22.

Assuming, however, the principle of Mr. King's reasoning, and calculating upon his theory, though in the proportion of twenty-five to seventy-five years, instead of thirty to seventy (for twenty-five years will include the whole of the American war, the present war, and the influence of both on the value of money) it is conceived that the result would be precisely the same upon the following process: a coincidence which marks the caution and consideration with which the adoption of the moiety has been proposed. For example:

The official value in the certificate is stated at - - - - - - -	2,843,447
The real value at - - - - - - - - - -	4,420,219
The balance is - - - - - - - - - -	£1,576,772

The moiety of the balance, as proposed by Mr. Anstey, is - - -	788,386	
The third of that balance, as proposed by Mr. King, is - - -	525,590	
The difference of calculating upon the proportion 75 years to 25 years, instead of 70 to 30 will be found in the proportion that 5 years bears to 30, or one sixth;		
The one-sixth of the balance above stated, (viz. of £1,576,772) will be - to be added to the official amount in respect of the five years—	262,795	
To which is to be added the one-third of the balance, according to Mr. King's proposal, as above, viz: - - - - - -	525,590	
The amount of the two sums, added together, equal the moiety of the original balance, or middle proportion assumed by Mr. Anstey to a fraction, - -		£788,385

Hence it follows, that if, as Mr. King imagines, the advance upon the price of the articles for the *last thirty years* is more than equal to the gradual advance upon the price for the *seventy* years *preceding*, the term of five years, excepted out of the thirty, must be allowed its due weight in the reckoning; and, being taken out of one scale, and thrown into the other, will operate in a double *ratio*, leaving the scales perfectly even, and establishing the moiety, according to Mr. Anstey's proposal, upon Mr. King's own principles.

With respect to the credit understood to have been allowed in the course of the trade (as supposed by Mr. Anstey,) it is open to him to remark that he by no means meant to infer as if he supposed that no payments whatever were made in the course of the three years from the time of the credit given, or as if it had been understood that the custom of the trade had established a law which justified the debtor in withholding, and precluded the creditor from exacting, payments during that period. Had such meaning been intended by Mr. Anstey, he should have felt it incumbent upon him to have calculated upon it as an established fact; but, on the contrary, the amount of the exports of the third year is expressly reserved, in the succeeding sentence, to be taken into consideration, with reference to a class of deductions proposed by Mr. King, on the score of old arrearages of doubtful and desperate debt, insolvency, &c. In the mean time, without questioning, but, on the contrary, agreeing to the fact, Mr. King states to have ascertained, by recent and extensive inquiry, viz: that it was universally the custom for the British merchant in no instance to *allow* of more than twelve months' credit; it is conceived, nevertheless, to have been the practice of the American trade to *take it* for three years, and, in some instances, even for a much longer term. Debts have been suffered to remain outstanding for three or four years, without destroying the credit of the debtor singly on that ground; such continued credit, though not strictly *allowed* of in the terms of the invoice, was admitted in usage; it was taken in fact, and of course to a certain extent beyond what was allowed of, and acquiesced in by the British merchant as unavoidable, considering the nature of the trade, especially where partial and periodical payments, however inadequate, had been regularly made. It may not be deemed improper to remark in this place, that Lord Sheffield, whose authority is relied on, states "that some of the provinces never paid more than was sufficient to keep up their credit." No ground, however, is taken in the estimate on the supposed credit of three years, whether *allowed* or acquiesced in by the British merchants, or *taken*, according to the ordinary custom of payments as practised by the American merchants. Credit is nevertheless taken by Mr. Anstey for the value of two years' exports, distinguishing the amount of the first year, as the ordinary annual arrear of good debt, and that of the last year as the unquestionable debt fixed by the war; and it appears to him that he is fully justified in so doing, by the following reasons, in addition to those above stated.

It was the custom of the British merchant to strike balances upon their accounts current once in every year, and to carry them onward to the succeeding year, frequently taking bonds for the amount, but, at all events, whether bonded or not, these balances were uniformly carried to the account current of the ensuing year, with interest, in most of the provinces at six, and in some, it is said, as high as seven, and even eight per cent. This practice of striking balances upon accounts current once in every year, and carrying them on with interest to the succeeding year, is conformable to the practice of consignees of West India produce at this day; the balances of course fluctuate according to the crops, and sales, and outgoings of the estate, and the bills drawn by the owners. The accumulation of these floating balances form a considerable arrear which constituted a good debt; for it was never considered that these balances, carrying interest, whether bonded or not, were less a part of the debt than the last item in the annual account current: every balance thus fixed, or bonded with interest, gave a new character and credit to the debt every year, and was in the nature of a fresh undertaking on the part of the American trade to discharge it. The old and doubtful debt must still be taken up as a distinct consideration; it seems to go to the *merits of particular claims* rather than to form a ground of deduction from a general estimate: for so long as the confidence subsisted between debtor and creditor on repeated and continued credits, no debt between such debtor and creditor could be considered as doubtful, much less desperate, and in no sense an old debt, singly on the ground of its being of two years standing only. Circumstances, of course, might vary the credit due to an American debtor, within one month after the delivery of the goods, and exclude him from a share of the next invoice; and, indeed, the very idea of old and doubtful debts must be conceived of and have relation to particular persons, in doubtful and desperate circumstances, to whom credit, once indulged and abused, had ceased to be given altogether; but the estimate, upon the principle of calculating on the amount of exports, proceeds upon general grounds, and, as it regards the value of the exports of the year 1773, necessarily supposes a credit for the invoices of that year lodged somewhere in the American colonies; and thence, upon the whole, the balances of good debt annually re-accredited, (if it may be so expressed,) frequently bonded, but always carrying interest, together with the unsatisfied part of the credit of that year, constituted *an arrear of good debt annually brought to account*, equivalent, at the least, to the value of the exports of that year.

Undoubtedly the staple produce of the southern States may be regarded as a part of the capital upon which their credit was given; and the navigation act, by confining the trade of some of the southern States entirely to Great Britain, might be considered, to a certain extent, in the nature of a security to the British trader for the application of it to the general account of the invoices, in a series of successive payments, according to the course of the trade. The crops of tobacco were clearly confined to Great Britain; but the staple produce of Pennsylvania, South Carolina, and Georgia, were not wholly so. Grain and flour, in particular, were exported to Lisbon; and rice, the principal staple of South Carolina and Georgia, to any port to the southward of Cape Finisterre; but supposing the crops to have been always equally productive, and, what is by no means conceded, that the annual credits did not exceed the value of the annual crops, still the produce of the year 1774, of rice, for instance, which requires to be pounded and prepared, and warehoused, and packed, and transported to Great Britain, would hardly arrive, in that year, in time to balance the arrear of debt of the preceding year. It should be recollected that the question is as to the *actual* debt, as it stood at the commencement of the war year. If the whole of the crop of 1774 was not shipped, landed, and brought to account in that year, no argument can be drawn from the supposed circumstance of the crop being in the nature of a mortgage for the payment of the contemporary debt: for, as it has been before observed, the war, by breaking in upon the credits, fixed the debt, and suspended the payments altogether.

Mr. King states that the whole of the exports were not upon credit, but part upon cash, equal, according to Lord Sheffield's account, as alluded to by Mr. King, to one-fifth of the whole, which he proposes "to deduct from the amount of the exports." Mr. Anstey has no reason to doubt the accuracy of Lord Sheffield's statement; and most

unquestionably there were "in the colonies, exclusive of the men of good estates, who had no occasion for credit, merchants who had acquired wealth, and employed it in ready money purchases of British exports." But it must be allowed that these men were of a totally distinct class and description of people from those who purchased on credit: for cash payments from debtors would not have been considered as ready money payments, but have been credited *per contra*, and gone in extinguishment of so much of their debt. These, therefore, were persons who traded on their own capital, paid for their goods on the spot, carried them home, and retailed them to their countrymen at advanced prices; and, by multiplying their credits extensively throughout the provinces, placed themselves precisely in the same situation as the London merchants stood with respect to those for whom *they* shipped their goods upon credit; and, in fact, as all men were, at that time, indifferently British subjects, they stood, with respect to their interest in the contest, and every other circumstance and consideration which might be supposed to influence the conduct of men who had a property to lose, exactly, and in all respects, (the intervention of the sea excepted,) on the same ground as if they had actually resided on the Exchange of London. They became, in fact, by the operation of the alien laws, and other causes conspiring to the same effect, British creditors, in the sense of the fourth article of the treaty of peace, and, to a certain amount, according to the scale of their dealing, upon a ground distinct from that of the London merchant: for their debtors were indebted to them, not only the whole of the invoice price of the articles, but, what will constitute a considerable debt of itself, a great addition of mercantile profit, in which, of course, were included the expenses of freight and insurance, &c. &c., as specified under the head of augmentations. If the ready money payments, by this distinct class of traders, amounted to one-fifth, as Mr. King assumes, upon Lord Sheffield's statement, the necessary result will be that, instead of forming a ground of deduction to set off a supposed arrearage of *old debt*, the cash payments would justify an increase in the estimate, proportioned to the expenses above alluded to, together with a fair mercantile profit in respect of the fifth part of the exports.

This addition will apply to the third and fourth heads of augmentations proposed by Mr. Anstey, which come now to be considered in the order in which they were stated:

No. 16.

GREAT CUMBERLAND PLACE, *January* 18, 1801.

Mr. King presents his compliments to Mr. Anstey, and begs him to accept his thanks for the additional accounts furnished by the Inspector General. Mr. King has had the honor to receive Mr. Anstey's note of yesterday, but, as Mr. Anstey proposes, in a day or two, to complete his reply to Mr. King's note of the 10th instant, by sending him some further observations respecting it, Mr. King thinks it proper to wait until the whole of Mr. Anstey's observations are received, before he either forms or expresses any opinion concerning the chief point to which those already sent to him seem to relate.

Should Mr. Anstey pass through Cumberland Place in the course of the morning, Mr. King would be glad to see him; he would call in Gloucester Place, were he not unfortunately confined to his house.

Mr. ANSTEY.

No. 17.

GLOUCESTER PLACE, *January* 21, 1801.

Mr. Anstey presents his compliments to Mr. King; has the honor to send him, enclosed, a paper, containing remarks on the subject of the augmentations he has conceived to be necessary, in order to perfect the estimate under consideration, to which, Mr. Anstey is of opinion, (and, perhaps, Mr. King will agree with him,) it will be more regular to confine the present communication. Mr. Anstey will, however, do himself the honor of waiting upon Mr. King, for the purpose of conferring with him upon the subjects connected with it on Friday next, between two and and three o'clock, if that hour will be convenient.

No. 18.—*Paper No.* 4.

47, GLOUCESTER PLACE, *January* 21, 1801.

Mr. Anstey has the honor to send Mr. King the following remarks, in support of the augmentations proposed to be made to his estimate of the American debt.

First head of augmentation is on the score of the debt due such of the loyalists as *were not traders*. This distinction is made, because, as the gross amount of the export has been already calculated upon, the debts of such of the American loyalists, *who were traders*, can only be contemplated with reference to the third and fourth heads of augmentation, on the score of freight and mercantile profit. The loyalists intended in the class now under consideration are those who, not being immediately concerned in the export trade, were still creditors to their own countrymen upon bonds, or otherwise, in their ordinary intercourse, either as it regarded their internal trade, or speculations of various kinds, in land, ship-building, &c. &c. who, from being men of wealth, some of them men of influence, and in public stations, and almost all, in a general sense, obnoxious to the new Government, ranged themselves on the side of Great Britain, and became creditors, in the sense of the fourth article of the treaty of peace.

It would be difficult, at this day, to distinguish those of that description *who were traders* from those *who were not;* though, by reference to the several acts of confiscation, the names of many of them might be seen, and distinguished by recollection, were it expedient to go into a detail of this kind; and the amount of their claims, on the score of debts, could be ascertained by Mr. Anstey, if necessary, with great precision. It might be also ascertained, to an extent safely within the truth of the fact, how many persons presented claims, and to what amount, in each case, "on the score of debts," under the acts for granting compensation to the loyalists who suffered losses of property under the general and sweeping clauses of those acts; but all that is here intended is to state general facts, directly applicable to the subject, from which general conclusions may be formed.

The claims for debts by the American loyalists were reported to Government, by the commissioners of American claims, at two millions three hundred and fifty-four thousand, one hundred and thirty-five pounds, twelve shillings, and four-pence, with regard to which the following fact is peculiarly worthy of attention: these claims were exhibited in schedules, attached to a general claim for confiscated property, in each case, (a very few, and those comparatively to a very small amount, only excepted;) from whence it should seem that the debt so claimed belonged to the inhabitants of the colonies, who took part with Great Britain in the contest, and not to the *British* merchants who resided in Great Britain, and, consequently, cannot be comprehended in any estimate of British exports. The losses in confiscated property were finally liquidated at less than one-third of the amount of the claims. If, therefore, as it has been suggested by Mr. King, the American traders were not, in general, loyalists, something short of *one-third* of the *loyalist debt* may be added under the first head of augmentation, on the score of the loyalists who were not traders; and, if they were, then, as loyalists, and also traders, a proportion equal to the mercantile profit upon the British exports which *they* freighted at their own risk and expense, and the gross amount of which has been already calculated upon in the general estimate.

Second head.—Mr. King observes that, instead of the West India trade having admitted of a balance, chargeable as an augmentation of the estimate, it yielded, according to Lord Sheffield's statement, a cash balance *per contra*, equal to three hundred and fifty thousand pounds, which afforded an important remittance to Great Britain; on which Mr. Anstey must be allowed to remark, that Lord Sheffield makes his calculation with an eye to the advantage derived from the carrying trade between the colonies and the islands. He states the amount of exports from the colonies to the islands at five hundred thousand pounds, and that of the islands to the colonies at four hundred thousand pounds; leaving a balance only of one hundred thousand pounds. The three hundred and forty-five thousand pounds are made up of this one hundred thousand pounds balance, and the further sum of two hundred and forty-five thousand pounds; calculated as a profit, in effect equal to that sum, arising from the benefit of *double* freight to "and from the West Indies, interest for the time on the value of the vessel, tear and wear, seamen's wages, provisions, &c., the profit is stated to be *thus* worth about the sum of three hundred and forty-five thousand pounds a year." But Mr. Anstey

does not understand Lord Sheffield as speaking of a cash balance, or indeed of any balance, capable of forming a remittance to Great Britain. If, indeed, there were any *cash balance* upon a trade, which, upon further inquiry appears to have been carried on chiefly by *barter*, at a very short credit, it was most natural to suppose it would go in the purchase of negroes; a trade which Lord Sheffield mentions, in another place, was carried on to the colonies upon a *British capital* to the amount of three hundred thousand pounds. No augmentation, however, will be contended for on on this ground, nor would Mr. Anstey have troubled Mr. King with any further observation on this head, but that, from the whole, an inference arises which, to his mind, perfectly justifies the propriety of an additional charge, on the score of freight and mercantile profit, which Mr. Anstey will beg leave now to consider under the third and fourth heads of augmentation.

Third and fourth head. Upon the subject of freight, Mr. King observes that the Americans "were their own freighters; and, therefore, that nothing is chargeable on this head."

Mr. Anstey agrees that this statement is perfectly correct, as far as regards the London merchants, who traded on commission; but with respect to the Glasgow merchants, it cannot be conceded that freight did not make an article of *expense*, though perhaps no article of *charge eo nomine*. It was included in the mercantile profit: the nature of the trade will explain this. It was carried on by the appointment of factors, and the establishment of partnership houses in America, the expenses of the establishments, of factors, warehouses, horses and servants, in addition to all the expenses of freight (in which are contemplated the several charges more particularly specified and enumerated under the last head) justified, and in point of fact constituted, an increase in the price of the article in the hands of the consumer, beyond the selling price in the port of Glasgow; which selling price (and not the invoice price, for that might have been calculated with a view to these charges) is all that is covered by the valuation of exports, in the general estimate submitted. Is it imaginable in trade that the Glasgow merchants, who must have shipped these articles, at their own risk and expense, to their own stores, and consigned them to their own agents, should not at least have indemnified themselves in the retail of those articles in America?

As to the amount of augmentation chargeable on this ground, on so much of the trade as was carried on between Glasgow and the provinces, nothing will be hazarded by Mr. Anstey at this time. Between the colonies and the islands Lord Sheffield states it at forty-five per cent. for the single freight: one-third of that sum might be considered a very moderate augmentation: taking the mercantile profit alone (without expenses of freight) at ten per cent. upon the export price, it would be less than has been adopted, as the proper allowance of mercantile profit, by the Board established under the seventh article of the treaty.

Upon the *fifth head* of augmentation, Mr. King and Mr. Anstey are agreed.

No. 19.

GREAT CUMBERLAND PLACE, *January* 23, 1801.

Mr. King presents his compliments to Mr. Anstey, and has the honor to send him an extract of the report which he showed him this morning of a conference with Lord Grenville on the 21st of April, 1800. This report was first submitted to Lord Grenville, in order that it might be accurate, and then sent by Mr. King to his Government, which, instead of agreeing in the proposal of paying a sum of between one and two millions in satisfaction of the whole debt due to British creditors, has authorized Mr. King to treat for the payment of a sum in lieu of that which might, under the sixth article of the treaty of amity and commerce, be awarded to be paid by the United States; leaving the creditors to their remedies against the debtors, according to the provisions of the treaty of peace; who, as the courts are now open, and the debtors in better circumstances than at the conclusion of the war, would, without doubt, be able to recover the greatest part of their just debts.

No. 20.

Extract of a letter from Mr. King to Colonel Pickering, dated London, April 22, 1800, *containing the report of a conference with Lord Grenville, respecting the payment of a gross sum in satisfaction of the whole debt due to British creditors before the American war.*

"I then asked Lord Grenville if he had formed any idea of the gross sum on the payment of which they would engage to compensate the claims of the British creditors? His lordship replied that he had not; adding, that he thought the creditors had not been wise in swelling, as they had done, their claim to four or five millions sterling: though it might have no influence upon our Government, it would be likely to have some on the people. That, on the supposition that the debt due to British creditors did not exceed two millions, they might be willing to accept a gross sum of between one and two millions."

No. 21.

GLOUCESTER PLACE, *January* 23, 1801.

Mr. Anstey having been requested to consider the four hundred thousand pounds mentioned in Mr. King's note to the right honorable Lord Grenville of the 23d November last, as the sum approaching, in his opinion, the nearest to the sum required, of any other which, upon his principle of calculation, ought to be made the subject of the convention intended between the two countries, and to consider the same as a specific offer to that amount, on the part of the United States; and Mr. Anstey being further and earnestly requested, in this stage of the discussion, to meet Mr. King's proposition, with some overture on the part of His Majesty's Government, which may bring the discussion to bear immediately, and at once, as nearly as possible, on the principal point in question; Mr. Anstey has no difficulty in declaring that the sum of four hundred thousand pounds is, in his opinion, a sum much too inconsiderable in itself, and, as it regards the object, altogether inadequate.

Looking at the treaty, and at the estimate he has formed upon Mr. King's principle of calculating upon the exports, and also at the grounds and principles of the augmentations Mr. Anstey has assigned to be necessary in order to perfect that estimate; and having also generally in view (but without any particular examination) the several heads of deduction suggested by Mr. King; Mr. Anstey (for the purpose of meeting Mr. King's wishes in shortening the discussion) proposes to rest upon the general estimate he has had the honor to present to him as the basis of the demand, and to commence the first overtures to a mutual accommodation by a waiver, on his part, of the benefit of all the augmentations to which his estimate may be fairly entitled, not even excepting the interest which, in Mr. King's note of the 23d November last, above mentioned, is conceded to the extent of doubling the debt as it stood at the close of the war, and to place to the account of Mr. King's deductions no less a sum than four millions five hundred and forty-one thousand nine hundred and fifty-two pounds, leaving a balance only of two millions of pounds to be applied to the purposes contemplated by the present negotiation.

This offer to be taken as an entire proposal, and without prejudice to any right of demand to which the subject matter of concession now is, or shall hereafter, upon a future discussion, appear to be justly entitled.

RUFUS KING, Esq. &c.

No. 22.

GREAT CUMBERLAND PLACE, *January* 29, 1801.

Mr. King has the honor to acknowledge the receipt of Mr. Anstey's note of the 21st instant, and is sorry to perceive that so wide a difference still prevails in their opinions respecting the amount of the American debt at the commencement of the American war. Although the subject is one which, in all its material circumstances, does not admit of precise or rigorous proof, there are, nevertheless, two facts having an important influence upon the point in discussion, which can be established with a degree of certainty precluding all doubt of their authenticity.

The first is the value of the annual exports, which may be satisfactorily ascertained. The second is the term of credit given by the British to the American merchants; a fact, respecting which no disagreement in opinion any longer exists.

In reference to the first point, so far as respects the value of the exports for the years 1772, 1773, and 1774, Mr. King will make but one or two remarks, in addition to those before submitted to Mr. Anstey's consideration. The average excess of the real above the official value of the exports of those years is one million five hundred and forty-nine thousand four hundred and twenty-six pounds, which does not materially vary from the difference between the official and real value of the last of those years which Mr. Anstey has taken as the basis of his calculation. Supposing, for the sake of round numbers, that the goods exported in any one of the three years above mentioned have, in the course of a century, advanced in their price one million and a half sterling, the question to be resolved is, what proportion of that advance accrued in the first seventy years, and what in the last thirty? As the goods of 1772 were ordered and prepared in 1771, which is twenty-nine years before the close of the century, (for the sake of even numbers, Mr. King has taken thirty years instead of twenty-nine) and, for the purpose of this calculation, the difference is unimportant. Upon a revision of the problem, Mr. King sees no reason to doubt the opinion before expressed, that the advance of price has been much greater in the latter than in the former term of years. Were it deemed requisite to run this branch of the discussion into a minute inquiry, recourse might be had to sources of information which, it is believed, would afford pretty satisfactory evidence in favor of Mr. King's estimate, that two parts in three of such advance have taken place within the last thirty years.

Should this appear probable, the fact would justify the addition of a third instead of a moiety of the advance which has taken place in the course of the century.

If Mr. Anstey adverts to the years when the goods were ordered and exported, he will perceive that they preceded one, two, and three years, the epoch of the breaking out of the American war; and that the error which he imputes to Mr. King, in this respect, is not precisely such as he had supposed.

But were it such, if Mr. Anstey will take the trouble to revise the computation he has made upon this subject, he will perceive that it requires correction. Upon the supposition that the advance of price, during the last thirty years, was two-fold greater than during the seventy years preceding, and that the advance in the price of the goods exported in any of the three years above mentioned has, in the course of a century, been equal to one million five hundred and seventy-six thousand seven hundred and seventy-two pounds, it follows that five hundred and twenty-five thousand five hundred and ninety pounds thereof accrued within the seventy years, and double that sum, or one million and fifty-one thousand one hundred and eighty-two pounds within the thirty years. But, if the goods were exported only twenty-five years ago, as erroneously supposed by Mr. Anstey, in order to ascertain their value when exported, the five hundred and twenty-five thousand five hundred and ninety pounds advance of the seventy years, must be increased by the advance of five additional years, or one-sixth part of the advance of the thirty years: that is to say, by one hundred and seventy-five thousand one hundred and ninety-seven pounds, or the one-sixth of one million and fifty-one thousand one hundred and eighty-two pounds; instead of which, Mr. Anstey increases it by two hundred and sixty-two thousand seven hundred and ninety-five pounds, or one-sixth of the advance of the whole century. This double error, first, in withdrawing the five years, and, secondly, in overrating their proportionate value, necessarily disturbs the accuracy of Mr. Anstey's conclusion upon this point.

If it shall be thought equitable to increase the official value of the exports by the addition of a third instead of a moiety of the difference between it and the real value, to complete the estimate, in order that it may be received as the standard of the debt annually contracted, the various heads of deduction and augmentation must be settled.

Mr. Anstey has manifestly misapprehended the whole scope of Mr. King's observations in respect to the goods annually purchased with cash by the American merchants, and on account of which he claimed a correspondent deduction from the amount of the annual exports.

Mr. Anstey supposes that all the American merchants took the side of Great Britain; and, upon that hypothesis, demands an augmentation of the amount of exports under the head of mercantile profit, instead of assenting to the deduction claimed by Mr. King. By American merchants it was by no means intended to comprehend merchants who resided in Great Britain, and traded to America, or the partners, factors, or servants of such merchants, but the native and permanently resident merchants of the country, whose estates and home were in the commercial cities of the United States, and who took the side of America so universally, that the exceptions, which were really few and unimportant, cannot materially affect the fair allowance to be made under this head.

The character and claims of British commercial houses, whose partners and agents resided in America, and who as universally adhered to the side of Great Britain, as the real American merchants did to that of their country, will come to be considered hereafter.

Mr. King is ready to avow that the amount of these cash purchases, or the proportion which they bore to that of the whole annual exports, is a point of great uncertainty, and he cannot, therefore, be at all confident that the proportion did not considerably exceed that which he has specified. A given sum must be allowed; and he continues to believe that the proportion which has been mentioned is a moderate one.

Pursuing the subject of deductions and augmentations, it will simplify the discussion to go on with the consideration of the claims of augmentation in the order proposed by Mr. Anstey, instead of stopping to examine the grounds upon which he assumes the value of two entire years' exports as the standard of the debt at the breaking out of the war. This examination will follow, in course, after that of the several heads of augmentation.

Augmentations claimed by Mr. Anstey.

First head. Mr. King altogether approves the separation, for the purpose of this discussion, of "the commercial claims" from the claims of the loyalists. By adhering to this distinction, the remarks on both sides will be more easily understood.

No person is better acquainted with the character and circumstances of the American loyalists than Mr. Anstey; no one has had fuller means of estimating the real merits of their various pretensions: and, extravagant as the sum is which is stated in Mr. Anstey's last note to have been claimed by the loyalists on account of debts due to them in America, Mr. Anstey's experience in analogous cases must suggest to him the immense deduction to which this claim also is liable. The best founded and most meritorious claim of the loyalists was for the loss of real estates. Mr. Anstey is well acquainted how extensively these estates were found to be incumbered: a circumstance inconsistent with the pretension that these persons were creditors to any considerable amount, since those who have money due to them collect it, instead of becoming themselves debtors by borrowing. The loyalists were, in general, persons holding and expecting, or intimately connected with, and influenced by those who held and expected, offices under the crown, and were not generally persons of much property. The liquidation of their claims exhibited to the British Government appears to have had a salutary influence in moderating their recent demands on account of American debts: for, instead of a sum exceeding two millions sterling, which Mr. Anstey states to have been the former claim presented to the British Government, their whole claim lately exhibited at Philadelphia does not much exceed one-sixth part of that sum; and if it be divided into two classes, the first including the claims strictly commercial, and, as such, falling under the third and fourth heads of augmentation; and the second the claims of persons not concerned in trade; it will be found that the amount of the latter claim bears but a very small proportion to the former, and, when liquidated according to its merits, would not form a serious obstacle, on either side, to a satisfactory conclusion of the business under consideration.

Second head. As nothing is claimed under this head, it is unnecessary to add any further observations respecting the course of the trade to which it relates.

Third and fourth heads. These two heads reduce themselves to the consideration of the allowance which may be claimed on account of that portion of the trade to America which was carried on within the country by partners and agents of British houses. In the general views which serve as grounds of estimate and computation in the course of this discussion, Mr. King has thought it advisable to omit every unimportant branch into which the subject might divide itself; and, from this consideration, the item now under examination was passed over.

So far as the trade was carried on by partners and agents of British houses, who went to America for this purpose, something may be allowed on the score of mercantile profit. This course prevailed, in a greater or less extent, in the trade between Scotland, Maryland, Virginia, South Carolina, and Georgia; but what proportion of the whole trade between these colonies and Great Britain was of this description, and how much of it was upon the footing of the trade with the other colonies, is a point upon which Mr. King confesses his want of exact information. If Mr. Anstey have any means by which he is able to ascertain this proportion, and the point shall be thought of sufficient importance, in reference to the nature and object of this discussion, to merit a further examination, Mr. King will give to Mr. Anstey's observations all the consideration which their merits may appear to demand. He cannot, however, avoid remarking to Mr. Anstey, that no inference, with regard to the freight upon a cargo of English manufactures, can be deduced from the *ad valorem* freight received upon a cargo of provisions and lumber carried from America to the West Indies: the former are valuable articles comprised within a small compass; the latter are cheap ones, and of great bulk. Forty, or even fifty per cent., upon the first cost of the latter might not be equal to one and a half or two per cent. upon the value of the former.

According to the import of the foregoing observations, the official value of the exports should be increased by one-third of the difference between it and the convoy value, in order to ascertain the true value of the exports in any of the three years preceding the American war. If the value of the annual exports be assumed as the standard of the debt annually contracted, the estimate, as has before been observed, will require further correction: it must, for this purpose, be diminished a sum equal to the amount of the goods purchased by the American merchants for cash, and increased a sum equal to a fair profit upon such proportion of the goods as were carried to America at the risk, and sold there on the account, of the British merchants. Provided the question turned upon the exports of a single year, an estimate corrected according to the foregoing rules would, with a suitable addition on account of the loyalists' claims, furnish the standard which is sought for; or, in other words, would disclose the amount of the American debt at the commencement of the year 1775.

In Mr. King's note of the 23d of November, the chief reasons are explained upon which he founds the opinion that the debt due to British creditors, at the breaking out of the American war, did not exceed the value of one year's export. These reasons are concisely as follows: the credit given was for the term of one year, and never exceeded it. So far as respects the southern colonies, the annual crops were the fund looked to for re-imbursement, and these were effectually secured to the creditors by the operation of the navigation act. It is not pretended that the payments were, in every instance, made within the limits of the credit. From various causes, individuals might occasionally fail in punctuality; their numbers might be greater in some quarters than in others; and their failures more considerable at one time than at another: and hence a fluctuating arrearage of debt, concerning whose amount opinions might vary, may be supposed to have generally existed. This arrearage Mr. King disposed of against the proportion of the annual exports purchased by the American merchants with cash. The position relied upon is, that in such a trade annual credits supposed annual payments, subject only to such particular exceptions as the condition and circumstances of the creditors made unavoidable.

Without contesting the facts, from which the foregoing deduction is drawn, Mr. Anstey meets it by the observation, that, though it was universally the custom of the British merchant, in no instance, to allow of more than one year's credit, it was nevertheless the practice of the American trade *to take it* for three years, and, in some instances, even for a much longer term: and from hence he concludes, that the debt, at the breaking out of the war, must have been equal to upwards of six millions sterling, or the joint amount of two entire years' exports.

The importance and influence of this conclusion, in reference to the end aimed at in this discussion, certainly requires the disclosure of such evidence in its support, as would dispose an impartial mind to acquiesce in its justness: the inference, it will be remarked, applies to the whole body of traders, and not to a part of them. If individuals, and even a considerable number of them, from whatever causes it might happen, failed in punctual remittances, this circumstance would not warrant a general conclusion applying such failure to the whole body of debtors. Neither can such conclusion be deduced from the custom of bringing forward and annually incorporating the arrearage, in particular cases, of the debt of a former year, with the new debt annually contracted. In further support of this conclusion, Mr. Anstey supposes that the natural consequence of hostilities was an immediate refusal on one side of new credits, and on the other of further payments on account of old debts. Though the breaking out of the war could not have any effect upon past transactions, and afford no assistance in determining the question whether the debt then, or at any former time, equalled, exceeded, or fell short of the amount of one or two years' exports, it nevertheless produced and was followed by a most important alteration of the debt, whatever may have been its amount, which existed at that period; for the commencement of hostilities, which operated almost entirely to put an end to fresh credits, inspired the creditors and their agents with uncommon activity in collecting and securing their outstanding debts. Hostilities began in April, 1775; but the commercial intercourse between the two countries was not suspended before December following, when the act of Parliament for that purpose was passed, and the political union was not dissolved until the succeeding year. It was for the purpose of elucidating the transactions of this period that Mr. King requested Mr. Anstey to furnish him, from the office of the Inspector General, with an account of the imports from the colonies forming the United States for ten years preceding the fifth of January, 1776. By this account, it appears that the official value of the imports from the said colonies, in the year 1775, amounted to two millions four hundred and fifty-seven thousand pounds, and exceeded, by more than half a million sterling, the imports of any former year; while the official value of the exports of that year from Great Britain to the same colonies was only two hundred and fourteen thousand pounds, or about a tenth part of the usual amount. Not only the quantity of the staple articles of indigo, rice, and tobacco was greater than in former years, but the quantity of miscellaneous articles, ordinarily of comparatively small amount, was in this year double what it had been in any former year: a circumstance not otherwise worthy of notice than as it shows the diligence and success of the creditors during the year 1775 in the collection of their debts. If, to the remittances which were made in the productions of the southern colonies, be joined those which the same causes, without doubt, extracted from the northern colonies, through the channels in which their payments were usually made, it may be safely concluded that the payments of the year 1775, in which little or no new debt was contracted, not only exceeded those of any former year, but went far towards liquidating the debt due to British creditors. This fact, at the same time so important and so well established, and which has been excluded from all consideration in the forming of Mr Anstey's estimate of the debt, will, without doubt, be allowed its full and proper influence in a revision of the subject.

Although the preceding analysis might suffice to justify Mr. King's dissent from Mr. Anstey's estimate, as well as to support his own, he is solicitous to place the subject in such other points of view as appear to him likely to satisfy Mr. Anstey that he has not demanded his assent to an opinion incapable of defence, or founded upon a partial consideration of the subject. It is on this account that he has thought it advisable to endeavor to render the discussion more simple, by stripping it of every unimportant circumstance, and confining it to as narrow a field as possible. The Inspector General's accounts of exports and imports for ten years preceding the year 1776, together with the claims of the British creditors, as lately exhibited at Philadelphia, enable him to effect this purpose. The total amount of these claims, including interest, from the date of the several debts up to the first day of January, 1798, is somewhat above four millions sterling; of which sum * two hundred and eighteen thousand only are claimed of the inhabitants of the States north of Maryland: the residue, three millions eight hundred thousand pounds, are claimed of the inhabitants of Maryland, Virginia, North Carolina, South Carolina, and Georgia. The proportion of the former is so inconsiderable that, for the purpose of this illustration, it may proceed upon the idea that the whole four millions is claimed of the inhabitants of the five southern States. Adhering to the basis upon which the negotiation commenced, that of seeking for the amount of the debt, by ascertaining the value of the exports, the comparison of the exports and imports to and from the five southern States, for the three years preceding the suspension of their commercial intercourse with Great Britain, cannot fail to cast new light upon the question under consideration.

* Of this sum nearly £200,000 are claimed by loyalists, leaving a commercial claim of only £20,000.

It may be proper to remark that these are the States which produce the staple articles of American exports, and it is in this quarter of which it may be emphatically said, that the annual credits were given in the expectation of payment in the annual crops, which, (with the exception of a portion of the rice sold for the benefit, and usually on account of the British creditors in the south of Europe,) according to the provisions of the navigation law, were sent to Great Britain, and received by the creditors, who alone were the correspondents of the American merchants and planters.

The Inspector General's accounts are as follows:

Extract of the Inspector General's account of the exports from Great Britain to Maryland, Virginia, North Carolina, South Carolina, and Georgia, and of the imports from the same into Great Britain in the following years, viz:

Exports from Great Britain to Maryland, Virginia, North Carolina, South Carolina, and Georgia.			Imports into Great Britain from Maryland, Virginia, North Carolina, South Carolina, and Georgia.		
Year.	Official value established in 1697.	Real value in 1800.	Year.	Official value established in 1697.	Real value in 1800.
1773,	1,037,691	1,559,997	1773,	1,639,905	1,843,781
1774,	1,161,556	1,820,469	1774,	1,570,029	1,816,372
1775,	126,963	205,721	1775,	1,955,947	2,233,873
	£2,326,210	£3,586,187		£5,165,881	£5,894,026

These accounts, so far as regards the real value of the small and miscellaneous articles of imports, are deficient; the Inspector General not having the means of correcting their official value, which is here taken in lieu of the real value. The difference is altogether unimportant, and, whatever it may be, operates against the imports in the above comparison.

If the official value of the exports and imports be corrected by a common rule, and, in order to ascertain their true value in the years referred to, the official value be increased by the addition of one-third of the excess of the real above the official value, the result appears to be, that the aggregate value of the exports from Great Britain to Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the years 1773, 1774, and 1775, amounted to two millions seven hundred and fifty-nine thousand five hundred and thirty-six pounds, and the aggregate value of the imports from the same into Great Britain, during the same years, to five millions four hundred and eight thousand five hundred and ninety-six pounds; yielding a balance, in favor of these five colonies, of two millions, six hundred and forty-nine thousand and sixty pounds.

Deducting from this balance a full allowance on account of freight, which may have been earned by the ships of the northern colonies, as well as a further sum upon the supposition that a portion of the productions may have been purchased and imported on account of the ship owners, still there will remain a balance in favor of these five colonies, so considerable, and that too at the moment when the commercial intercourse between them and Great Britain ceased, as to produce much hesitation in the admission of the proffered claim of the British creditors; a claim which, in this view of the trade, seems more likely to be the drossy mass of old and hopeless balances, accumulated in the course of a diffusive retail trade, and swelled by the addition of interest through a series of years, than the sound aggregate of undisputed debts due from solvent debtors.

If it be recollected that the claim of the British creditors is essentially confined to the inhabitants of the five southern States, those of the other States having settled their debts, the above comparison of the exports and imports must not only affect the credit of the estimate which carries the debt due at the breaking out of the war to a sum equal to two years' exports, or upwards of six millions sterling; but will, moreover, inspire a rational doubt whether the value of a single year's exports did not exceed the amount of the debt at that period.

Recurring to the mode before proposed of ascertaining the debt from the amount of one year's exports, to the whole of the colonies composing the United States, and adopting for this purpose the Inspector General's accounts, it appears that,

The average real value of the whole exports of 1773 and 1774, according to the valuation of 1800, is	3,963,415
Their average official value, according to the valuation of 1697, - - - - - -	2,578,536
The excess of the former above the latter, - - - - - - - - -	£1,384,879

By adding one-third of this excess to the average official value of the exports of those years, (the reasons in support of which proportion have been given,) the result discloses the average value of the exports to the whole of the colonies forming the United States, in each of those years, thus:

Average official value, as above, - - - - - - - - - -	2,578,536
One-third of the difference between the real and official value, - - - - -	461,626
Result, or average value of the exports of the years 1773 and 1774, - - - - -	£3,040,162

If the different heads of deduction and augmentation, which have been suggested with the view of correcting the estimate of the annual exports, be each allowed its proper influence, or, what will be nearly the same, entirely laid out of the question, this sum of three millions and forty thousand one hundred and sixty-two pounds, will, according to the principle which has been adopted, represent the amount of the debt when the war broke off the annual intercourse between the two countries.

As the greater part of the year 1775, during which little or no new credits were given, was employed, with great success, in liquidating and collecting the debts before contracted it may safely be concluded that a considerable portion of the debt which could neither be collected nor secured, was due from persons insolvent at the commencement of the war; and, if to this portion be added the debts of those who became insolvent in the course of the war, whoever is acquainted with the nature and circumstances of the trade, the waste and destruction of the war, or the proportion of the debt recovered by the creditors at the return of peace; and that, too, in scenes where the whole property of the debtor was given up to the creditor, will be disposed to agree that not more than one-half the sum due at the beginning of the war could have been recovered by a complete cession of the debtor's goods at its conclusion.

The debts recovered since the war have been considerable throughout the United States, though the proportion has been much greater in some of them than in others; in those where the creditors have had the least success, they have not labored in vain. In the States to the northward of Maryland, which received nearly three-fifths of the exports to the whole of the States, the debts have been so generally settled, that only a few small and disputed commercial claims remain. An inference has been drawn from those facts, that at least one-half of the debt due from persons solvent at the close of the war has been paid. By these deductions, the principal would be reduced to seven hundred and sixty thousand and forty pounds; and, if this sum be doubled on account of interest, the debt

now due, will amount to one million five hundred and twenty thousand and eighty pounds, instead of one million five hundred and fifty-five thousand seven hundred and forty-nine; at which Mr. King, in his note of the 23d of November, had estimated it.

The United States being liable to pay only such proportion of the outstanding debt as, had there been no legal impediments, might have been recovered of the debtors, at the close of the war, and which cannot now be recovered, it remains to ascertain this proportion.

Mr. King stated it at a third, founding his opinion that at least two-thirds might still be recovered of the debtors, upon the incontestable facts that the courts of justice are now completely open, and the ability of the debtors to pay their debts in general greater than it was at the close of the war. Much detail might be given in proof of the latter point; the whole of which is, however, comprised in the simple comparison of the condition of the industrious inhabitants of any country, which had been the theatre of a seven years' war, at the conclusion of such war, with their condition after the enjoyment of double that number of years of peace.

In respect to the tribunals, it is alleged that the State courts are not as impartial as the federal courts; that the prejudices ascribed to the juries are under less control in the former than in the latter; and as the federal courts have no jurisdiction under five hundred dollars, or one hundred and twelve pounds ten shillings sterling, that a considerable portion of the claims cannot receive a decision in the most impartial tribunals.

Without entering into an examination of these opinions, in respect to the relative impartiality of the American tribunals, it should be recollected that the State tribunals, and their rules of proceeding, are the same now as they were when the credits were given. In the colonial system, the provincial courts had original jurisdiction in all cases, and final jurisdiction in cases under three hundred pounds sterling; in causes above that amount only an appeal might be prosecuted before the King in council, a tribunal having no original jurisdiction. Instead of this remedy, the federal courts have a revisionary jurisdiction in every case, without reference to its amount, in which the demand is affected by a national treaty, or a law of the United States, and original jurisdiction in all cases under five hundred dollars, or one hundred and twelve pounds ten shillings sterling. As the claims of all British creditors fall within these predicaments, the objection to the State courts, were it well founded, is done away by the recourse which may be had to the courts of the United States.

To conclude; the following results may be derived from the foregoing observations:

The debt due to British creditors, at the breaking out of the war, was - - -	£3,040,160
Losses, on account of insolvencies, before and during that war, - - - -	1,520,080
Leaving a debt, at the return of peace, of - - - - - - -	1,520,080
Of which have been since received by the creditors, - - - - - -	760,040
Leaving a balance of principal now due, of - - - - - - -	760,040
Which, having doubled itself by the addition, on account of interest, - - - -	760,040
Makes the debt now due, - - - - - - - - -	1,520,080
Two-thirds of which being recoverable of the debtors, - - - - - -	1,013,386
Leaves the remaining third to be paid by the United States in commutation of the sixth article of the treaty of amity and commerce, - - - - - - -	£506,694

No. 23.

GREAT CUMBERLAND PLACE, *January* 30, 1801.

Mr. King has the honor to acknowledge the receipt of Mr. Anstey's note of the 23d instant; and it is with equal regret and disappointment that he perceives that the sum which Mr. Anstey has mentioned as, in his opinion, proper to be required of the American Government, in lieu of what it might be liable to pay under the sixth article of the treaty of amity and commerce, so much exceeds what, upon any view which Mr. King has taken of the subject, can be thought a just equivalent for the relinquishment of that article, and is so far above the demand which he had any reason to believe would have been made, even for the relinquishment of the entire claim of the British creditors, that he will not conceal from Mr. Anstey his concern lest the estimates and opinions, which he seems to have formed, should ultimately disappoint an agreement, which the true interest of all parties so manifestly requires.

Mr. King having, in his note of yesterday, explained himself very fully in respect to the merits and amount of the debt, as well as with regard to the sum which, in his opinion, would be a full equivalent to what, upon a just interpretation of the sixth article of the treaty of amity and commerce, might be awarded against the American Government, will not, at present, trouble Mr. Anstey with any further observations upon either of these subjects.

No. 24.

GLOUCESTER PLACE, PORTMAN SQUARE, *January* 31, 1801.

Mr. Anstey has the honor to acknowledge the receipt of Mr. King's communication of the 29th, in answer to his of the 17th and 21st instant.

Mr. Anstey begs leave to request that Mr. King will have the goodness to inform him whether he is to understand that his answer comprehends a statement of all the grounds upon which the deductions proposed by him, in his note of the 23d of November last, rest for their support?

And whether Mr. King has any particular data, by which he can calculate upon the deduction of a moiety from the amount of the American debt on the score of insolvency during the war, in preference to any other given proportion? And also, whether Mr. King has any certain data to justify the deduction of a moiety of the remaining moiety, on the score of actual recovery since the peace?

And, in particular, whether he can adduce any specific facts of a recent date, to demonstrate the existence of new facilities afforded to British creditors in the recovery of their debts in the different States, which shall have removed the grounds and causes of complaint alleged in the sixth article of the treaty of amity, so as to justify a further deduction from the amount of the debt, in the proportion of two-thirds of what remains upon the balance of the other deductions, in consideration of the certain prospect of a speedy and eventual recovery to that extent.

Mr. Anstey has the honor of Mr. King's answer to his proposal of the 23d instant, and acknowledges the receipt of the minutes of the conference of the same date: he will be obliged to Mr. King for a sight of the three documents certified from the office of the Inspector General.

No. 25.

GREAT CUMBERLAND PLACE, *February* 2, 1801.

Mr. King presents his compliments to Mr. Anstey, and has the honor to acknowledge the receipt of his note of the 31st ultimo.

The reasons assigned in Mr. King's note of the 29th ultimo, in justification of the proposed deductions from the estimated amount of the debt due to British creditors at the beginning of the American war, might have been given in greater detail than Mr. King judged it necessary to go into; inasmuch as it was presumed that such details would naturally suggest themselves upon the consideration of the general reasons which were given, and which, it was expected, would be understood, not only to comprise, but to supersede the enumeration of, a variety of particular ones.

Mr. King's note includes the objections to which Mr. Anstey's estimate appeared to him liable, together with such further arguments in support of an estimate derived from the materials received from the Inspector General's office, as he was in hopes would engage Mr. Anstey's approbation. In this stage of the discussion, it is quite in

course that Mr. King should wait for Mr. Anstey's reply to his note of the 29th ultimo, instead of repeating the answers which he flatters himself will be satisfactorily found in that note to the interrogatories which Mr. Anstey has deemed it suitable to propound in his note of the 31st. Mr. King, therefore, does not think it necessary, at present, to trouble Mr. Anstey with any further observations upon the several points discussed in his note to Mr. Anstey of the 29th ultimo.

Mr. King has the honor to send, enclosed, the accounts received from the office of the Inspector General, which Mr. Anstey is desirous of seeing.

No. 26.

GLOUCESTER PLACE, *March* 18, 1801.

Mr. J. Anstey presents his compliments to Mr. King; has the honor to acquaint him that he has seen Lord Hawkesbury (for the first time) this morning, and takes the first opportunity of troubling him with the enclosed answer to his note of the 29th January. The answer is dated the 14th February, the day on which it was intended to have presented Mr. King with it; but owing to the chances or changes, which have since happened, Mr. Anstey did not think himself authorized to present it till he had seen His Majesty's principal Secretary of State for Foreign Affairs.

No. 27. (8.)

GLOUCESTER PLACE, PORTMAN SQUARE, *February* 14, 1814.

Mr. Anstey, in presenting a reply to the paper he last had the honor to receive from Mr. King, must be permitted to add one observation with reference to Mr. King's note, declining his proposal of the 23d ultimo.

Mr. Anstey, by that proposal, accompanied by all the allowances and concessions with which it was submitted, was in hopes to have marked the character of the present negotiation with peculiar candor and liberality on the part of His Majesty's Government: he still flatters himself the discussion may lead to some practicable result; but, in any event, he feels it incumbent upon him to answer what has been objected to, so far at least as to prevent misapprehension, and to show still further, by the following remarks, that the estimate and opinions he has formed have not been inconsiderately surmised, and are not deficient in that sort of proof which must be mutually regarded as fully adequate to their support.

In order to reduce the estimate of the value of British exports in the year 1774, below a moiety of the excess between the convoy price of the same articles at this day, and the standard valuation established in the year 1697, Mr. King supposes two-thirds of the increase, in the price of the whole century, to have accrued in the last thirty years; but it appearing to Mr. Anstey an incorrectness in the mode of stating the argument, to draw an inference from the supposed circumstance of the price of British exports being *greater* for the last *thirty* years, (in the proportion contended for,) in order to found a conclusion that, in the year 1774, being a part of those thirty years, the price of the same articles was in reality less. Mr. Anstey, in order to give effect to Mr. King's hypothesis, proposed to withdraw the *first five years* (forming a part of the thirty, ending with the year 1775,) into the opposite scale, which will justify the addition of a considerable increase in the estimate of the price, above the *third* part of the excess, as proposed to be adopted by Mr. King; and therefrom, by way of argument, Mr. Anstey stated a process of calculation, which forms a coincidence of result in numbers favorable, as he conceives, to the establishment of the *moiety;* to which Mr. King imputes an error of a nature somewhat similar to that which he has taken the liberty of imputing to Mr. King's statement; the correction of it, as suggested by Mr. King, will of course disturb the argument drawn from such a coincidence of result in numbers, but will not affect the accuracy of the general conclusion on this head. It shows, indeed, that the argument in question cannot be *mathematically proved;* but it is submitted that enough is shown, upon the corrected statement, to prove that, even admitting Mr. King's conjecture to be *fact*, and stating the hypothesis in the only way in which it can be framed, in order to bear on the point, it will uphold the addition of a considerable increase to the *third proportion*, so as abundantly to justify the general conclusions in favor of the *moiety*. But, divested of numerical problems, what is the true state of the argument? It stands thus: for the third proportion assumed by Mr. King, in preference to the moiety, no *fact*, but a conjecture, is adopted, that the advance in the price of the articles for the last thirty years is in the proportion of two-thirds more than in the seventy years preceding. It will be seen that the same might as well have been said of twenty or twenty-five years, or any other conjectural term of years. In support of this conjecture, the following reasons are assigned by Mr. King, which, with submission, if conceded, will have no weight in a comparison, as between a moiety and a third.

1st. "The extraordinary depreciation in the value of money, owing to the increase of specie or its representative."

2d. "The increased demand for British manufactures, arising from the derangement, during the present war, of the manufactures on the continent."

The first reason was anticipated by Mr. Anstey, as a ground for conceding *the moiety;* and, according to the weight and credit due to the fact, may be argued so as to coincide with any given proportion; but, independent of the fact, which is out of sight, can decide nothing upon a comparison between a third proportion and a moiety.

Neither will the second reason have much weight: for if the unexpected demand for articles of British manufacture, arising from a derangement of the manufactures on the continent, during the present war of eight years, would enhance the price, it must be allowed that the glut of the same articles in the market during the war in America, for the like period of eight years, would lessen the value of the same articles in the like proportion: from whence it will follow, as of course, that the supposed increase of price could not attach till the return of peace, in the year 1783, and that Mr. King's hypothesis in favor of the third *proportion* is confined to seventeen years; or, in effect, to this simple proposition, that the increase of the price of articles of British export has been greater within the last seventeen years than the accumulated increase of the *eighty-three years preceding*.

For the *moiety*, as proposed by Mr. Anstey, the argument stands thus: upon the fair and liberal principle of an equal division of the excess, in a case of much uncertainty, a *fact* (not an hypothesis) is stated, "that it is not universally true that all articles of British export are, without exception, *dearer* than they were in the year 1773 or 1774; but, on the contrary, *some are "cheaper."* Those of cotton manufacture have been specified, some of which are dearer, it is true, but in the proportion of twenty-five per cent. or one-fourth instead of above sixty-six pounds, six-shillings and eight pence, or two thirds, as supposed. And some articles of wrought cotton, so far from being dearer at this time, are actually in a very considerable degree cheaper than they were before the American war.

Mr. King states that Mr. Anstey has manifestly misapprehended the whole scope of his observations in respect to the goods, annually purchased with cash by the American merchants; and adds, "that Mr. Anstey supposes all the American merchants took the side of Great Britain." Mr. Anstey requests the favor of Mr. King to recur to his observations upon this head: he is confident that, upon a revision of the passage alluded to, Mr. King, with his usual candor, will allow that Mr. Anstey has by no means misapprehended his meaning. Mr. Anstey's observations will be found distinctly applicable to the ready money purchasers, and not to the native American merchants in general; and that he does by no means suppose all the American merchants took the side of Great Britain. On the contrary, Mr. Anstey expressly, by way of answer to Mr. King's claim of deduction, on account of cash payments, says, "If the ready money payments, by this distinct class of traders, amounted to one-fifth, (as Mr. King assumes,) that circumstance of itself, (for the reasons there assigned,) instead of a deduction will justify an augmentation of the estimate in respect of the freight, insurance, and mercantile profit upon a fifth part of the exports," viz. the fifth part supposed to have been purchased by the dealers for cash.

Mr. King allows that some of the American merchants did take the side of Great Britain. Mr. Anstey supposes only that they were most likely to be of that class who were creditors to their countrymen, rather than debtors to Great Britain.

Upon this head, the argument stands thus: Mr. King claims a deduction of the debt, equal to one-fifth of the exports, in respect of *ready money* payments for British exports by American merchants, and contends, "that *all the American merchants were their own freighters.*" If so, and these merchants become loyalists, (as it has been shown

it was their interest to be,) Mr. Anstey contends, (as stated in his paper No. 4,) that they became creditors on the side of Great Britain, upon a ground. as he expresses it, "distinct from that of the London merchants; for their debtors were indebted to them, not only the whole of the invoice price of the articles, but what will constitute a considerable debt of itself, a great addition of mercantile profit; in which, of course, would be included the expense of freight and insurance, &c;" and this inference must be conceded by Mr. King, if the fact be true, and it is in part acknowledged by Mr. King, for he says, "the native merchants who took the side of Great Britain *were really few and* unimportant." No augmentation, however, will be contended for on this ground; but no deduction Mr. Anstey conceives, *equal to one-fifth of the exports*, can in reason be allowed in consideration of *ready money purchasers.*

Upon the several heads of augmentation, Mr. Anstey has little to remark in addition to his former observations.

Upon the first head, respecting the loyalists *who were not traders*, and their debt as it stood at the commencement of the war, Mr. Anstey has assigned their original claim at two millions three hundred and fifty-four thousand one hundred and thirty-five pounds twelve shillings and four pence, which, by analogy to the liquidation of their claims on the score of confiscated property, he estimates at one-third of the claim at the breaking out of the war. Mr. Anstey conceives that it would be difficult to find more certain data to go upon, or a more candid statement. The analogy relied on is liable to less exception, because the claims for property, to which the claim for debt was attached, were liquidated by the commissioners, under the acts for granting compensation to the loyalists, with reference to the pretensions of the claimants on the score of loyalty and attachment to His Majesty's Government: whereas, the fourth article of the treaty of peace guaranties the payment of debts, without requiring of the claimants to entitle themselves as loyalists in the sense of the acts of Parliament, upon the sound construction of which many claims for supposed losses of property were shipwrecked, upon various accounts. To take the debts, therefore, attached to these claims for property at a third, for the purpose of perfecting the estimate of the American debt, seems a very moderate computation, when considered subject, as the whole is, to the principles of deductions proposed by Mr. King. The amount of the loyalist debt claimed before the commissioners at Philadelphia, *sixteen years* afterwards, being, as Mr. King states, but a sixth part of that sum, does not affect the calculation of the debt as it stood at the commencement of the war; and, as it remains to be considered, subject to the deductions above alluded to, one-third will be seven hundred and eighty-four thousand seven hundred and thirty-one pounds. Admitting, therefore, Mr. King's deductions on the score of supposed insolvency during the war, as also on the score of actual recovery since the peace, to operate on the scale he contends for, and the balance doubled on the score of interest, as conceded by him, the amount will then be three hundred and ninety-two thousand three hundred and sixty-five pounds. Mr. King states the sum now claimed by the loyalists at two hundred and twenty thousand pounds. Their debt, therefore, at the commencement of the war, in order to be calculated with reference to the above deductions, shall be taken only at five hundred thousand pounds.

With respect to the *third* head of augmentation on the score of *freight* and *insurance*, *mercantile profit*, &c., Mr. King observes, "that in the general views which serve as grounds of estimate and computation in the course of this discussion, he thought it advisable to omit *every unimportant branch* into which the subject might divide itself;" and, from this consideration, the items now under examination were passed over.

Mr. King, in the first paper Mr. Anstey had the honor to receive from him, resisted the idea of the possibility of any thing being due and chargeable on the score of freight, sea risk, mercantile profit, &c., and assigned his reasons.

Mr. Anstey has replied to those reasons; and Mr. King very candidly allows that, so far as the trade was carried on by partners and agents for British houses, something may be allowed on the score of *mercantile profit*. It remains for Mr. Anstey to prove that the allowance is not unimportant to be demanded, and to show, as nearly as he can, what it really is. Mr. Anstey has made an extensive inquiry upon the subject, and has authority to state, that at least one-third, and more probably a greater proportion, of the debt claimed as due in the year 1791, had been contracted in a course of trade, distinct from the London trade, on commission, and which, being carried on at the risk and expense of the British merchant, justified an augmentation in the price of the articles exported in the proportions *ad valorem*, as follows:

Freight, *ad valorem*, - - - - - - -	£2 10*s.*
Shipping charges, including porterage, wharfage, and lighterage, - - -	1
Insurance, varying from £2 2*s.* to £2 10*s.*, in winter, say - - -	2 2
Mercantile profit, the difference between currency* and sterling, two-fifths, or -	40 per cent.

Making, upon the whole, above 45 per cent. addition to the prices of the articles exported in this branch of the trade.†

Mr. King observes that Mr. Anstey has not contested the facts from which he has drawn the following deduction, namely, "that the annual credits suppose annual payments, subject only to such particular exceptions as the condition and circumstances of the creditors made unavoidable;" but meets it by the *observation that, though it was the custom* of the British merchants, in no instance, to allow of more than one year's credit, it was, nevertheless, the practice of the American trader to take it for *three* years, and, *in many instances*, for a much longer term. Mr. King will pardon Mr. Anstey for observing that he is at a loss to discover any *fact* to be contested on this ground. Mr. King's supposition as to the probability of the annual payments and credits being co-extensive, (with an exception only of some unavoidable instances,) is indeed *opposed by a fact* bearing directly on the point, viz: "that it was the custom" (as Mr. Anstey asserts,) "with the London merchants," (a custom which he since understands to have extended to the whole trade, without exception,) "to strike balances on their accounts once in every year, and to carry them forward, in account current, to the succeeding year, from the date of those balances, with interest." And, with respect to Mr. Anstey's assertion, that it was the practice of the American trader to take credit for three years, and, in some instances, for a much longer term, he has only to request to be correctly understood, as by no means speaking of a fact applicable to the whole body of American merchants. It will be seen, by a revision of the paper alluded to, that he does not state an abstract proposition in *general* terms, but with reference to what he had before, in the sentence immediately preceding, admitted, with respect to the term of credit usually given, viz: "that, although it did not exceed one year, it was taken" not unfrequently, (which words have been accidentally omitted,) "for three years, and, in some instances, for a much longer term:" the whole passage must be viewed as expectant on what follows and precedes it, and the object to which it is pointed, viz: *a credit equal to the value of two years' exports;* the first year of which Mr. Anstey has assumed to be made up partly of the unsatisfied credits of that year, and partly of the arrearages of former years; to the establishment of which fact the whole of the argument is confined: for it should be remembered that, in a former paper, Mr. Anstey has explicitly stated that, had he conceived the custom of the trade to have allowed of three years' credit in the terms of the invoice, he should have thought it incumbent on him to have taken ground upon that fact in the estimate.

It is not, however, material for him to prove that the plain context of the whole passage, *as it stands*, will bear out his meaning thus *explained;* as Mr. King, in conversation, since he had the honor of presenting this note, has very candidly admitted that the several sentences, collectively taken, and considered as dependent upon each other, justify the construction insisted on; and that, accordingly, all his objections to the *universality of the position* are thereby effectually obviated.

Mr. Anstey, in thus stating the facts on which he relies, can very safely declare that he is considerably within the scope of the information he has derived upon this point.

Mr. Anstey understands the sum of Mr. King's objections to his position "that the war, by breaking in upon the credits, fixed the debt and suspended the payments from that period," to be confined to a distinction as to the

*Dollars valued at 4*s.* 6*d.*, sterling; currency, 7*s.* 6*d.*

† Mr Anstey understands the practice of merchants using this branch of the trade to have been to charge in this proportion, and with reference to this distinction, in *their retail* dealings. This proportion, however, is not insisted on as an augmentation to this estimate of the American debt, but is stated in this place to show that the mercantile profit did not form an immaterial and unimportant part of the debt.

time when the war may be said to have commenced: that, although hostilities began in April, 1775, the commercial intercourse was not suspended till the December following; and, therefore, Mr. King takes a new view of the subject, and the tenor of his reasoning is to show that Mr. Anstey's estimate should have been formed with reference to the exports and imports of the first year of the war, and not to the *exports only* of the years preceding the *commencement of hostilities.* Upon which, Mr. Anstey has only to observe, that he assumed the date of the custom-house year, ending the 5th of January, 1775, in order to apply (in the only way in which it could be applied) the principle of calculation upon the *exports only*, for a given number of years *prior to the war*—a principle proposed by Mr. King, and adopted by Mr. Anstey, in conformity to his proposal, in order to which it was necessary to date the calculation from some point of time. That period presented itself as most eligible which stood clearest of the war, and, at the same time, the nearest to it: the non-importation agreements had passed in 1774, and had the effect of law in the colonies early in the year 1775, and, being rigidly exacted, must have had an influence on the exports of the following spring. A middle time, therefore, namely, the time of making up the annual accounts of the customs, on the 5th of January, 1775, offered itself, with peculiar propriety, with a view to the estimate of the exports for a given number of *years prior to the war:* for the effect of the war on the *export trade* was complete in the spring of that year, which was the time of the *first* commencement of hostilities. But Mr. Anstey agrees that it would have applied closer to the principle *now, for the first time,* adopted by Mr. King, of balancing the exports against the *imports of the first year of the war*, to have dated the reckoning retrospectively from December, 1775, rather than from the 5th of January preceding; but, in either view of the subject, it is plain that the natural consequences of the non-importation agreements, and of the commencement of hostilities in the April following, must have been an immediate default of new credits; and that the influence of the war, at the time when the interruption of the commercial intercourse became reciprocal and complete, in the December following, had the effect of suspending the payments from that period. The amount of the exports, in the mean time, was too inconsiderable in the comparison to make any distinction as to time necessary: for, from whatever time it is agreed to date the commencement of the war retrospectively, for the purpose of forming this estimate, (and it has been seen why the period assumed has been preferred,) it must proceed upon the principle that the payments were stopped from that moment; and, if, after adopting the principle of calculating upon *the exports of the first year of the war* is brought forward, with reference to the time when they were only one-tenth of the usual amount, and these are to be considered in contrast with the *imports* of that *year*, which exceeded, *by half a million*, those of any former year; different premises, and a total different process of calculation, must be assumed, in order to make it appear that there was, in fact, *any debt due from* the colonies at the commencement of the war. The conclusion, indeed, if any can be drawn from such a statement, might almost seem to warrant a belief that the claimants had mistaken their character, and, instead of being creditors, they were, in fact, *bona fide* debtors, to their old friends and customers.

But the general question of the American debt comes now to be considered (as proposed by Mr. King) upon new ground; and with reference to the general state of the trade, under the first impression, and during the immediate influence of the war, Mr. King thinks it may be safely concluded that the "payments (which he infers from the remittances in produce) of the year 1775, in which little or no new debt was contracted, not only exceeded those of any former year, but went far towards liquidating the debt due to British creditors." The excess of the imports of that year is demonstrated. But it does not, therefore, follow that these remittances in the staple produce of the colonies were exclusively from American debtors to British creditors. Doubtless, a considerable proportion of the importations of that year went in payment of British debts. This is acknowledged. But remittances under the influence of the war may be otherwise accounted for, by analogy to the effect of the same causes, in other countries, and in all ages, operating upon the apprehensions, and the interests, and local condition of men in general, as well merchants as others, who, in the prospect of an impending storm, and under the terror of it, must ever be anxious to remit and realize their property. The non-importation laws and agreements were in full force, and rigidly exacted; similar restrictions, with respect to the export trade, were then expected throughout America; prohibitory bills, cutting off all commercial connexions with the colonies threatened in Parliament; hostilities not only commenced, but advanced. From such a combination of causes, a serious and solid ground of belief may be reasonably entertained that the influence of the war must have swelled the list of imports of the year 1775 beyond all former example.

It must, therefore, be allowed not to have been absolutely necessary that every American should have been a debtor, in order to have made it his interest to remit the staple produce of the country to Great Britain.

Without meaning to detract from the zeal and alacrity of creditors and their agents, who were busied in collecting their outstanding debts, numbers not concerned in the regular trade of the country were solicitous, in that early stage of the contest, to improve the opportunity of exporting the produce of their estates while it lasted. They shipped their cargoes, and drew bills on the credit of the invoices. Bills also to a greater amount, in the *first year* of the war, were honored and placed to the debit of the American traders in account current than in any former year. The hopes still entertained by the British merchants, that their petitions, then pending in Parliament, or in contemplation, would prove unsuccessful; their anxiety to retain and fix their customers by acts of courtesy and forbearance, and, by obliging them to encourage the continuance of their efforts, to make further remittances; all contributed to the same effect. The amount of bills thus honored and paid, during that year, is supposed to have exceeded five hundred thousand pounds. Mr. Anstey has authority to state that sum; and it is somewhat singular that it should equal the excess of the imports of that year.

Mr. King proposes another mode of estimating the debt, namely, by reference to the claims presented under the commission at Philadelphia in 1798, and a comparison between the exports and imports of the five southern States during the first year of the American war, and the two years immediately preceding, upon the principle that the debt claimed under the commission, as due at this time, is confined to those States, with the exception only of the sum of two hundred and eighteen thousand pounds due from the inhabitants of the *eight* States north of Maryland; the rest of the debt claimed from those States having been paid off since the conclusion of the American war; and that the document from the customs, with the application of the rule of measuring the true value (as proposed by Mr. King,) will demonstrate a balance in favor of the five southern States, equal to two millions six hundred and forty-nine thousand and sixty pounds: from which fact Mr. King concludes, in substance, as follows:

First. "That the preferred claim of the British creditors is more likely to be a drossy mass of old and hopeless balances, swelled up by the addition of interest, than the sound aggregate of undisputed debts due from solvent debtors:" and,

Secondly. "That so far from the debt due at the breaking out of the war being equal to two years' exports, or upwards of six millions, a rational doubt may be entertained whether the value of a single year's exports did not exceed the amount of the debt at that period."

The first of these conclusions it is more the province of commissioners to determine on the merits of the respective claims. The last merits a more particular examination.

It has been seen in what manner the extraordinary remittances in produce from the thirteen provinces, during the first year of the war, may be accounted for, without the necessary conclusion that the whole went in payment of British debts; and it will follow, from the partial view of the subject, now confined to the consideration of the imports, from five only out of the thirteen colonies, that nothing can be certainly or safely concluded with reference to the amount of the whole debt actually due at the present or any former period. For the influence of the war upon the trade was general, and the zeal and alacrity ascribed to British creditors and their agents in collecting their debts was not confined to the five southern colonies, but must have prevailed with equal success in the colonies to the northward of Maryland; but it is conceived that, not only in the year 1775, but in the two preceding years, extraordinary remittances were made from other parts of the continent, through the channel of the southern colonies; and it must have been the practice at all times to have remitted more from those colonies than was actually applied in payment of their own peculiar debt.

It is a fact, appearing on the face of the document from which Mr. King's statement is extracted, that at no time, for the period of ten years prior to the war, did the amount of exports from Great Britain equal the imports from *those* provinces; on the contrary, it appears that the imports into Great Britain yielded a balance in favor of the five southern colonies, as follows: for the nine years prior to the first year of the war, the sum of one million eight

hundred and sixty-five thousand four hundred and seventy-three pounds; and, including the first year of the war, was three millions four hundred and ninety-four thousand four hundred and fifty-seven. By what means, therefore, can it be accounted for, consistently with the object for which this partial view of the debt is compared with the amount of the claims at Philadelphia, that, instead of a debt appearing to be due to the extent of four millions, as claimed against the inhabitants of the five southern States, a balance appears against the trade from the southern colonies, upon the face of this certificate, equal to three millions and a half—a balance against the creditor almost equal to their present demand against their debtors. Such is the fact: and it requires only to be stated, in order to render all observation and argument against such a *partial view of the subject* superfluous and unnecessary. From Mr. King's proposition, one or other of two conclusions is unavoidable; either that remittances were made through the five southern colonies, in satisfaction of British debts due from the other eight, or that such remittances at no time were specifically and exclusively appropriated in payment of their own debts contracted on the credit of the annual exports into those colonies from Great Britain.

On whose account, or in what manner, these remittances were made, or how applied, is not material to the point for which these observations are submitted; it is sufficient that enough is here demonstrated to prove, beyond a doubt, that the *examen* proposed is imperfect, and affords no certain criterion to be relied on; and, in fact, that from any *partial* consideration of the subject, no argument can be drawn as to the amount of the whole debt due from those colonies before the war, or as to the claim of the creditors under the commission at Philadelphia three and twenty years afterwards.

Mr. Anstey conceives that, if the imports are to be balanced with the exports, for any purpose of estimating the debt, it is a safer mode of proceeding, and liable to much less risk of error and uncertainty, to calculate them independent of the circumstances of the war, from all the colonies on the continent for nine or ten years successively, instead of confining the calculation to the five southern colonies for the first year of the war. The account will render, upon this equal mode of computation, a balance in favor of Great Britain, upon the credit given for the exports for nine years above, seven millions eight hundred and seventy-five thousand and four hundred and forty-one pounds; if for ten years, including the first year of the war, five millions six hundred and thirty-three thousand two hundred and eighty-nine pounds, upon the *official* value alone, which for this purpose is sufficient, as it will show the proportion, which is all that is necessary for the purpose of this illustration. But if taken at a medium of the excess between the convoy price and the official standard of 1797, as proposed by Mr. Anstey, or even at a *third*, as contended for by Mr. King, will swell the balance far beyond what is required to prove that the sum of four millions may still, for any thing that appears to the contrary from Mr. King's statement, be fairly and substantially due from the inhabitants of the five southern States.

To conclude.—Upon a review of the present state of the discussion, it will appear that the principle of calculating upon the exports only, as originally proposed by Mr. King, has been adopted by Mr. Anstey, and pursued.

The preference, as argued by Mr. Anstey, to be due to the criterion suggested by him, by which the amount of the debt was to be calculated upon that principle, has been conceded by Mr. King. An equal division of the excess, upon the balance between the convoy price of the exports and the official price, according to the custom-house standard of the year 1797, in preference to the proportion of a third only, has been proposed and supported upon fact, opposed to inference drawn from hypothesis and conjecture.

The amount of the debt has been inferred, from the course of the trade, to have been equal to the amount of two years' exports at the breaking out of the war; and it has been so inferred from the facts relied on relative to the degree and extent of credit acquiesced in, and the uniform practice of balancing the annual debts and credits, and carrying on the balances to the next yearly account, with interest at six and seven, and, in some instances, at eight per cent.; which facts are understood not to be resisted by Mr. King, though the general conclusion is denied.

An augmentation to this estimate is shown to be due on the score of the loyalists who were not traders, which is conceded by Mr. King to a limited extent.

A further augmentation, though at first denied to be due, is also conceded on the score of freight, insurance, and mercantile profit.

And against the general result of the argument, as concluded by Mr. Anstey, Mr. King has opposed a new and distinct mode of estimating the debt, by contrasting the exports and imports, with reference to the claims presented at Philadelphia, and a partial view of the balance of the trade from the southern colonies; a principle of computation which leads, as Mr. Anstey has shown, to a most extravagant conclusion, and serves only to prove that, as a criterion, it is altogether inadequate to the purpose for which it is relied on. And, lastly, it has been shown that, by applying the same principle of balancing the *exports* into the colonies from Great Britain, against the *imports* from them, of the *whole trade*, instead of a *part*, the result will be a sum demonstrable on the face of the document from the customs in favor of the former, approaching nearly to the sum which the principle first chosen by Mr. King, of calculating upon *the exports only*, yields upon Mr. Anstey's process of calculation, proved, as he conceives it to be, (as fully as the nature of such an estimate will admit of,) by the facts, arguments, and inferences above submitted.

It is upon these grounds that Mr. Anstey considers himself entitled to estimate the debt as it stood at the commencement of the war, as follows:

1st. A sum equal to two years' credit of exports, valued with reference to the Inspector General's certificate, and an equal division of the excess between the convoy price and the official standard of valuation of the year 1697, at - - - - - - - - - -	£6,541,952
2d. A sum equal to one-third of the sum originally claimed on the score of debts by the loyalists who were not traders, but only taken, at - - - - - - - - - -	500,000
3d. A sum chargeable on one-third of the trade carried on by factors, agents, and partnership houses, on the score of freight, shipping charges, insurance, and mercantile profit, at forty-five per cent.; but, considering the nature of the retail trade in America, taken only at twenty-five per cent.,	545,162
Making, on the whole debt, at the breaking out of the American war, - -	£7,587,114

A sum nearly corresponding with the balance between the exports and imports to and from the colonies for nine years prior to, and independent of, the influence of the war.

If the principle of deduction assumed by Mr. King, in his letter to Lord Grenville, of the 23d of November last, be allowed to operate on the above estimate, in the proportion therein supposed to be just and reasonable, the statement will be as follows:

Debt due at the commencement of the war, according to Mr. Anstey's estimate, as above, -	£7,587,114
Deduct amount of one-half of the above, (as proposed by Mr. King,) on the score of supposed insolvency during the war, the balance will be, - - - - - - - - - -	3,793,557
Deduct (as supposed by Mr. King) amount of actual recovery since the peace, *one-half* of the above balance, - - - - - - - - - - - - - -	1,896,778
Double the amount, as proposed or conceded by Mr. King, on the score of interest, the sum will be as before, - - - - - - - - - - - - - -	3,793,557

From the above sum, Mr. King proposes to deduct no less than *two-thirds*, on the score of probable and eventual recovery, for the reasons assigned in his paper last delivered, in addition to those in his first statement to Lord Grenville, in his letter of the 23d November last; which deduction leaves a balance of one million two hundred and sixty-four thousand five hundred and nineteen pounds, to be paid by the United States, as a commutation for the sixth article of the treaty.

But the principles of deduction assumed by Mr. King, though allowable to a certain extent, are by no means conceded by Mr. Anstey, in the proportion contended for.

It is not, however, purposed in this place to enter into a detail of all the objections which have occurred to him in the consideration of these topics; inasmuch as the above sum of one million two hundred and sixty-four thou-

sand five hundred and nineteen pounds, which, by his statement, appears to be due on the balance against Mr. King's deductions, already so far exceeds what Mr. King has authority to offer in commutation of the article in question: he will, however, take the liberty of stating, *generally*, with respect to the first head of deduction, in the proportion of a moiety on the score of supposed insolvency during the war, that his objection rests chiefly on a *fact* which, in his judgment, has considerable weight against Mr. King's hypothesis, viz:

That, although the ruin and impoverishment of individuals in particular cases, during the first struggles and distractions of the country, consequent upon the revolution, may be supposed to have been in a degree unavoidable, especially in those States which became the theatre of the war, it is well known the inhabitants in general were enriched by the great influx of wealth brought from the West Indies, and particularly from the Havanna, towards the close of the war, and the quantity of specie which the French and British armies left behind them on the return of peace: witness the continual remittances from the United States to Great Britain by the packets of every month, during the years 1784, '5, '6, and '7, in satisfaction of new debts, contracted on the credit of the immense cargoes of British merchandise exported upon speculation immediately subsequent to that period.

As to the deduction of a *moiety* of the balance, on the score of actual recovery since the peace, it is not material to contest it in an estimate of this nature, proceeding upon general principles; though, doubtless, the hypothesis would apply more closely to the fact, if the calculations were to be made with reference *to the moiety* in number of States which have discharged their debts, rather than with reference to the aggregate debt due at any one time from all the States, made without any distinction as to the quota of debt actually paid by each.

But the main objection, as it strikes Mr. Anstey, is to the deduction proposed in the proportion of *two-thirds* of the remainder, on the score of probable and eventual recovery.

But upon this topic also, at this time, Mr. Anstey will observe, *generally*, that it does not appear to him, upon inquiry, or upon the statements made by Mr. King, that any *new facilities* have been lately afforded to British creditors in the recovery of their debts, which have removed the grounds and causes of complaint alleged in the sixth article of the treaty of amity, &c., so as to justify a deduction in the proportion of two-thirds; a deduction of *one-half* of the remainder is surely, at all events, as much as, under all circumstances, can be allowed to have any foundation in the experience of facts: for the fact calculated upon by Mr. King, in order to found his second head of deduction, is, that *one-half*, and not *two-thirds* of the debt remaining due at the peace, has been since recovered; that is, recovered within the last seventeen years. If, therefore, only a moiety has been recovered during so long a period of years, where is the sanction for the recovery of a still greater proportion in a less time? If there be a material difference (which is highly probable) in the present circumstances of the debtors, compared with their former situation, it must indeed have the effect of shortening the period within which so much of the *solvable* debt may be recovered, as shall not be impeded by the causes of complaint assigned in the article; but if no new facilities, operating to the removal of those causes of complaint, have been afforded since the treaty, an amelioration of the debtors' circumstances will not, in Mr. Anstey's opinion, better the condition of the creditors in the proportion imagined by Mr. King.

The law and the constitution of the judiciary of the United States remaining the same, the ability of the debtor to pay cannot be supposed to influence the recovery of *that part* of the debt which, confessedly, at the time of framing the article, stood obstructed by the operation of lawful impediments since the peace.

RUFUS KING, Esq. &c.

No. 28.

GREAT CUMBERLAND PLACE, *March* 20, 1801.

Mr. King has the honor to acknowledge the receipt of Mr. Anstey's note of the 18th instant, together with his reply of the 14th ultimo to Mr. King's note of the 29th of January.

To whatever remarks a considerable portion of this reply may be liable, it is not perceived that any advantage can be expected from the further discussion of the subordinate questions which have arisen in the course of this correspondence, while so material a difference of opinions shall continue in respect to the chief point to which they relate. The following facts have been repeatedly stated, and are believed to be incontestable:

1st. The credits given to American debtors in no instance exceeded the term of twelve months.

2d. The course of payments, subject to casual and particular exceptions, was annual.

3d. During the last year of the mutual dealings of the parties, the new debt did not exceed a tenth part of its usual amount, while the payments were at least equal to those of any former year.

From these facts, Mr. King has inferred that the debt, when the war put an end to new credits on one side, and further payments on the other, did not exceed the average value of the goods exported in a single year from Great Britain to the colonies forming the United States. From the same facts, Mr. Anstey continues to estimate the debt at double that sum. This essential difference of opinions, derived from facts which have been fully explained and understood, naturally brings the negotiation to a point; and as the adjustment of other concerns of equal importance, and the delay of which is attended with great disadvantage to the United States, is connected with, and may be affected by the conclusion of this discussion, Mr. King is unwilling, by any further observations on his part, to protract a negotiation which, from various causes, has already attained an unexpected and inconvenient duration.

Extract of a letter from Mr. King to the Secretary of State, dated

SIR: LONDON, *April* 21, 1801.

Although the negotiation respecting the debts is not yet concluded, and I am unable to give you any positive assurance how, or even when, it will be, I have thought it proper that I should avail myself of the opportunity of Mr. Sitgreaves's return, to send you a copy of my correspondence upon this subject.

Mr. King to Lord Hawkesbury, dated

MY LORD: GREAT CUMBERLAND PLACE, *March* 10, 1801.

I have thought it would be saving your lordship both time and trouble, in respect to the several points which have been for some time in discussion with your predecessor, if they were presented in a connected form, and accompanied by such references and observations as should, in a concise manner, expose the motives in favor of their adoption.

The enclosed paper, marked A, contains these points, in the shape of distinct propositions, to which the requisite form may be given, should they be adopted as additional articles to our treaty of amity and commerce.

My correspondence with Lord Grenville and Mr. Anstey, relative to the first proposition, has been so full, that it does not seem necessary to add any thing further upon that head.

The second proposition was fully examined and settled in the summer of 1799, and its formal adoption was deferred until an agreement could be made respecting the subject of the first. My correspondence with Lord Grenville, and between his lordship and the Lords Commissioners of the Admiralty, contain what passed on that occasion.

In the enclosed papers, marked B, C, and D, I have suggested the considerations which we have to offer in favor of the third, fourth, and fifth articles.

I am aware that other questions of importance continue to engage the attention of His Majesty's ministers; but our affairs having so long and almost habitually given way to others which have been thought more urgent, I cannot refrain from observing, what indeed the tenor of my instructions, as well as my observation of the irritation and difficulty proceeding from their unsettled state, requires me to do, that a further delay in bringing them to a decision, from whatever cause it may arise, and in spite of any representation which I could make, will unavoidably tend to impair that mutual good will and confidence, which is the best security against any measure that in its operation might weaken the harmony and good understanding between our respective countries.

With the highest consideration and respect, &c.

RUFUS KING.

[ENCLOSURE.]—A.

Articles to be added to the Treaty of Amity and Commerce.

ART. 1. The sixth article of the treaty of amity and commerce to be suppressed, and the United States to engage to pay a sum of money in lieu of what might be awarded under it.

ART. 2. Nails, iron in bars, osnaburgs, ticklinburgs, Russia sheeting, and other cloths made of hemp or flax, and not chiefly and generally used for the sails of ships, to be deemed innocent merchandise, and not included within the provisions of the eighteenth article of the treaty of amity and commerce.

ART. 3. No American vessel bound to New Orleans, or returning from thence to any port of the United States, to be stopped or detained under pretence that any part of her cargo is contraband of war.

ART. 4. Neither party to impress upon the high seas seamen out of the vessels of the other.

ART. 5. His British Majesty to relinquish all claim to the Maryland bank stock, and immediate measures to be taken to transfer the same to the American minister, for the use of that State.

Mr. King to Lord Hawkesbury, dated

MY LORD: GREAT CUMBERLAND PLACE, *April* 1, 1801.

I take the liberty to recall to your lordship's recollection the letter which I had the honor to write to you on the 10th ultimo.

The unsettled situation of the business to which that letter relates is productive of great and increasing disadvantage to the United States: and, although its adjustment may be matter of secondary consideration, and for this reason may continue to be postponed to other and more pressing concerns on the part of His Majesty's Government, it is nevertheless a subject, not only of great importance, but of the most urgent nature on the part of the United States. Having had reason to expect that a final adjustment of the mutual claims of the two countries would have been effected before the close of the last year, I sent to my Government information to this effect, and, from time to time, have likewise explained what I have conceived to be the causes of the delays which have since arisen. The negotiation having been reduced to precise points, which have been fully discussed, it has become my duty to transmit to my Government more authentic information respecting the delay which still prevents its conclusion; and to enable me to do so, I take the liberty to request your lordship to inform me whether His Majesty's Government has, or is likely soon to come to any decision respecting the several propositions referred to in my letter to your lordship of the 10th ultimo.

With high consideration and respect, I have the honor to be, &c.

RUFUS KING.

Mr. King to Lord Hawkesbury, dated

MY LORD: GREAT CUMBERLAND PLACE, *April* 15, 1801.

Mr. Sitgreaves, one of the commissioners under the sixth article of the treaty of amity, commerce, and navigation between the United States and Great Britain, and who came to this country for the sole purpose of assisting me in a negotiation for the adjustment of the disagreement which had arisen in the execution of that article, after having remained here for more than a year, has lately received the President's permission to return home; and it being my intention to transmit by him, for the President's information, copies of the correspondence upon this subject, which I have had with His Majesty's Government, I am solicitous to accompany the same with the most authentic information in my power to obtain, in respect to the probable issue of the negotiation. Mr. Sitgreaves will leave London on the 21st instant, and I take the liberty to renew the inquiry, whether His Majesty's Government has yet so far considered the subject of the letters which I have had the honor to address to your lordship, that it will be in your lordship's power, before Mr. Sitgreaves's departure, to give me any answer to the same?

With perfect consideration and respect, I have the honor to be, &c.

RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *May* 1, 1801.

From Lord St. Vincent's I went to Lord Hawkesbury, agreeably to his appointment; and upon the subject which, notwithstanding my unremitted attention, bestowed in every quarter likely to promote its progress, has been so long delayed, his lordship, after expressing his regret that the business had not been settled before Lord Grenville went out of office, and excusing the delay which, on several accounts, had since taken place, told me, that so far as regarded himself, he had, in respect to the settlement of the affair of the debts, come to a decision; that he must, however, confer with his colleagues, and particularly with the Lord Chancellor Eldon; but that he was himself disposed to close with the offer which I had made, and which is mentioned in more than one of my letters. On my suggesting the great disadvantage of further delay, arising from a minute examination of the subject by the Chancellor, he replied that he would have a conversation with him, and that he presumed that his opinion might be formed from a general view of the question; and, therefore, that no considerable delay would be likely to happen.

Extract of a letter from Mr. King to the Secretary of State, dated

DEAR SIR: LONDON, *May* 30, 1801.

Since the date of my letter communicating Lord Hawkesbury's sentiments respecting the debts, I have seen and conversed with Mr. Addington, who told me that he had called up the subject in the cabinet, as he had before assured me he would do, and that he had expressed his solicitude that it should be brought to a decision; adding that, as the question, from its nature and circumstances, was not susceptible of exact proof, it was not extraordinary that it should appear in various lights to different persons; but, as the mutual harmony of the two countries, in a certain degree, depended upon its being settled, it was, in his opinion, desirable that a measure in its consequences of so

much importance should be no longer deferred. Our conversation extended itself to other objects, affecting the intercourse and friendship between the two nations; upon all of which he expressed himself with liberality, concerning the depredations upon our trade, committed by their cruising ships: he said that orders had been despatched immediately after he came into office to their naval commanders, in every quarter of the world, requiring them to respect the rights of neutrals, and to exercise those of belligerents with the greatest moderation; and, as measures were in train to reform the Vice Admiralty courts, he was determined, likewise, to adopt such means as should prevent the delay heretofore complained of in the proceedings of the Court of Appeals.

Yesterday I met, by appointment, the Lord Chancellor, who informed me that he had fully examined, and made up his opinion concerning the subject of the debts; but that it was proper, before he mentioned it to me, that he should communicate it to his colleagues, which he engaged to do without delay. I asked him if he had looked into the papers respecting the Maryland bank stock? He replied that he had sent to his predecessor for them, and as they had already been before him, the looking of them over again would require but little time and attention.

From these communications, joined to what Lord Hawkesbury had before said to me, we may, I think, infer that the business will now be decided in a short time: whether the decision will close the negotiation upon the terms I have proposed, is more than I know; though I am inclined to hope that this will be the case.

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *July* 10, 1801.

I complained in strong terms, of the delay which still continues in concluding our discussions respecting the sixth article, and was explicitly assured that the cabinet would come to a decision upon that subject in the course of a fortnight.

Mr. King to the Secretary of State, dated

DEAR SIR: LONDON, *August* 24, 1801.

Although I considered myself authorized, by Mr. Lincoln's letter of the 25th of April, to press the negotiation respecting the sixth article of the treaty of 1794 to a conclusion, upon the terms mentioned in my No. 6, it has nevertheless been no small satisfaction to me to receive your letter of the 15th of June, containing the President's explicit sanction of my intentions upon this subject.

The day after receiving it, Lord Hawkesbury having previously requested me to meet him in Downing-street, informed me that the cabinet, after maturely considering the subject, was unanimously of opinion that not less than a million and a half sterling could be deemed a full equivalent for the abolition of the sixth article; but that, from a strong and sincere desire to attain an amicable and final settlement of the business, it had consented to accept the sum we had offered, if the terms of payment could be satisfactorily adjusted, and provision made that the American courts should be open in future.

A conversation of some length and difficulty ensued upon these two points. Among other plans, that of applying the money in payment of the awards which should be made in favor of our citizens under the seventh article, was suggested by me, and decidedly objected to by Lord Hawkesbury, on the ground that it would produce confusion, and was moreover an unnecessary departure from the first agreement. His lordship proposed that we should engage to enact a law providing that our courts should in future be open to the British creditors, and that the federal courts should have original jurisdiction in cases under ten pounds sterling. To this proposition, after explaining what I conceived to be the present satisfactory footing of our courts, I explicitly answered, that, having experienced so much difficulty from the stipulations heretofore made concerning the old debts, we could not consent to enter into any new ones respecting them: that the treaty of peace was still in force, and that its provisions were well understood, and sufficient to protect the rights of the creditors on both sides: that the sum to be paid, in lieu of the sixth article of the treaty of 1794, must be understood to be in full satisfaction of all claims recoverable at the close of the war, but which cannot now be recovered in the ordinary course of judicial proceedings; and in respect to such claims as can now be so recovered, nothing more can fairly be required of us than to recognize the future operation of the fourth article of the treaty of peace, which we were willing to do. The conference, so far as respects these points, was here closed by Lord Hawkesbury requesting me to draw up and send him the project of a convention conformable to the tenor of this conversation. This I lost no time in doing.

The project, which has been several days in his lordship's hands, provides that the sixth article of the treaty of 1794 shall be cancelled and annulled, and, in lieu thereof, that the United States will pay at the city of Washington, to such person as shall be authorized on the part of His Britannic Majesty to receive the same, the sum of six hundred thousand pounds sterling, in three equal annual instalments, without interest; the first instalment to be paid in one year after the exchange of the ratifications of the convention, and four dollars and forty-four cents to be reckoned equal to a pound sterling. The project likewise declares that nothing in the convention shall be construed to abolish or suspend the future operation of the fourth article of the treaty of peace, which, so far as regards such future operation, is recognized and confirmed.

It was Lord Hawkesbury's choice to give to this settlement the form of a separate convention, rather than that of additional articles. In respect to the proposed additional articles relative to contraband, the Maryland bank stock, the impressment of seamen, and the port of New Orleans, Lord Hawkesbury told me that he foresaw no material objection to any of them, except that which regards New Orleans: that they were truly desirous to avoid the interruption of the trade of our people through the Mississippi; but that, having reason to be satisfied that Spain has ceded the Floridas, including New Orleans, to France, they could not, without disregarding their own security, consent to the proposed article concerning our trade to that island.

I expressed my hope and expectation that there would be no further delay in the conclusion of the other additional articles: he replied that he must take the final decision of his colleagues, especially of Lord St. Vincent, concerning them, as well as upon the project of the convention: that this, however, would require but a few days.

I then observed that the settlement concerning the sixth article would remove the suspension of the commission under the seventh; and as the commissioners under this article were dispersed, it would be proper to take immediate measures to re-assemble them. Lord Hawkesbury assented; and I charged myself with this service. I thought it prudent to avoid the appearance of solicitude upon this head, as the commutation of the sixth article, with an understanding that the seventh is to be executed according to its provisions, instead of being likewise commuted, which has been again and again urged, has been one of the most delicate parts of the negotiation. I have prepared and sent to Lord Hawkesbury a draught of the additional articles, and Lord St. Vincent has since informed me that they shall receive his approbation.

With perfect respect, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to the Secretary of State, dated

SIR: LONDON, *October* 4, 1801.

I have expected, during the last fortnight, that I should be able to close the negotiation respecting the sixth article of the treaty of 1794, in season to send the result by Mr. Dawson; but as he is on the point of embarking, and the business still remains open, I can only transmit the annexed report of what has passed since the date of my No. 32. Be the consequence what it may, I shall decline entering into any new engagement, which may vary from

or enlarge the stipulations of the treaty of peace, being fully satisfied that a departure from this decision would lay the foundation of a future controversy. After waiting a reasonable time, I purpose, in case I do not hear further from Lord Hawkesbury, to send him a note demanding a decisive answer.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Note of conferences, &c. with Lord Hawkesbury and others, concerning the convention relative to the sixth article of the treaty of 1794.

AUGUST 19, 1801.

Lord Hawkesbury communicated to me the cabinet's decision to accept the sum of six hundred thousand pounds, if the payment could be satisfactorily arranged, and provision made that our courts should be open in future. Upon these points, a free conversation ensued: the first of them was soon settled; the other proved more difficult. On one side, new stipulations were required in favor of the creditors; on the other, it was contended that nothing more could be asked or granted, than a recognition of the future operation of the fourth article of the treaty of peace. The observations, in support of this opinion, so far prevailed, that, at the close of the conference, Lord Hawkesbury requested me to prepare and send him the draught of a convention conformable to the tenor of our conference, in order that he might submit it to the consideration of his colleagues.

AUGUST 20.

Sent the following letter to Lord Hawkesbury:

Mr. King to Lord Hawkesbury.

MY LORD: GREAT CUMBERLAND PLACE, *August* 20, 1801.

I have the honor to send your lordship herewith the project of a convention concerning the sixth article of the treaty of 1794, drawn up according to the tenor of our conference of yesterday. I am not aware that any part of it requires explanation, except the clause in the first article declarative of the relative value of the money of the United States and that of Great Britain: from the fluctuation of the exchange between America and England, bills at one time commanding a premium of five or seven per cent., and at another time being at a discount of eight, and even ten per cent., I have thought it would be advisable to provide that the instalments should be paid at par, having regard to the relative value of the pure or standard silver contained in our respective coins. Four dollars and forty-four cents, or hundredths, for one pound sterling is that par.

I take the liberty of suggesting the expediency of our executing three originals, to guard against the accidents which might attend the transmission of a single copy to America.

As the claim of the State of Maryland is so analogous to the claims provided for by this convention, I rely upon it that no further delay or difficulty will attend the completion of the proposed articles upon that and the other subjects, concerning which no difference of opinion appeared in our last conference.

With perfect consideration and respect. I have the honor to be,

Your lordship's obedient and most humble servant,

RUFUS KING.

PROJECT.

Difficulties having arisen in the execution of the sixth article of the treaty of amity, commerce, and navigation, concluded at London on the 4th day of November, 1794, between His Britannic Majesty and the United States of America: and the parties to the said treaties being equally desirous, by friendly explanations, to secure the object of the said article in a manner which may prove mutually satisfactory, have respectively named plenipotentiaries for this purpose; that is to say, His Britannic Majesty has named for his plenipotentiary the right honorable ——— ———, one of His Majesty's privy council, and His Majesty's principal Secretary of State for Foreign Affairs; and the President of the States, by and with the advice and consent of their Senate, has named Rufus King, Esq. minister plenipotentiary of the said United States to His said Majesty, who have agreed to and concluded the following articles:

ARTICLE 1st. The aforesaid sixth article of the treaty of amity, commerce, and navigation, shall, and hereby is, declared to be cancelled and annulled, except so far as the same may relate to the execution of the seventh article of the same treaty; and in lieu and satisfaction of the money which the United States might have been liable to pay in pursuance of the provisions of the said sixth article, the United States of America hereby engage to pay, and His Britannic Majesty consents to accept, for the use of the persons described in the said sixth article, the sum of ——— sterling, payable at the times, and place, and in the manner following, that is to say: the said sum of ——— sterling shall be paid at the city of Washington, within the said United States, in three annual instalments of ——— each, and to such person or persons as shall be authorized on the part of His Britannic Majesty to receive the same. The first of the said instalments shall be paid at the expiration of one year; the second instalment at the expiration of two years; and the third and last instalment at the expiration of three years next following the exchange of the ratifications of this convention. And to prevent any disagreement concerning the rate of exchanges, the said payments shall be made in the money of the said United States, reckoning four dollars and forty-four cents to be equal to one pound sterling.

ART. 2d. Nothing contained in this convention shall be construed or taken to abolish or suspend the future operation of the fourth article of the definitive treaty of peace, concluded at Paris on the 3d day of September, in the year 1783, between His Britannic Majesty and the said United States; but the same, so far as respects its future operation, is hereby recognized and confirmed.

ART. 3d. This convention, when the same shall have been ratified by His Majesty, and by the President of the United States, by and with the advice and consent of the Senate thereof, and the respective ratifications duly exchanged, shall be binding and obligatory upon His Majesty and the said United States. In faith whereof, we, the the said plenipotentiaries of His Britannic Majesty, and of the United States of America, have signed this convention, and caused to be affixed thereto our respective seals.

Done at London this ——— day of ———, one thousand eight hundred and one.

LONDON, *August* 20, 1801.

AUGUST 22.

Mr. Hammond, the under secretary, having suggested some objections which had been made to the draft of the convention, I consented to new-model the second article, for the purpose of reciting in it the fourth article of the treaty of peace.

SEPTEMBER 10.

Wrote the following letter to Lord Hawkesbury.

Mr. King to Lord Hawkesbury.—(Private.)

MY LORD: MILL HILL, MIDDLESEX, *September* 10, 1801.

Unless our business be expeditiously finished, another year will elapse before it can be finally closed. Congress alone can make provision for the stipulated payments: this body meets but once a year, and will soon assemble, and the season is at hand when passages to America are rare, long, and precarious. I, therefore, take the liberty of pressing upon your lordship the necessity of this business being completed without further delay, in order that I may be en-

abled to forward it to America in time to be ratified during the approaching session of Congress. I will do myself the honor to wait upon your lordship on Saturday, or any other day which may be convenient to you, for the purpose of explaining to you the very peculiar and disagreeable condition of our ships which have been detained in their voyages to Havre de Grace, for which port I have reason to believe that several other vessels are now on their passages from America. I flatter myself that, being fully understood, our difficulties on this head will immediately cease.

With perfect respect and consideration, I have the honor to be
your lordship's obedient and most humble servant,

RUFUS KING.

SEPTEMBER 22.

In a conference with Lord Hawkesbury, he informed me that the project of a convention was in the hands of the Lord Chancellor, who wished to see me for the purpose of settling the words to be made use of in respect to the future operation of the treaty of peace; that the sum and instalments being agreed upon, as soon as the Chancellor and I could could settle the article respecting future impediments, he would conclude the convention with me. On my return home, sent a note to the Chancellor, stating what Lord Hawkesbury had communicated to me, and desiring to meet him, in order that the article in question might be agreed upon.

SEPTEMBER 23.

The Lord Chancellor called upon me, and, after alluding to the complaints to which, he said, they should be exposed, on account of the six hundred thousand pounds being less than the creditors expected, resumed (what I thought had been settled with Mr. Hammond) the discussion of the second article of the project, in which he proposed several alterations, and delivered to me the following draught containing them, together with a new article relative to the rights of creditors.

Draught of the Chancellor.

Difficulties having arisen in the execution of the sixth article of the treaty of amity, commerce, and navigation, concluded at London, on the 4th day of November, 1794, between His Britannic Majesty and the United States of America; and the parties to the said treaty being equally desirous to promote mutual friendship, and, as far as may be, to obviate such difficulties, have respectively named plenipotentiaries to treat and agree respecting the same; that is to say, His Britannic Majesty has named for his plenipotentiary —— ——, and the President of the United States, by and with the advice and consent of their Senate, has named —— ——, who have agreed to and concluded the following articles:

1. In satisfaction and discharge of the money which the United States might have been liable to pay, in pursuance of the provisions of the said sixth article, the United States of America hereby engage to pay, and His Britannic Majesty consents to accept, for the use of the persons described in the said sixth article, the sum of six hundred thousand pounds sterling, payable at the times and place, and in the manner following, that is to say: the said sum of six hundred thousand pounds sterling shall be paid at the city of Washington, within the said United States, in three annual instalments of two hundred thousand pounds sterling each, and to such person or persons as shall be authorized, on the part of His Britannic Majesty, to receive the same; the first of the said instalments to be paid at the end of one year, the second instalment at the expiration of two years, and the third and last instalment at the expiration of three years next following the exchange of the ratifications of this convention. And, to prevent any disagreement concerning the rate of exchanges, the said payments shall be made in the money of the said United States, reckoning four dollars and forty-four cents to be equal to one pound sterling.

2. Whereas, it is agreed by the fourth article of the definitive treaty of peace concluded at Paris, on the third day of September in the year 1783, between His Britannic Majesty and the United States, that the creditors on either side should meet with no lawful impediment to the recovery of the full value, in sterling money, of all *bonâ fide* debts theretofore contracted, it is hereby understood and declared that nothing contained in this convention shall be construed or taken to abolish, suspend, or in any manner affect, the *operation in future* of the said fourth article of the definitive treaty; but that the same, so far as respects *its operation in future*, is hereby recognized and confirmed, and declared to be binding and obligatory upon His Britannic Majesty and the said United States; and the same shall be observed with punctuality and the most sincere regard to good faith.

3. (new article.) It is hereby further agreed that neither the payment of the aforesaid sum of six hundred thousand pounds, nor any thing contained in this convention, shall be deemed or taken in any manner *to abolish, suspend, or affect the right of any creditor to recover against his debtor*, according to the course of judicial proceedings in the courts of the respective countries, the full payment and satisfaction of what is or may be due to him.

4. This convention, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of the Senate thereof, and the respective ratifications duly exchanged, shall be binding and obligatory upon His Majesty and the said United States.

In faith, &c.

I pointed out one or two amendments in the second article of his draught, and, in particular, the insertion of a clause abolishing the sixth article of the treaty of 1794, and the restoration of the expression "future operation," instead of "operation in future," which might be construed to relate to the claims of the creditors, as they existed at the date of the treaty of peace; the six hundred thousand pounds will satisfy all losses up to this time, from whatever cause they may have arisen; and these losses, as well as the payments which have been received, must have diminished the claims. The Chancellor assented; adding, that he considered the convention to be a final settlement between the two Governments. In respect to the new article, I desired a little time to consider it, observing, however, that I wanted none to state that I could enter into no stipulation defining the rights of the creditors, or engaging in their favor any thing more than had been promised in the treaty of peace.

SEPTEMBER 24.

The Chancellor called upon me again, and began by saying he felt the force of my objection to any definition of the rights of the creditors, and had, therefore, recast the article so as to avoid it. The new draught, which he left my consideration, is in the following words:

[Clause to be substituted in lieu of the third article.]

"It is further declared and agreed, that neither the payment of the said sum of six hundred thousand pounds, nor any thing herein contained, shall be deemed or taken to prevent any creditor from proceeding, for the recovery and satisfaction of what is or may be due to him, in the courts of the respective countries, according to the course of judicial proceedings therein, and according to the true intent and meaning of the second article herein contained."

In the evening I sent the Lord Chancellor the following letter:

Mr. King to Lord Eldon.—(Private.)

MY LORD: GREAT CUMBERLAND PLACE, *September* 24, 1801.

I return enclosed to your lordship the project which we have been discussing, and consent to the substitute for the third article which you have delivered to me this morning.

The addition of the clause abolishing the sixth article of the treaty of 1794, and which may be introduced at the top of the second page, with the transposition of a word or two in the second article, which I have made, are the only alterations desired.

I pray your lordship to send the project, as now settled, to Lord Hawkesbury, in order that it may be engrossed, so as to be executed immediately. As I have, in relation to this business, manifested a disposition to fall in with what has been deemed requisite to meet complaints which may arise on one side, I must beg of your lordship, in return, to enable me, by an arrangement respecting the Maryland bank stock to bear up against the dissatisfaction which may occur on the other.

With perfect respect, I have the honor to be your lordship's most obedient and humble servant,

RUFUS KING.

SEPTEMBER 26.

Received the following letter from the Chancellor:

Lord Eldon to Mr. King.

DOWNING STREET, *Saturday, September* 26, 1801.

DEAR SIR:

I have taken all the means in my power to avoid postponing the visit I promised you from this day till Monday, but I find myself obliged so to do, and shall call upon you on Monday about one o'clock.

I am, dear sir, very faithfully, and with much respect, your obedient servant,

ELDON.

SEPTEMBER 28.

Received the following note, with its enclosure, from Lord Hawkesbury.

Lord Hawkesbury to Mr. King.

DOWNING STREET, *Monday, September* 28, 1801.

Lord Hawkesbury presents his compliments to Mr. King, and encloses him a copy of the American treaty, as it has been altered. Lord Hawkesbury will thank Mr. King to meet the Lord Chancellor in Downing-street, on Wednesday, at half past twelve o'clock.

NEW PROJECT.

Difficulties having arisen in the execution of the sixth article of the treaty of amity, commerce and navigation, concluded at London on the 4th day of November, one thousand seven hundred and ninety-four, between His Britannic Majesty and the United States of America; and the parties to the said treaty being equally desirous to promote mutual friendship, and, as far as may be, to obviate such difficulties, have respectively named plenipotentiaries to treat and agree respecting the same: that is to say, His Britannic Majesty has named for his plenipotentiary, ——— ———, and the President of the United States, by and with the advice of the Senate, has named ——— ———, who have agreed to and concluded the following articles:

I. In satisfaction and discharge of the money which the United States might have been liable to pay, in pursuance of the provisions of the said sixth article, which is hereby declared to be cancelled and annulled, except so far as the same may relate to the execution of the seventh article of the same treaty, the United States of America hereby engage to pay, and His Britannic Majesty consents to accept, for the use of the persons described in the said sixth article, the sum of six hundred thousand pounds sterling payable at the times and place, and in the manner following: that is to say, the said sum of six hundred thousand pounds sterling, shall be paid at the city of Washington, within the said United States, in three annual instalments of two hundred thousand pounds sterling each, and to such person or persons as shall be authorized by His Britannic Majesty to receive the same; the first of the said instalments to be paid at the end of one year, the second instalment at the expiration of two years, and the third and last instalment at the expiration of three years next following the exchange of the ratifications of this convention. And to prevent any disagreement concerning the rate of exchanges, the said payments shall be made in the money of the said United States, reckoning four dollars and forty-four cents to be equal to one pound sterling.

II. Whereas, it is agreed by the fourth article of the definitive treaty of peace, concluded at Paris on the third day of September, 1783, between His Britannic Majesty and the United States, that creditors, on either side, should meet with no lawful impediment to the recovery of the full value, in sterling money, of all *bonâ fide* debts heretofore contracted, it is hereby declared, that the said fourth article, so far as respects its future operation, is hereby recognized and confirmed, and the same is hereby declared to be binding and obligatory upon His Britannic Majesty and the said United States, and the same shall be accordingly observed with punctuality and good faith, *and so as that no creditor, on either side, shall hereafter meet with any lawful impediment to such recovery as aforesaid.*

III. It is further declared and agreed, that neither the payment of the said sum of six hundred thousand pounds, nor any thing herein contained, shall be deemed or taken to prevent any creditor from proceeding for the recovery and satisfaction of what is or may be due to him, in the courts of the respective countries, according to the course of judicial proceedings therein, and according to the true intent and meaning of the second article herein contained.

IV. This convention, when the same shall have been ratified by His Majesty, and by the President of the United States, by and with the advice and consent of the Senate thereof, and the respective ratifications duly exchanged, shall be binding and obligatory upon His Majesty and the said United States. For faith, &c.

SEPTEMBER 30.

On going to Downing street, Mr. Hammond informed me, that, owing to unexpected and pressing business, Lord Hawkesbury would not be able to meet the Chancellor and me till Friday, October 2d. The Chancellor arriving just as I was leaving Lord Hawkesbury's office, we entered into a short conversation respecting the two following papers, which I delivered to him, and which he promised to examine before our meeting on Friday.

Observations upon the following clause, proposed to be added to the second article of the convention, viz:

"And so as that no creditor, on either side, shall hereafter meet with any lawful impediment *to such recovery as aforesaid.*"

Had the sixth article of the treaty of 1794 been duly executed, no new or further provision would have been proposed, or necessary, to secure the rights of the creditors on the side of Great Britain. If the claims under that article be converted into a definite sum by a convention for this purpose, the legal effect must, in every respect, be the same as though the article had been duly executed; and hence, it could not have been foreseen or expected that any stipulations, concerning the rights of the creditors, would be proposed to be added to such convention.

With a view to popular misconceptions, rather than from any doubt respecting the legal effect upon the rights of creditors, of the commutation of the claims under the sixth article of the treaty of 1794, it has been agreed to insert an article confirmatory of the future operations of the fourth article of the treaty of peace; and from the same motive, another article has been proposed and added, by which it is declared, that neither the payment of the six hundred thousand pounds, nor any thing contained in the convention, shall operate to prevent the said creditors from recovering any debts which may be due to them in the ordinary course of judicial proceedings, and according to the true intent and meaning of the fourth article of the definitive treaty of peace.

These articles, as it is conceived, leave the creditors to the merit of their respective claims, the recovery whereof is protected by the fourth article of the treaty of peace. What are the losses which have arisen from legal impedi-

ments, and which are to be compensated by the six hundred thousand pounds, and which are the debts which may be still recovered in the ordinary course of judicial proceedings, are questions left to be decided upon the particular circumstances belonging to the several cases.

The clause proposed to be added to the second article will materially affect this just and necessary mode of proceeding, inasmuch as creditors are thereby to recover, not according to their rights at this time, but according to their rights at the conclusion of the treaty of peace. A stipulation of this extent cannot be admitted, because losses have been sustained for which compensation to a great amount is about to be made: this will affect the rights of creditors; and a stipulation applicable to them, in their primitive state, will be inapplicable to their present circumstances.

To avoid misconstructions, arising from the cumulative stipulations of the second and third articles, it is proper to add the following article, declaratory of the true effect of the six hundred thousand pounds, engaged by the proposed convention, viz:

ART. 4. "It is further declared and agreed that the payment of the said six hundred thousand pounds shall operate and be received in full satisfaction and discharge of all such *bona fide* debts due to, and recoverable by, creditors on the side of His Britannic Majesty, at the date of the said definitive treaty of peace, and according to the provisions thereof, as cannot now be had and received according to the true intent and meaning of the fourth article of the said definitive treaty of peace, and in the ordinary course of judicial proceedings."

OCTOBER 2.

Went to Downing street agreeably to Lord Hawkesbury's appointment. His lordship was prepared to receive my compliments upon the preliminaries of peace with France, which were signed last night, but wholly unprepared to say any thing more respecting my business than that he had seen the Chancellor, and that it would be requisite for him to bring the subject again before the cabinet. I asked when this would be done, and expressed pretty strongly my impatience at the delays which had taken place. He replied that he could not name a day, but that it should be soon.

It is now evident that little attention has been bestowed upon our affairs; the negotiation with France having excluded the consideration of all other subjects.

Extract of a letter from Mr. King to the Secretary of State, dated

"LONDON, *November* 30, 1801.

"Nothing decisive has yet taken place respecting the sixth and seventh articles of our treaty with this country: I shall, however, be able to send you more explicit, and, I am willing to hope, more satisfactory information upon this subject, in the course of the next month."

Mr. King to the Secretary of State.

SIR: LONDON, *January* 9, 1802.

At length I am enabled to send you a convention, which I yesterday signed with Lord Hawkesbury, respecting the sixth and seventh articles of our treaty of 1794. The commutation of the sixth article of the treaty of 1794, and the confirmation, so far as respects its future operation, of the fourth article of the treaty of peace, remain as they were settled in October last; and I have nothing to add to my former reports upon these points. The claim upon us, to consent to a commutation of the seventh article, has been given up; and it is agreed that the commissioners shall immediately re-assemble, and proceed in the execution of their duties, according to the provisions of the article; except only that, instead of their awards being made payable at such times as they should appoint, the same shall be payable in three equal instalments, corresponding with those to be paid in America.

As our claims are to be ascertained by the Board of Commissioners, which has heretofore added interest up to the day on which its awards were made payable, and which is at liberty to do so, in respect to their future awards, the payment by instalments may not be thought a material disadvantage: the main point, that of ascertaining the amount of our claims, being satisfactorily secured. Having already burdened my correspondence with pieces and reports upon these subjects, which, I fear, have been thought both tedious and uninteresting, I do not add, by way of supplement, a particular account of what has passed since the date of my No. 40, especially as the discussion has related solely to the commission in London; the agreement respecting which is too explicit to stand in need of explanations.

Two copies of the convention have been executed; one of which will be enclosed with the original of this letter; two more copies are preparing, and will, in like manner, be executed as originals, and enclosed with the duplicate and triplicate hereof. I shall likewise send you copies of Lord Hawkesbury's full powers, as soon as they can be prepared; those which I made use of are dated June 10, 1796. Lord Hawkesbury has agreed to send a copy of the third article of the convention to the British commissioners; in like manner, I shall send a copy of it to the American commissioners; and, as they are all upon the spot, they will be at liberty to resume their business without further delay. It will, perhaps, be thought most convenient that the ratifications should be exchanged here.

The Lord Chancellor has assured me that the Maryland claim shall speedily be decided in his court: a measure, it seems, deemed necessary to enable the crown to signify its pleasure respecting the bank stock. Although the disappointments we have met with, upon this subject, must weaken our confidence in the course we have been pursuing, I think it would be impolitic, at present, to change it: the claim, which in my conviction is most just, shall continue to receive my unremitted attention.

With perfect respect and esteem I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to the Secretary of State.

SIR: LONDON, *January* 11, 1802.

Although, for the reason suggested, I have omitted to send you an account of what passed respecting the sixth and seventh articles of the treaty of 1794, subsequent to Mr. Dawson's departure, I have, on reflection, thought it might be satisfactory, and perhaps useful, that I should, in this way, supply the omission.

Lord Grenville, on being consulted by Lord Hawkesbury, having given an explicit opinion that he had in no respect pledged the Government concerning the settlement of the sixth and seventh articles of the treaty of 1794; and that the execution of the latter article, according to its provisions, would be a measure which ought to have a material influence in the ascertainment of the sum to be accepted for the abolition of the former, I prepared, and sent to Mr. Addington, a concise view of the origin, progress, and present situation of the negotiation, corresponding with a more detailed statement, which I likewise sent to the Lord Chancellor, and a copy of which is annexed. Special considerations induced me to prefer this manner of making the representation to one that would have been more regular, and which I remained at liberty to make, should circumstances require it. In subsequent conversations with Mr. Addington, I had reason to be satisfied with the steps I had taken: for he told me that he saw the subject in its true light, and was ready to admit that, to those who were ignorant of personal characters, the objection, if persisted in, would unavoidably have the appearance of a mere expedient. To him, as well as Lord Hawkesbury, I took pains to explain the mutual advantages of a friendly settlement, and the impossibility that I could consent to change the footing upon which the question was now placed.

The business remained in this situation until the middle of December, when Lord Hawkesbury informed me that, having again been considered by the cabinet, it had been decided to close the affair of the sixth article upon the terms which had already been settled; and to agree that the commissioners under the seventh article should proceed, provided their awards, instead of being payable as they should appoint, should be payable by instalments, corresponding with those to be paid in America; and the money deposited in the Bank of England, to be applied on account of the American instalments; which, to an equal amount, should be converted into a fund to satisfy the awards in favor of American claimants. After taking time to consider this communication, it appeared to me to offer the means of bringing the business to a conclusion. Taken together, it amounted to this proposition: that they would accept six hundred thousand pounds, payable by instalments, in lieu of the sixth article, in the execution of which they had a majority of voices, and consent to the execution of the seventh article, according to its provisions, in which we have a majority of voices; provided, the payments to be made by them should be at the same times as those to be made by us. The two commissions having been considered as reciprocal checks upon each other, in the hands of the respective Governments, the converse of this arrangement will test its merits, and determine whether we ought to have rejected it. I thought not: but I disliked the mode in which the end aimed at was to be attained; and, therefore, prepared an article which, by making the awards payable by instalments to the claimants, should attain the same end in a more convenient manner. The sum of the awards would be greater or less than six hundred thousand pounds, for it was not likely to be precisely that sum; if less, a balance must still be remitted from America; if more, in every instalment of every award, the American claimant would have to receive part of his instalment in America, and the balance in England. Besides the trouble of the accounts which must be kept upon this plan, it would create considerable inconvenience, and perhaps injustice; for all the American claimants had been called upon to execute powers of attorney, and appoint agents to conduct their claims in England; and with much trouble, and some expense, had complied with this demand. These claimants, in some cases had deceased; in others, become insolvent; and, in not a few instances, (including, perhaps, cases of insolvency) having anticipated the awards in their favor, had authorized their attorneys to reimburse their advances out of the moneys which might come into their hands from the awards; besides, the plan contained no provision in respect to awards in favor of British subjects.

Upon stating these objections to the Lord Chancellor, he expressed his preference of the article which I had prepared, and which was finally adopted. Another objection, which it was not necessary for me to mention to the Chancellor, had its influence upon my mind: I mean the appearance which this arrangement would have produced, that the two countries had mutually released each other, and agreed to pay their own sufferers: an appearance that might have encouraged the sufferers by French depredations to call upon Congress to indemnify their losses. What Congress would be inclined to do, upon such application, it is, in every respect, unfit for me to conjecture; though, in forming a contract in behalf of the public, it was my duty to take care that its deliberations should not be embarrassed by even the appearance of a precedent, should the supposed case arise.

I take the liberty of adding a word or two to my former communications concerning the second article. What is to be deemed a *bonâ fide* debt in the last clause of that article will not depend upon a reference to what was once so, but is a judicial question within the competence of our tribunals to determine, and which must consequently be decided by those general and acknowledged principles by which their decisions are, in similar cases, uniformly governed. If I be not mistaken, it is here understood and expected that the affair of the old debts is finally settled as between the two Governments; and, with that share of prudence which it behoves the tribunals of every country to observe in questions affected by national stipulations, I am persuaded that we shall hear no more of them.

Having for many years thought the settlement now accomplished to be a measure of national importance, and one that had, in some degree, become indispensable to do away prejudices which interested and disappointed men had raised against our public faith, I may, I hope, be permitted to observe, that I have pursued the negotiation with zeal and perseverance, notwithstanding the mass of misrepresentation, prejudice, and error with which it has been encumbered. I have done so in circumstances often discouraging, and, sometimes, apparently desperate; cheering myself always with the reflection, which I have somewhere met with, that it is the duty of every one interested with what concerns the welfare of his country, in the midst of despair, to perform all the offices of hope. How far what is done has been well done, remains to be determined. If the President and Senate approve, I shall have nothing to regret.

With sincere regard and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to the Lord Chancellor.

[Referred to in Mr. King's despatch of 11th January, 1802.]

GREAT CUMBERLAND PLACE, *November* 22, 1801.

MY LORD:

With the view of explaining the origin and progress of the discussion in which I have now for upwards of two years been engaged, on the subject of the sixth article of our treaty of 1794, I have drawn up the enclosed paper, which I ask the favor of your lordship to peruse.

I wished to have made it shorter, but could not, without omitting what appeared to be material to the elucidation aimed at. If I be not altogether mistaken, the point upon which the business continues to be delayed will appear to your lordship, from the perusal of this paper, in a light somewhat different from that in which you have before seen it; and I am willing to hope that it may have some influence in bringing the affair to a satisfactory conclusion.

With perfect consideration and respect, I have the honor to be,

RUFUS KING.

Lord ELDON, &c.

[Memoir enclosed in the preceding note to the Lord Chancellor.]

It seems unnecessary to repeat, in a particular manner, what has been so fully stated in the discussion that has taken place, concerning the suspension of the two commissioners charged with the execution of the sixth and seventh articles of the treaty of 1794, between the United States and Great Britain. It may, nevertheless, be expedient, concisely to recapitulate the purport of what has passed upon this subject; and, in doing so, to take notice of the origin, the progress, and the present situation of this discussion. This recapitulation will serve the two-fold purpose of explaining the past conduct of the two Governments, and of justifying the opinion that the execution of the seventh article must, as a matter of course, follow the signature of the convention respecting the sixth article.

The commissioners under the sixth article were to receive and decide British claims upon the American Government; and,

The commissioners under the seventh article were, in like manner, to receive and decide American claims upon the British Government: the former met in Philadelphia, the latter in London.

The claims, on the side of Great Britain, arose out of debts due from American citizens to British subjects antecedent to the American war, and the recovery whereof had been prevented, as was alleged, by lawful impediments in the course of judicial proceedings.

The claims, on the side of America, arose out of the illegal capture and condemnation of American ships and cargoes, between the years 1792 and 1796, and for which the claimants, from various causes, were unable to obtain compensation in the ordinary course of justice.

The British claims were founded upon the ancient commercial dealings between America and Great Britain when united, and involved questions arising out of partnerships, insolvencies, and marriage settlements; questions with executors and administrators on both sides; questions upon the sequestation and confiscation laws of the several American States, as well as upon the attainders and criminal process of those States; together with others growing out of the separation which took place between the two countries.

The American claims were few in number, supported by exact proof, and involving few, if any, contested principles of law.

Soon after the commission in Philadelphia assembled, it was apprehended, from the difference in opinion which manifested itself in regard to the matters submitted to its decision, that this difference might increase, and become so considerable, as to disturb the harmony of its proceedings, if not defeat the object of its appointment.

Difficulties of less importance, but which were, nevertheless, viewed with mutual concern, early manifested themselves in the proceedings of the commission assembled in London. By prudence and moderation on all sides, the difficulties were happily surmounted; and this commission, after deciding almost every contested point, was in a train of bringing the business with which it was charged to a satisfactory conclusion, when the disagreements among the commissioners in America rose to a height that made it necessary that their meetings should be suspended.

As soon as the American Government received information of the interruption of the proceedings of the commission at Philadelphia, it sent instructions to its minister in London to enter into immediate and amicable explanations upon the subject with the British Government; and, pursuant to the express provision of the treaty of 1794, to propose an additional article to that treaty, which should secure the rights of the subjects of Great Britain, and, at the same time, protect the American Government from claims not within the purview of the treaty, and which were entitled to and might be satisfied in a different manner.

On the other hand, the British Government, on being apprized of the situation of commission in Philadelphia, represented to the American minister that it would be expedient to suspend the commission in London, until a settlement should be made concerning that in Philadelphia, and a letter, for this purpose, was written by Lord Grenville to the British members of the commission in London, by which they were instructed to decline assisting in the meetings of their Board until they should receive further orders.

In February, 1800, the American minister communicated to the British Government the instructions which he had received, and delivered the project of an explanatory article drawn up in conformity with them.

In April following, the British Government delivered to the American minister a note, in which it rejected the proposed explanatory article, and declined entering into any negotiation upon the subject; referring itself to what had already been stipulated, in the treaty of 1794, upon this subject, and claiming the execution of the sixth article of that treaty according to its provisions. In a subsequent conference, however, between Lord Grenville and the American minister, the former proposed (stating that he did so by the advice of his colleagues,) the abolition of the commission in Philadelphia; provided the United States would pay to Great Britain a definite sum of money, in satisfaction of the whole claim of British subjects, as well upon the American Government as upon individual American citizens; and, estimating this claim at two millions sterling, his lordship offered to accept a sum of between one and two millions, or a million and a half.

As the American minister had no power to accept this offer, he explicitly said so; adding, that he would, as he immediately did, transmit the offer to his Government, together with the refusal of the British Government to accept the explanatory article he had been ordered to propose.

In November following, the American minister received fresh instructions, by which he was ordered to represent to the British Government the earnest desire of the American Government to do whatever depended upon it to carry into full and complete effect the engagements contained in the treaty of 1794; and, in a more particular manner, scrupulously to execute the sixth article of that treaty; and, to call upon the British Government to revise their former decision, and to agree in such explanatory regulations, touching the execution of that article, as had become indispensably necessary to carry it into effect; and, in case the British Government should persist in its refusal upon this head, that he should then propose a modification of the proposition made by the British Government, and offer, on the part of the United States, to pay to the British Government a definite sum of money in satisfaction and discharge of the claims of British subjects upon the American Government, under the sixth article of the treaty of 1794: it being understood that this article should be abolished, and that the British creditors should be free to pursue the recovery of their debts according to the provisions of the fourth article of the definitive treaty of peace concluded in 1783. The purport of this instruction was, without delay, communicated to the British Government; which still adhered to its former decision respecting an explanatory article, but entered into a conference with the American minister, for the purpose of fully comprehending the modification of its own proposition for converting the British claims into a definite sum of money. After the fullest and most exact explanations upon this head, Lord Grenville inquired of the American minister whether he had authority, in like manner, to agree to convert the American claims into a definite sum of money, and abolish the seventh article of the treaty of 1794. To this inquiry the American minister answered that no proposal for this purpose had been made when the British Government first offered to accept a sum of money in satisfaction of the British claims, and abolish the sixth article; that, it not having been proposed, the American Government had given him neither instructions nor power concerning such commutation; and, had it even done so, such was the nature of the American claims, that the commutation would be inexpedient and unnecessary.

After taking time to consider this proposal, the British Government admitted it as a basis of a negotiation which it commenced with the American minister, for the purpose of converting the British claims under the sixth article into a definite sum, and abolishing the article, leaving the seventh article to be executed according to its provisions.

A long and full discussion ensued upon this subject; and, in August of the present year, the British Government informed the American minister that it had agreed to accept the sum of six hundred thousand pounds sterling, which he had been authorized to offer in satisfaction and discharge of the British claims under the sixth article; and to abolish that article, provided the terms of payment could be satisfactorily settled, and provision made that the British creditors should, in future, meet with no lawful impediment to the recovery of their debts. On this occasion, the American minister explicitly stated his expectation that a settlement of the claims under the sixth article would be followed by the removal of the impediment which stood in the way of the execution of the seventh article; and, no objection being made, he added that he would charge himself with recalling to London the commissioners under the seventh article, who were at that time dispersed. Various conferences afterwards took place in order to settle the instalments, and agree upon the provision respecting the judicial remedy of the British creditors; and, after exchanging projects and altering articles upon these points, the draft of a convention was finally settled and mutually approved, and the American minister was invited to attend on the following day for the purpose of signing it. On this occasion, he repeated what had been before stated, and what, not only the basis and tenor of the negotiation, but the terms of the convention which had been agreed upon, authorized that it was his expectation that every impediment to the execution of the seventh article would be removed upon the signature of the convention concerning the sixth article.

It is not necessary to explain the objection which most unexpectedly prevented the conclusion of this business, especially as it is believed to have proceeded from the want of a full acquaintance with what had before passed upon the subject. But it is impossible not to remark that, while the business remains open, not only individuals will continue to suffer inconveniences, but the respective Governments will, ere long, participate of their impatience; and this, too, at a time in many respects critical, and when, moreover, the commercial treaty between them is about to expire, and new and temperate discussions will be necessary to revise and re-establish it. A treaty, not merely nominal, or applying to inconsiderable interests, but which may regulate and confirm commercial dealings more extensive and valuable than are carried on between any other two nations, and the advantages of which, if undisturbed, will annually exceed any conjectural difference that may be supposed to exist with regard to the settlement so steadily and earnestly desired by America.

Extract of a letter from Mr. King to the Secretary of State.

LONDON, *January* 15, 1802.

SIR:

As the object and words of the second article of the convention will be sought for, and examined, with care and attention, it occurs to me, upon the revision of my former communications, to suggest a single observation to those heretofore made. If the second article of the convention had been entirely omitted, the fourth article of the treaty of peace would have remained in full force and operation; the adoption of the second article of the convention limits its force and operation to subjects upon which it legally can, and ought hereafter to operate; thereby excluding all those upon which it once might have so operated, but upon which, from various causes, it can and ought not in future to operate. This reflection, pursued in its detail, will place the article in its true light.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

[The following messages, with the documents therein referred to, are further explanatory of the preceding convention nad correspondence.]

APRIL 8, 1802.

Gentlemen of the Senate:

In order to satisfy, as far as in my power, the desire expressed in your resolution of the 6th instant,* I now transmit you a *letter* from John Read, agent for the United States, before the Board of Commissioners under the sixth article of the treaty with Great Britain, to the Atorney General, bearing date the 25th of April, 1801, in which he gives a summary view of the proceedings of those commissioners, and of the principles established or insisted on by a majority of them.

Supposing it might be practicable for us to settle, by negotiation, with Great Britain the principles which ought to govern the decisions under the treaty, I caused instructions to be given to Mr. Read to analyze the claims before the Board of Commissioners, to class them under the principles on which they respectively depended, and to state the sum depending on each principle, or the amount of each description of debt. The object of this was that we might know what principles were most important for us to contend for, and what others might be conceded without much injury. He performed this duty, and gave in such a statement during the last summer; but the chief clerk of the Secretary of State's office being absent on account of sickness, and the only person acquainted with the arrangement of the papers of the office, this particular document cannot at this time be found. Having, however, been myself in possession of it a few days after its receipt, I then transcribed from it, for my own use, the recapitulation of the amount of each description of debt. A copy of this transcript I shall subjoin hereto, with assurances that it is substantially correct, and with the hope that it will give a view of the subject sufficiently precise to fulfil the wishes of the Senate, to save them the delay of waiting till a copy of the agent's letter could be made. I send the original, with the request that it may be returned at the convenience of the Senate.

TH: JEFFERSON.

British claims under the sixth article, distinguished into classes, including interest, to different dates within the year 1798.

	£	s.	d.
For interest, during the war alone,	120,645	11	1¼
For payments into the treasuries, loan offices, &c.	171,795	0	6½
On account of impediments under the instalment laws of South Carolina,	337,868	2	0
For alleged unlawful decisions of courts,	24,658	4	3¾
By firms, in part citizens of the United States,	162,483	12	4¾
Debts due from States, late provinces,	4,839	14	0
All description of refugees, except North Carolina,	753,182	4	2¾
On account of debts discharged in depreciated paper money,	205,795	15	5½
Proprietary debts,	296,775	13	8
Legal impediments generally,	3,560,585	10	4½
$24,809,969 37=	£5,638,629	8	1

APRIL 17, 1802.

Gentlemen of the Senate:

I now transmit you a report of the Secretary of State, with the document accompanying it, on the subject of your resolution of the 12th instant, concerning the seventh article of the treaty between the United States and Great Britain.

TH: JEFFERSON.

DEPARTMENT OF STATE, *April* 16, 1802.

The Secretary of State, to whom has been referred, by the President of the United States, a resolution of the Senate, passed on the 12th day of this month, requesting the President to cause to be laid before the Senate the amount of claims preferred under the seventh article of the treaty of amity, commerce, and navigation with Great Britain, and of the sums awarded by the commissioners, and paid by the British Government, and a statement of the principles adopted by the said commissioners in their proceedings under the said article, thereupon respectfully submits the following report to the President:

That, agreeably to an estimate made on the 9th of May, 1798, by Samuel Cabot, Esq., at that time an agent of the United States, under the seventh article of the said treaty, the claims preferred under that article amounted to the sum of one million two hundred and fifty thousand pounds sterling. The document herewith submitted to the President, containing a general statement of moneys received on awards of the commissioners, will show the sums awarded by them, and paid by the British Government, under the article in question of the said treaty.

It does not appear, from any researches which the Secretary has been able to make, that the precise principles on which the commissioners have proceeded, can be otherwise deduced than from the awards made in the several cases which have been decided. Any statement of them in detail is presumed not to be within the intention of the resolution.

All which is respectfully submitted:

JAMES MADISON.

* This resolution is in these words: "*Resolved*, That the President of the United States be requested to lay before the Senate the amount and description of claims preferred under the sixth article of the British treaty, and which would have been chargeable to the United States if the principles contended for by the British commissioners had been established as the rules of decision by which those claims should be determined.

Statement of moneys received by awards of the Commissioners acting under the seventh article of the British treaty.

	£	s.	d.
Received by Samuel Bayard, on eleven cases			21,744 13 5¼
Of this sum, was taken to repay the public advances, which appear to have been made only in these three cases, viz:			
Farmer, Osborn,	243	4	9
Sally, Choate,	395	10	6
Rising Sun, Rositer,	4	9	6
			643 4 9
Net sum received by claimants,			21,101 8 8¼
Received by Samuel Williams, on seventeen awards,			36,857 0 11½
From this deducted for public advances which, appear to have been paid only in these cases, viz:			
Fair Lady, Lillibridge,	25	0	0
Lydia, Rinkers,	20	0	0
Bethia, Lothrop,	201	1	0
	46	19	0
	25	0	0
Sally, Burchmore,	243	19	6
Two Brothers, Calley,	251	17	5
			813 16 11
Net sum received by claimants,			36,043 4 0½
Received by claimants from Mr. Bayard,			21,101 8 8¼
From Mr. Williams,			36,043 4 0½
Twelve awards, amount received by private agents,			36,610 8 11
These are all that have been paid to private agents, so far as I can discover from documents in my possession, nor does Mr. Williams know of any more.			
Total received by claimants, on the awards of the commissioners.—Forty cases,			93,755 1 7¾
Amount of public advances,			1,457 1 8
And in one case, viz: Eliza, Borrowdaile, where proceeds were received by private agent,			25 0 0
			1,482 1 8

It would appear that, of the whole forty cases, decided as above, public advances have been made only in nine; upon each of those cases it is probable there were also several expenses paid by the claimants: these, as well as what was paid in the remaining thirty-one cases, as also in seventeen which were dismissed by the Board, it is impossible to ascertain.

GEORGE W. EWING, *Agent.*

LONDON, *December* 1, 1801.

It appeared, by the statement of my predecessor, that only seventeen cases were dismissed by the Board; but, by a particular examination of documents furnished me by the clerk of the Board, I find that there were, in fact, thirty-one cases dismissed.

DECEMBER 1. G. W. E.

7th CONGRESS.] No. 172. [1st SESSION.

FRANCE.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 15, 1802.

APRIL 15, 1802.

Gentlemen of the House of Representatives:

I now transmit the papers desired in your resolution of the 6th instant. Those respecting the Berceau will sufficiently explain themselves. The officer charged with her repairs states, in his letter received August 27th, 1801, that he had been led, by circumstances, which he explains, to go considerably beyond his orders. In questions between nations, who have no common umpire but reason, something must often be yielded of mutual opinion, to enable them to meet in a common point.

The allowance which had been proposed to the officers of that vessel being represented as too small for their daily necessities, and still more so as the means of paying, before their departure, debts contracted with our citizens for subsistence, it was requested, on their behalf, that the daily pay of each might be the measure of their allowance. This being solicited, and reimbursement assured by the agent of their nation, I deemed that the indulgence would have a propitious effect in the moment of returning friendship. The sum of eight hundred and seventy dollars and eighty-three cents was accordingly furnished them for the five months of past captivity, and a proportional allowance authorized until their embarkation.

TH: JEFFERSON.

Extract of a letter from Messrs. Stephen Higginson and Co. to the Secretary of the Navy.

"NOVEMBER 19, 1800.

"Captain Little wishes to have his prisoners landed, and his prize cleared of them, and Captain Gates thinks he can make out to receive and guard them on Castle Island, having a guard of marines from the Boston and Herald; and this mode we shall probably adopt to-morrow, to serve till we receive your orders."

From the same to the same.

DECEMBER 5, 1800.

"The prisoners from Le Berceau are now all landed on Castle island, and have very comfortable accommodations. We have furnished them with clothing and fire-wood, and they are now so well fixed and guarded, that it is perhaps best that they should remain there, and not be sent into the interior. We have paroled the officers of that ship, and they are in town, under obligation to remain here until the trial of their ship. Many complaints are made to us by these poor fellows. We afford them all the accommodation in our power, and go all the lengths our orders will admit."

From the same to the same.

DECEMBER 12, 1800.

"Our district court has condemned the prize ship Le Berceau and her apparel; and the marshal has advertised her for sale by auction, the first of next month. She yet remains below. We have not seen her; but Captain Talbot thinks her a very good cruiser, well constructed, and with excellent cover. The French officers believe that, when in trim, she is equal to the Boston in sailing; and had she not been too deep, they say she would have escaped. She is seven years old, was built at L'Orient in the best manner, and was esteemed the best corvette ever seen there. Her copper is worn out, her sails and rigging cut to pieces, her masts all gone, and she appears a wreck, but her hull is very good. She has an abundance of maritime stores; a new suit of sails below; part of her rigging may again answer; perhaps some of the old sails, &c."

The Secretary of the Navy to S. Higginson and Co.

DECEMBER 19, 1800.

"I have the honor to request that you will cause the French ship Le Berceau to be purchased for the United States, and afterwards have her placed where she will be secure, with just as many men on board as will be necessary to take care of her. Make no repairs.

"The British Government generally buy the national ships captured by their own, but at very low prices. Be pleased so to conduct the purchase now directed, as to prevent its being known that it is on account of Government. Then gentlemen, who might feel delicacy in interfering with the views of Government, will not be restrained from bidding, nor will others bid merely to swell the price for the benefit of the captors.

"I have the honor, &c."

Extracts of a letter from Messrs. S. Higginson and Co. to the Secretary of the Navy.

DECEMBER 22, 1800.

"Dr. Welsh, the physician to the marine hospital, has taken care of the French prisoners when sick, and now wishes to have his account settled, and inquires in what form he shall make it out. He proposes charging the same as he is allowed for the garrison, which will be reasonable enough, as the average number of the prisoners is equal, at least, to that of the garrison, and probably more of them have been under his care, from their confinement on board ships, and in the prison."

"The marshal has concluded to defer the sale of the Boston's prize Le Berceau beyond the time set, the first of next month, to afford time to receive any orders you shall please to forward respecting her."

From the same to the same.

JANUARY 16, 1801.

"Yesterday the prize ship Le Berceau was sold at auction; the ship and apparel were sold first at eight thousand dollars; afterwards her guns and maritime stores, &c. in different lots. We employed a person to buy in the whole for Government, in a manner that gave a fair chance to make the most of her. The amount we yet know not, as the marshal has not made out the account; probably about twelve thousand in all."

The Secretary of the Navy to Messrs. S. Higginson and Co.

SIR: BOSTON, *Feb.* 17, 1801.

I have the honor to request that you will deliver to the order of Mr. Letombe all the French prisoners in your custody. You will take a receipt for them, which, with a list of their names, you will be pleased to enclose to me. If any have been released upon their parole of honor, I request that you will discharge them from the obligations of their parole.

I have the honor, &c.

The Secretary of the Navy to Mr. Letombe.

SIR: FEBRUARY 17, 1801.

I have the honor to inform you that I have directed Messrs. S. Higginson and Co., Boston; Mr. William Peck, marshal of Rhode Island; Philip B. Bradley, Esq. marshal of Connecticut; Aquila Giles, Esq. marshal of New York; Montjoy Bailey, Esq. Fredericktown, Maryland; and William Crafts, Esq. Charleston, South Carolina, to deliver to your order the French prisoners in their custody.

There are one hundred and fifty at Boston; twenty-five at Providence, R. I.; one hundred in Connecticut; eight blacks at New York; ninety do. Fredericktown; eight Charleston, South Carolina.

I request that you will, as speedily as possible, make your arrangements to remove them from the United States.

I have the honor, &c.

Extract of a letter from Mr. Letombe, Commercial Agent of France, to the Secretary of State.

PHILADELPHIA, 10*th Ventose*, (1*st March*, 1801, *O. S.*)
9*th year of the French republic, one and indivisible.*

"Citizen Clement (commander of the Berceau) and his companions in misfortune, wish to return to France by the cartel Olive, which you have furnished with a passport. But every thing has been taken from them; they are without money or clothes, and they are indebted in Boston for their daily subsistence, having received nothing for

this purpose from the Government of the United States. Under these circumstances, as it is impossible for the agents of the republic to procure for them money, (those agents, besides, not being qualified to act as commissaries of prisoners,) and no funds having been provided for this purpose from France; so that the money to be furnished them for their subsistence in quality of prisoners can come from no quarter but from the Government of the United States, to which, in reason, that of France is holden for the reimbursement; the situation of these officers is truly deplorable.

Copy of a letter from Levi Lincoln, Esq., acting as Secretary of State, to Mr. Letombe, late Consul General of France.

DEPARTMENT OF STATE, CITY OF WASHINGTON, *March 10th*, 1801.

SIR:

I received yours of the 1st inst. The enclosed letter from the Navy Department is designed, in some degree, to meet the evils complained of. You will be pleased to seal and forward it. The necessary passports shall be furnished as soon as a vessel shall be engaged and freighted, and shall give the necessary information for that purpose to the office.

The port from which each vessel sails must be specified, the name of her master, her own name, and the port of her destination. I will request Mr. Thornton to supply you with such passports as you may apply for, who will be in Philadelphia at the time you may probably need them. Measures have been and are now taking to correct and remove every just cause of complaint to the French prisoners. If a loan of moneys should become necessary, it may be the subject of further consideration.

Be assured, sir, the American Government will never stop short of the last reasonable exertion to secure justice, and the benefits of humane arrangements to the unfortunate.

The Secretary of the Navy to Messrs. S. Higginson and Co.

MARCH 10, 1801.

You have already been instructed to deliver to the order of Mr. Letombe all the French prisoners under your care. Before the delivery, you will furnish each person with such cheap cloathing as shall be sufficient, with what he has, to make him comfortable. Some of the officers, who have been kept in the country on parole, represent that they have received no allowance from the Government of the United States for their subsistence, and that they are distressed to pay the debts incurred for their maintenance. You will be pleased, in every such case, to pay to each officer a sum of money equal to two dollars per week, for the whole time he has lived at his own expense.

As soon as the prisoners are delivered, you will forward to the accountant of this Department your whole account for expenses of French prisoners.

I have the honor, &c.

The Secretary of the Navy to Messrs. S. Higginson and Co.

MARCH 14, 1801.

I request that you will, without delay, send to New York all the French prisoners under your care.

You will be pleased to supply them with provisions, and give a preference to the cheapest mode of conveyance: the expenses of which you will bring into your account against the United States, for maintenance, &c. of French prisoners.

I have the honor, &c.

The Chargé des Affaires of the French republic to the Secretary of State.

MARCH 19, 1801.

The undersigned chargé des affaires of the French republic has the honor to request the Secretary of State that he will be pleased to make known to the President of the United States the following facts and reflections, relating to the convention signed at Paris the 19th Vendemiaire, (30th November last,) by the ministers plenipotentiary of the two states. The object of this convention having been to do away a misunderstanding, unhappily too long continued, and equally opposed to the interests of both states, the First Consul of the republic, who had nothing so much at heart as to remove all remembrance of differences which had occurred previous to his administration, did not wait till he could be informed that the Federal Government would adhere to this treaty, before he performed those stipulations which were to have effect from the date of the signing of the treaty. It is in consequence of this eagerness, and of the entire confidence which he placed in the good faith of the Government of the United States, that he has caused to be given to the council of prizes directions respecting American cases depending before that council, conformable rather to the spirit than to the letter of this treaty; and has sent to all the establishments of the republic, beyond sea, instructions calculated, not only to ensure full justice for the past, in a manner consonant to the obligations of the convention, but also to prevent, in future, unauthorized measures towards the commerce and navigation of the United States, either on the part of the administration or of individuals.

The undersigned, in order to justify what he advances, has the honor to lay before the Secretary of State: 1st. A statement of decisions made upon American prizes since the signing of the convention, from which it appears that, since that period, one vesssel only has been condemned, and that a vessel demonstrated, by the papers on board, to belong to the enemy: 2. Two extracts, at length, from the despatches addressed by the Minister of the Marine, and sent immediately upon the signing of the treaty, by *avisos*, (advice boats,) to all the administrations of the French colonies, including the isles of France and Reunion. No remarks will be added to these extracts. They prove, by the strictness which prevails in them, that the Government of the republic, so far from encouraging the measures which have wound up the irritation of one of the two parties to the point to which it has actually been carried, these measures have been most frequently flagrant violations of the laws and instructions of the Government—violations which the distance of place and other circumstances have not always permitted to be known, or to be repressed. The French Government has not even waited till the signing should be completed, to take such of the measures mentioned above as related to those affairs which were transacting near at home. As soon as there was reason to hope for an accommodation, all proceedings in American matters were suspended, for the purpose of preventing final condemnations. And the correspondence of the American negotiators will prove that those of the republic were eager to support the demands which the former made to this effect. The undersigned will add that, in order to obviate all delays or difficulties which might have been produced by interests contrary to the spirit of the convention, the Minister of Foreign Relations, in consequence of an authorization of the First Consul, enjoined it upon the council of prizes to adjourn, for an indefinite period, all decisions upon the question of property captured under the American flag. The subjoined extracts of a letter from the minister will explain, better than the undersigned can do it, the motives which have given rise to this measure, and how much its object is to ensure the full execution of the treaty.

After having shown what has been the conduct of the Government of the republic, it remains for the undersigned to request that the Secretary of State will be pleased to inform him of the intentions of the President of the United States respecting the execution of that part of the convention which relates to the obligations of the said States, in order that he may acquaint his Government with the same.

The undersigned does not suppose that the modifications which the convention has undergone in its ratifications, by the United States, can prevent the Federal Government from proceeding in the execution, on its part, without waiting for the exchange of the respective ratifications. These modifications can, on no ground, form an obstacle, unless an apprehension is entertained that, by them, the ratification of the First Consul may be rendered uncertain. Although the undersigned is, in this respect, without instructions, he does not hesitate to say that this apprehension appears unfounded. The immediate approbation, and the anticipated execution which the First Magistrate has given to this act, sufficiently prove the opinion which he entertains of it, and there is no probability that this opinion will be changed. The undersigned, at least, ventures to presume that it will not be changed by alterations which have no otherеffect (if the undersigned is rightly informed) than to render the principle of the treaty more and more sacred—a principle of which the object is to remove pretensions of the respective parties, the discussion of which might have thrown serious difficulties in the way of the negotiation, and have rendered the issue of it questionable.

Agreeably to the preceding remarks, which will appear, without doubt, plausible to the Secretary of State, the undersigned presumes that the conditional ratification of the Senate having left all the articles subsisting, which stipulate reciprocal restitutions, the President will have taken the proper measures for preventing condemnations of French property, contrary to the fourth article, or, at least, that where those condemnations shall have taken place, or shall continue in the federal courts, he will assure to the aggrieved parties the indemnities contemplated by that article. The undersigned, being authorized by his Government to take into his possession the property of individuals not claimed by them, which may be restored, in virtue of this stipulation, finds, in this authorization, a new motive for desiring to know both the measures and the disposition of the Federal Government upon this point. He will add, that if he is induced, for the sake of those who are interested on the part of the French, to wish that the exchange of the ratifications may be anticipated in making these restitutions, this anticipation will be no more than to reciprocate what the French Government has done, even when the ratification of the United States could not have been foreseen by it.

An article to which it is natural to suppose that the French Government attaches importance is, that which concerns the restitution of vessels of war. The undersigned will say nothing of the considerations which rendered it desirable that this restitution should take place. It is sufficient to call to mind that many French vessels of war, of different forces, have been taken by the vessels of the United States. The undersigned desires to know the intention of the Government of the United States, as well respecting those of the vessels in question which are on foreign stations, as those which are now in American ports, in order that he may take his measures accordingly. As to the last, of which the undersigned will be in a situation to take immediate possession, he imagines that the Government of the United States will consider themselves bound to restore them in the state they were in at the time of their capture. From the information collected by the undersigned, it appears that the frigate L'Insurgente is lost. There is reason to believe that it will appear just to the President to replace this frigate, or to pay the value of it to the republic. The spirit of the treaty, at least, and the principles of law, seem, at the first view, to justify this hope; and the undersigned imagines that, in this case, it would be easy to come to an understanding as to which of the modes would be entitled to the preference.

It only remains for the undersigned, before concluding this note, to speak of the reciprocal communications of the two people, and of the measures taken upon one side and the other, to remove the obstacles which had, for a moment, interrupted it. The First Consul, immediately on the signing of the treaty, gave orders in all the ports of the republic to remove the prohibitions which the reprisals had occasioned against American vessels. The copies transmitted with this note, by the undersigned, sufficiently prove that all prohibitions in our colonies, if any ever existed, had been, or ought to have been, long since removed. If the Government of the United States, as there is reason to believe, have, upon their part, put an end to theirs, it is to be hoped that the customary relations will shortly be re-established. Although the respective obligations, in this particular, ought not, in strictness, to commence until after the exchange of the ratifications, there is, however, reason to believe that the Federal Government, upon this point, as well as upon others, will have felt the same anxious desire as the First Consul to re-establish the ordinary connexions of friendship and of commerce.

The undersigned hopes that, agreeably to these sentiments, the President of the United States will have seen fit to take measures for putting an end to the unfriendly proceedings (to say no more) which have taken place in the French colonies, with the sanction of the American Government. A detail will not be attempted of the facts relating to the conduct of the naval forces of the United States, in regard to some of these colonies. Neither will the conduct be adverted to, which the accredited agents of the American Government may have pursued, and the insinuations which they may have carried into some others of those colonies. All these acts ought to be forgotten: and there are grounds for presuming that the Federal Government has been forward to render, upon this point, the justice which that of the republic required at an early period, by a letter from the Minister of Foreign Relations, addressed to the American plenipotentiaries at the moment of their departure. The friendly dispositions, of which the undersigned, since his arrival, has received unequivocal proofs, assure him, if any thing remained to be done in this particular, conformable to the spirit of the treaty, and to the satisfactions which the respective dignities of the two states may require, that the President of the United States would hasten to take measures which should not leave the United States behind the French republic in striving for the perfect re-establishment of the good understanding between them.

The undersigned has the honor to pray the Secretary of State to be pleased to accept the assurances of his perfect consideration.

L. A. PICHON.

No. 1.

Decisions made by the Council of Prizes upon American cases, since the 9th Brumaire, 9th year.

VESSELS CAPTURED.

Names.	Captains.	Dates.	Brief statement of decisions.
Ariana,	John Le Bosquet,	9 Brumaire,	Simple release.
Apollo,	John Walker,	13 do.	do.
Eleonora,	Lancelot Davidson,	13 do.	do.
Molly,	Burrowdale,	17 do.	Confiscation.
Martin,	Philip Parcells,	27 do.	Simple release.
Suffolk,	Isaac Hussey,	27 do.	Discharged from court upon a simple demand for damages and interest, put in by the captured.
Amsterdam,	Adam Scott,	29 do.	Simple release.
Tom,	John Balseley,	3 Frimaire,	Vessel and cargo to be restored in their present state.
Flora,	Le Pelly,	3 do.	Agreement (between the parties) confirmed.
Poolcary,	John Besson,	3 do.	Simple release.
Fame,	John Rusth,	23 do.	do.
Aime and Susanne,	Richard Pickelt,	27 do.	do.

DURAND, *Commissary of the Government with the Council of Prizes.*

L. A. PICHON.

Extract of a letter from the Minister of the Marine and of the Colonies to the agents of the French Government in the Colonies.

PARIS, 21 *Vendemiaire, year* 9. (*October* 12, 1800.)

A convention, citizens, which re-establishes between the French republic and the United States of America the ordinary relations of friendship and of commerce, has been signed at Paris, the 8th of this month, by the ministers plenipotentiary of the two Powers. It immediately received the approbation of the First Consul, and it is about to be submitted for the ratification of the American Government.

Two articles of this convention, the fourth and seventeenth, are already obligatory upon the two contracting nations, according to the precise letter of those articles; and you will find annexed copies of these two articles, to which I enjoin you to conform with the greatest punctuality.

The fourth article settles the conditions upon which restitutions are to be reciprocally made, of property captured, and not finally condemned, or which may be captured before the exchange of the ratifications. It is there expressly stipulated that, if property has been condemned contrary to the spirit of the convention, it shall be restored or paid for immediately; and this article is executory from this moment.

Thus it would be upon the public treasure, upon your fellow-citizens themselves, that the fault which you may commit will fall, if you permit an infraction of this convention to be made, or a judgment to be executed, which it would disallow. But I do not admit the possibility of such an impropriety in your conduct. You become this day responsible for the execution of the stipulations which have been concluded between France and the United States; and this responsibility will not be illusory. The Government will not, with impunity, suffer an indemnity to be borne by the republic, to the payment of which you shall either negligently or knowingly have contributed.

The seventeenth article establishes the rules which the two Powers mutually acknowledge, in relation to the navigation of their respective vessels, when one shall be engaged in war, and the other remains neuter. This article comprehends, in a great measure, the provisions of the fourth, and fixes (to use the expression) the legislation common to both nations, so far as respects maritime prizes, and will, consequently, be the rule of your conduct from this day forward.

The friendly relations which existed between the republic and the United States being re-established, it is useless to seek for the causes which have produced a momentary misunderstanding, the consequences of which have been unhappy for both parties. The same sentiments, the same motives, which for a long time united them, have again brought them together, and the inhabitants of the colonies will share the satisfaction which has been felt, in consequence of this reconciliation in the mother country. She is, in effect, about to open for these countries new outlets for the produce of the soil and of industry, to bring back a competition equally favorable to the consumers, and to the progress of cultivation. She will, above all, efface all traces of those transactions which, either executed, or only projected in some colonies, have presented the criminal example of an entire forgetfulness of all patriotic principles, and of a disposition marked with ingratitude and infidelity towards the mother country. This convention also puts an end to all pretexts for those hostile measures which the administrations of many French possessions beyond sea have permitted against the American navigation. It goes, in short, to restore immediately the ancient connexions which existed between the two Governments, by means of commissaries of commercial relations. I recommend to you particularly to maintain a regular correspondence with the Commissary General appointed for the United States, as well upon those objects which relate to the convention of 8th Vendemiaire, as upon the attempts which our enemies may make to engage this Power with them, or to introduce themselves fraudulently through the assistance which they may derive from similarity of language, manners, and mode of ship-building. The American Government, informed by this agent of the fears and suspicions which you may have reason to entertain, will apply itself, without doubt, to remove the causes which produced them; and you will easily perceive that the confidence which induces such measures is suggested by the reconciliation which has been effected between the two nations.

The loyalty of the French, the faith due to treaties, and the interest of the republic, unite them to require it as a duty from all the agents of the Government, to prevent, by their vigilance, their integrity, and their firmness, every thing by which the state of peace might be disturbed.

One of the surest means for attaining this end is to keep the strictest watch over vessels fitted out for cruising, and to require from those fitting them out a rigid observance of the laws and regulations.

There may be no occasion for me to awaken your attention upon this subject; but multiplied facts, and those too of a recent date, force me to believe that the privateers in our colonies are guilty, with impunity, of the most shameful robberies.

Instead of attacking the real enemies of France, against whom it would be glorious and useful to engage, the privateers employ the whole time of their cruise in interrupting the trade of allies and of neutrals. But I will not conceal from you, citizens, that the charges which I have mentioned against the privateers are daily made by the agents of every foreign Power, and are often made even by those of our citizens who have been compelled by circumstances to make use of a neutral flag, and pointed at the superior administrations of the colonies.

They are accused of openly suffering these abuses; of permitting weak and feebly armed privateers to take the sea, better fitted for pillage than for combat; of not requiring from every person fitting out a privateer the bail which the law of 23d Thermidor, third year, with so much reason, requires as a security for indemnification to the navigator illegally captured; and of declaring to be valid prizes taken in contempt of the law of nations, of treaties, and of our own laws and regulations.

You will perceive what suspicions are excited against the public functionaries, who are the objects of such charges as these. Your delicacy, then, as well as your duty, will incite you to prevent complaints of this nature; and if, as I cannot yet bring myself to believe, they are substantially founded, you are so much the more blameable, as you will not only have acted contrary to the laws and interests of your country, but will also have disregarded the instructions which you have received.

A great part of the complaints which I now transmit to you might have been prevented, if the administrators of the colonies had taken care that no privateers should be fitted out, but such as were in a condition to resist the enemy. The expense itself of such vessels would have been, in some measure, a security for the solvency of the owner, and of course for his conduct towards the vessels of allies and of neutrals; and besides, an honest and prudent merchant of easy circumstances would never expose himself to the dangers which he would incur by an illegal, or even by a hazardous capture.

I prescribe it to you, therefore, as a rule, not to suffer any vessel to be fitted out with arms, the capacity of which is not sufficient to take on board at least three months' provisions, and which does not carry at least sixteen guns, if four pounders, or twelve six pounders.

A true extract: FORFAIT.
L. A. PICHON.

Extract of a letter from the Minister of Foreign Relations to Citizen Pichon.

PARIS, 14 *Nivose, year* 9, (*January* 3, 1801.)

I have this very day written to the council of prizes, requesting them to adjourn to an indefinite period all decisions upon every kind of property seized under the flag of the United States.

If this adjournment excites any inquietude in the United States, you will say that, far from being intended to defer restitutions, it is, on the contrary, calculated to render them both more prompt and more certain.

As soon as the convention shall be ratified upon both sides, I will urge forward a decree of the consuls, which shall replevy for the Americans all the prizes, the restitution of which has been engaged for. This step, in the first

place, is the only one consistent with principle. It is, moreover, the most advantageous for the Americans, since it does away the intervention of the council of prizes, which could proceed only partially in the restitutions; and will save them from the unavoidable delays in its proceedings.

CH. MAU. TALLEYRAND.

True extract: L. A. PICHON.

The Secretary of the Navy to S. Higginson and Co.

MARCH 20, 1801.

The French national ship the Berceau, captured by Captain Little, is to be restored under the treaty.

You will please to cause her to be delivered, with all her guns, ammunition, apparel, and every thing belonging to her, to the order of Mr. Pichon, commissary general and chargé des affaires from the French Government to the Government of the United States, whenever such orders shall appear.

This business should be done as if no reluctance accompanied the restoration. We are now at peace with France, and we should act as if we returned to a state of amity with pleasure. Let there be no cause of complaint against the Government or its agents.

I have the honor, &c.

The Secretary of the Navy to Messrs. S. Higginson and Co.

MARCH 20, 1801.

Enclosed is an account exhibited by the lieutenant of the Berceau, of the pay due to the officers of that vessel from their Government, from the time of their capture to the 25th Ventose, amounting to four thousand seven hundred and fifty livres.

Instead of allowing them two dollars per week, as you have heretofore been requested, it is the President's desire that you pay to Lieutenant Clements the amount of this account, taking his receipt for the same, which you will send to the Accountant of the Navy as your voucher.

I have the honor, &c.

Extract.—The Secretary of the Navy to Samuel Brown, Esq.

APRIL 1, 1801.

"I have to request that you will be pleased to ascertain, without delay, the state the French national ship Le Berceau was in at the time of her capture, as to her armament, stores, and provisions, and to cause her to be put in the same condition before she is delivered up to the French Government."

To Samuel Brown Esq., Boston.

APRIL 10, 1801.

I have received a letter of the 27th ultimo from Messrs. Higginson and Co. who informed me that they expected to transport all the white French prisoners to New York, and that about seventy blacks would remain in their custody, whom they intended to send to New York as soon as they could provide a vessel to take them round. If their intentions in either or both cases have been frustrated, I request that the prisoners may be retained at Boston, as the whites will be wanted for the Berceau, and the blacks will be sent direct from Boston by Mr. Pichon.

I have the honor, &c.

WASHINGTON CITY, 13 *Germinal, 9th year* (3*d April*, 1801.)

SIR:

I have learned, since my arrival in the United States, that many of the French prisoners brought in by American vessels of war are still remaining here. No measures having been taken by my Government for facing the wants occasioned by a circumstance entirely unforeseen, I find myself not in a situation to relieve the first necessities of these prisoners. All that I can do is, to procure them a passage back to France or to the colonies. The benevolent dispositions, sir, which you have been pleased to manifest to citizen Letombe, by your letter of the 10th March, encourage me to request you to obtain from the President of the United States the necessary authorizations, by which all the individuals who have been brought here in consequence of the past misunderstanding, and who are delivered up to the agents of the republic, may receive from the United States a daily supply until the time of their departure, which I will take measures to effect without delay. The supplies, sir, shall be placed to the account of the French republic, in whose name I will hasten to liquidate and acknowledge this debt; and also to discharge it by drafts on the national treasury, or by any other means in my power. These measures are not only consistent with the sentiments of conciliation which animate the two Governments, but they are also conformable to the usage which has always prevailed, and which requires that prisoners or other persons detained by a Power should be supported by the Power detaining them.

Be pleased, sir, to accept the assurance of my high consideration.

L. A. PICHON.

To the SECRETARY OF STATE *of the United States.*

GEORGETOWN, 1*st Floreal, year* 9, (*April* 21, 1801.)

SIR:

I have had the honor to transmit you the copy of the instructions which the Minister of the Marine sent to the French colonies, to ensure the execution of those articles of the treaty which were obligatory from the time of its being signed, and to prevent a repetition of what had passed in those colonies. I have much pleasure in transmitting to you official proofs of the prompt effect which these orders have produced in Guadaloupe. They are contained in the correspondence of the agents of the consuls of the republic, which has reached me very shortly since, in consequence of the instruction given to all the agents of the republic in the colonies to keep me informed of the measures which they might take in obeying the injunctions of the First Consul. I confine myself to lay before you, among the numerous documents which they have sent me, 1st, Extract of the letter which they have written to me; 2d, A printed copy of the order which they published as soon as they received those of the Government; 3d, Extract of a letter written by these agents to Mr. Murray, commander of the United States' frigate the Constellation, and containing a list of the American vessels which they had released; 4th, lastly, Copy of an order which they have addressed to all their delegates in the colonies of neutrals and allies, as well as to the auctioneers of the island, to obtain a know-

ledge of the condemnations made since the signing of the treaty, and to prepare the means for obtaining the restitutions directed by the fourth article. I will add, sir, that previously, viz. on 28th Nivose, the agents had enjoined upon their delegates not to deliver to the captors any funds arising from prizes standing in this predicament.

It is, sir, very agreeable to me to have to give you circumstantial and official details of these proceedings, which the President of the United States will have already been acquainted with, from the papers which have been published. I beg you, sir, to submit these documents to him, and to give him the assurance that I shall make it a duty to co-operate to the last moment in perfectly and fully executing the treaty whenever the United States or their citizens shall have claims for restitution to carry forward. You will, without doubt, sir, think it advisable to inform the parties interested of the dispositions of the agents at Guadaloupe, that they may take measures for claiming their property: and, in general, it may perhaps appear to you desirable to inform the public of the eagerness to repair the wrongs occasioned by the misunderstanding which has been, and is shown by the authorities in that colony, where, at first sight, the greatest and most multiplied causes of irritation appear to have been given.

Accept, sir, the assurance of my respect, and of my high consideration.

L. A. PICHON.

Extract—The Delegate of the Agents of the Consuls of the French republic to the Windward Islands, at the island of Porto Rico, to Citizen Letombe, Chargé des Affaires and Commissary General of Commercial Relations of the French republic, at Philadelphia.

PORTO RICO, *4th Floreal*, (*April* 29, 1801.)
9th year of the French republic, one and indivisible.

"As soon as I was officially informed of the convention before mentioned, and of the circular of the agents of the consuls, I released all the vessels which were unsold, and I took measures for defending the interests of the Americans who might have claims for restitution to establish.

I will, in like manner, make acquainted with your letter the agents of the consuls of the republic at the Windward islands. I have no doubt that the demand of Mr. Watmough will be received with all the favor which it merits. Health and consideration.

The Delegate BOURCIER.

True extract: L. A. PICHON.

The Secretary of the Navy to Samuel Brown, Esq.

BOSTON, *May* 4, 1801.

SIR:

Dr. Thomas Welsh is to be allowed for his attendance on French prisoners, from June 15, 1799, to April 1, 1801, at the rate of twenty dollars per month, and his account of medicines, say eighty dollars forty-seven cents. Upon his calling upon you, you will be pleased to pay him at that rate.

I have the honor, &c.

The Secretary of the Navy to Samuel Brown, Esq.

BOSTON, *May* 18, 1801.

SIR:

Sixty-nine French prisoners have been sent to New York, and are to be transported from thence to Boston, there to be delivered to such officers as Mr. Pichon may appoint to receive them: they will be directed to you, and I have to request your attention to their delivery.

With much respect, I have the honor, &c.

Extract of a letter from Mr. Pichon to the Secretary of State.

PHILADELPHIA, *June* 18, 1801.

To return, sir, in effect, to the objects which are the subject of your reply, it only remains for me to pray you to offer to the President of the United States my thanks for the decisions which you have communicated to me from him. As to the sum of fifteen thousand dollars advanced by the United States, to succor the colonists who had fled from St. Domingo, I hesitate so little to acknowledge that the French republic is accountable for it to these States, and am so sure that the principles which govern the First Consul of the republic will lead him to admit this obligation, that I offer, sir, to include it in the liquidation which I am desirous of making as soon as possible, of the claims which the Federal Government has upon that of the republic, for the different advances which it has made for our prisoners since the misunderstanding, and for every other purpose. I have had the honor, sir, of praying you to be pleased to invite the respective departments who have made these advances, to prepare their accounts. As soon as all expenses of this kind shall be closed, I shall think myself sufficiently authorized to settle and adjust them.

Extract of a letter from Samuel Brown, Esq. to the Secretary of the Navy.

BOSTON, *June* 24, 1801.

"On Monday, the 22d, the corvette Le Berceau was delivered to the commissary of the French Government, and the captain at the same time took charge of her. At the request of the commissary and captain, and from the necessity of the case, I have furnished some articles which may not have been on board at the time of the capture, such as hammocks and blankets; and if then on board, they were retained wholly, or in part, by the crew. The captain now wishes to be furnished with silver spoons, plated ware, china, &c. for his cabin. These I cannot provide without your special directions, as I do not suppose they were on board at the time of the capture. The commissary is willing, on the part of his Government, to engage to pay for all articles supplied that probably were not then on board the corvette.

Extract of a letter from the Secretary of the Navy to S. Brown, Esq.

JULY 3, 1801.

"There is no doubt that the Berceau has been sufficiently repaired and furnished; of course no more expense must be incurred on the part of the United States on her account. It will be proper that you write a letter to this Department, stating, particularly, the repairs and supplies she received at the public expense, and the precise state and condition she was in, as to her equipments of every kind, on her delivery to the officers appointed on the part of the French republic to receive her. The day of the delivery should also be stated."

The Secretary of the Navy to L. A. Pichon, Esq.

JULY 8, 1801.

SIR:

I have caused to be examined the transactions relative to the payment of money by order of this Department to the officers of the French corvette Le Berceau, and find that the sum of eight hundred and seventy dollars and eighty-three cents, equal to 4,750 livres, was paid into the hands of Lieutenant Clement by Messrs. S. Higginson and Co., navy agents, at Boston; copy of the pay roll, and Mr. Clement's receipt, is enclosed herewith. This appears to be the only money advanced by the United States to these officers on account of their pay. Other moneys have been, however, advanced to them, on account of subsistence, whilst they were considered as prisoners; the precise amount of which cannot now be ascertained, as the accounts are in an unsettled state.

I have the honor, &c.

Statement of the payments made to the officers of the Berceau by Stephen Higginson and Co., as Navy Agents, at Boston.

	Livres.
Lieutenant Clement, from the 13th October, 1800, to the 13th March, 1801, 5 months, at 200 livres per month,	1,000
Lewis Poutin, master ditto,	1,000
John Troquereau, marine officer, ditto,	1,000
Joseph Robert, surgeon, ditto,	1,000
Stephen Borde, surgeon's mate, at 150 livres per month,	750
	$870 83=4,750

NAVY DEPARTMENT, *Accountant's Office, April* 9, 1802.

THOS. TURNER, *Accountant.*

Extracts of a letter from Mr. Pichon to the Secretary of State.

JULY 10, 1801.

2d. What course the President of the United States will follow with regard to the restitution of property under the article of the treaty, it being known that France has actually restored many vessels; whether the Government will be able to procure restitution, or whether it must be subject to legislative co-operation?

3d. Citizen Pichon, as he intimated it, is authorized to take possession of all the property which is to be restored to individuals who are not present, or have no attorneys. The present state of war, and the constant habit of the consular administration of France, which has made consuls guardians of property belonging to absentees, has suggested the measure; and other obvious reasons make it expedient for the administration and individuals both.

4th. In all prizes made by American public vessels, one-half of the capture accruing to the United States, citizen Pichon wishes to know whether even that half of the property is only to be restored by legislative concurrence, or whether the executive can give it up. It would be peculiarly gratifying in the case of the Vengeance, where individuals are yet present, and are soon embarking for France, at which place, from their military situation, it will prove extremely difficult for them to obtain their *quota* of the restored property.

6th. No answer has been yet made on the case of the *Insurgente*. Inquiries must have been made at the Navy Department to ascertain some facts which may be elucidated by the discussion of that case.

Extract of a letter from Samuel Brown, Navy Agent at Boston, to the Secretary of the Navy, dated

JULY 13, 1801.

"The fitting out of the corvette Le Berceau has been attended with too much delay. She ought to have been at sea before this time; but it has not been in my power to hasten her departure. I have repeatedly urged the necessity that the expense of subsisting the crew might be extinguished, but my endeavors have not had much effect. The precise attachment of the officers to their own manner of conducting the arrangements and equipments of the ship has been the cause of much delay. The want of inferior officers, which I understand still exists, has been another. In instances where the necessity of receiving certain articles on board has been urged, the answer has been, that there was no carpenter, sail-maker, gunner, or other petty officers, on board to superintend those departments, and, therefore, the articles could not be received. A refusal to supply all the articles they have demanded, perhaps may have been another cause for the delay. The sails of the ship are not yet bent, and some of the stores remain to be delivered. I hope, however, that a few days will now bring this business to a close. The quantity and quality of many of the articles required at times were such, and the mode of indenting for them became so inconvenient and wasteful of time, that I was induced, on the 30th of June, to write to commissary Guirard on the subject. I enclose a copy of the letter."

BOSTON, *June* 30, 1801.

CITIZEN COMMISSARY:

As indents of supplies for several departments on board of the corvette Le Berceau are daily presented to me, I wish to call to your remembrance that my instructions from the Secretary of the Navy admit me only, in directing the repairs and the equipment, to restore the corvette to the state she was in anterior to her coming into possession of the United States. I cannot, therefore, you will see, be justified in furnishing any article whatever for her use, that was not on board at that period. If it should at any time happen, therefore, that any article required by the indents should not be immediately furnished, I must beg of you to attribute it to the necessity I feel in adhering to the instructions. In supplying the hammocks and blankets, I probably departed from them; but as humanity required it, my feelings compelled me to furnish those articles.

In any instances where evidence cannot be obtained of the exact quantity, number, or quality of any deficient article, I presume a discretion is placed in me to decide what ought to be done. In those instances it has been, and will be, my disposition to observe a liberal conduct, presuming such to be the disposition of our Government. I will state, as an instance, the cordage and sails furnished the corvette.

The articles necessary to complete her equipment and stores, that are to be furnished by the United States, being all ready to be delivered, I hope that orders will now be given to receive them on board without delay. As it must be desirable to extinguish the daily expenses of subsisting the crew, joined to my wish that she may be in readiness for sea as soon as possible, induces me to make this request.

I trust that some arrangement will shortly be made for supplying any articles that may be required for the use of the corvette, which I may not feel myself warranted in furnishing; but the want of such articles ought not to protract the operations that are necessary to prepare her for sea.

I am, &c.

SAMUEL BROWN.

Monsieur GUIRARD.

Extract of a letter from Samuel Brown, Navy Agent at Boston, to Levi Lincoln, Esq.; without date, but received August 27, 1801.

"The capture was made on the 12th of October, 1800. On the 14th November the corvette arrived here; on the 17th she was libelled and condemned, with her guns, apparel, appurtenances and effects, at the district court in December term, 1800. On the 30th of that month she was dismantled, and sold on the 15th of January last, by the marshal of the district, and bought in for the United States, by order of Stephen Higginson & Co. I cannot find that there was any property taken on board of her that was not libelled, excepting such as was given up to the officers by the captain of the Boston at the time of capture.

"The instructions I received from the Secretary of the Navy on the subject of her repairs, authorized me 'to ascertain the state she was in at the time of her capture, as to her armament, stores, and provision, and to cause her to be put in the same condition, to be delivered up to the French Government.' I have presumed it was the meaning of the instructions, though not fully expressed, that the corvette should be restored, in all respects, to the condition she was in immediately anterior to the commencement of the action with the Boston. I have, therefore, endeavored, in directing the repairs and furnishing the supplies, to be governed, as far as possible, by this principle, which I made known to such of the principal workmen employed in the repairs, as appeared to be expedient. But an adherence to the rule, with a few exceptions, was soon found impracticable; but every departure produced an expense to the United States: for example, the stays, shrouds, and all the cordage, were unavoidably replaced with new for old. The rule, of course, was violated, as the old was not worth more than two-thirds the price of new. The corvette was, in this respect, therefore, placed in a better condition than she was at the commencement of the action; but the United States lost by it the difference in the value of the new and old cordage. This was also the case with her sails, with her masts, spars, tops, and caps; with the carpenter's work, with the iron work, and with many other supplies too numerous to be detailed here. Her stores, &c. thus furnished, may, I presume, be estimated to be worth, on an average, thirty per cent. more than the stores they have replaced."

GEORGETOWN, 6 *Vendemiaire, year* 10, (*Sept.* 28, 1801.)

It is with much pleasure that citizen Pichon communicates to Mr. Madison the enclosed extract of a letter which he has just received from Governor La Crosse. It will show the disposition which animates this officer, as well as the spirit in which his instructions are conceived. General La Crosse, in the same despatch, while replying to the instances which citizen Pichon, as is known to Mr. Madison, had made to him, for indemnifying immediately the five or six cases of prizes which come within the treaty, opens to him, with great confidence, the motives which have induced him to refer the claims for restitution to the Government. The first is, the exhausted state of his funds; the second, the obligation, which he really and conscientiously believed himself under, of referring the question to the council of prizes, which, according to the law whereby it is established, pronounces in the last resort; the prizes in question being posterior to its establishment. The third motive is, the desire which he has to receive from Government answers to some questions which he had proposed upon this kind of business, his present instructions not being sufficiently particular for him to act upon. The general, besides, assures citizen Pichon of two things: first, that immediately upon the decision of the council being known, he will pursue the captors with all possible severity; second, that he will himself, as soon as the minister replies to his questions, use all his efforts to indemnify the sufferers.

General La Crosse also advises citizen Pichon that he will be under the necessity of imposing a duty upon the entry and exportation of merchandise from the colony. When the measure is taken, citizen Pichon will be informed of it, and he will communicate it to Mr. Madison, whom he prays to accept his respects.

Extract of a letter from Rear Admiral La Crosse, Captain General of Guadaloupe and its dependencies, to Citizen Pichon, Commissary General, and Chargé des Affaires of the French republic, dated

14 FRUCTIDOR, *year* 9, (*September* 1, 1801.)

[With the note of L. A. Pichon, of September 28, 1801.]

"A very important object, that of the vessels of the United States carrying away our black cultivators, obliges me to take a very rigorous resolution against those who so audaciously violate the public law. Lately an American captain took six, which he carried off with him. He was arrested and convicted of the offence. But in taking general measures upon this subject, I thought that I ought to give a proof of the indulgence of the French Government towards the subjects of a nation with which we ought to be intimately connected. I shall be glad, if you will confer upon it with the Secretary of State of the United States, because I am convinced, beforehand, that he will find no measures severe enough for punishing such a violation of the laws of our territory. You will do me the greatest pleasure to give me your ideas and his upon this subject.

"LA CROSSE."

BOSTON, *October* 31, 1801.

SIR:

I now enclose an account of the repairs made on, and the supplies furnished to, the French national corvette, Le Berceau, agreeably to your instructions of the 2d of April last, amounting to thirty-two thousand eight hundred and thirty-nine dollars and fifty-four cents, to wit: supplies from public property, eighteen thousand three hundred and forty-five dollars and ten cents; and bills discharged by cash for repairs and supplies, fourteen thousand four hundred and ninety-four dollars and forty-four cents. As some of the indents for supplies were not made out till a short time previously to her departure, I have not, therefore, been able to furnish the account before this time. I have thought it would be proper, in order to show, as fully as possible, the state of her equipment, to begin the account by detailing the supplies furnished from the inventory of the stores purchased with the hull of the corvette by Messrs. Higginson & Co., the late agents; but presuming the cost of those stores has been forwarded to the Navy Department, I have supposed it to be unnecessary to carry out a price against them. The supplies furnished from the property of the public follow next in the account, to which I have affixed a price. And lastly the bills for repairs and supplies which have been discharged by cash.

Some of the stores of the inventory of Le Berceau were left on hand after the equipment, which, with a quantity of old copper taken from her bottom, have been delivered to Major Gibbs, whose receipt is enclosed.

In your letter of the 8th July, you have advised that it would be proper for me to state particularly, by letter to your Department, the repairs and supplies received by the Le Berceau at the public expense. You have also directed to be stated the precise condition she was in, as to her equipment of every kind, on the delivery to the officers appointed on the part of the French republic to receive her. On the 23d June she was formally delivered up, but as many of the supplies to her were necessarily made after that time, I conceive the object intended would not be embraced by stating her condition at that period. I think there is no better way of ascertaining the repairs and supplies she received at the public expense, and the condition of her equipment at the termination of the supplies, than by a reference to the account, which I hope you will think to be sufficiently explanatory. But it may not, however, be amiss in me to make some general observations on the subject. I shall, therefore, say, that the best shipwrights, blacksmiths, caulkers, joiners, mast-makers, riggers, and other workmen in this place, were employed on the repairs; that their work was well executed; and that the materials furnished for the purpose were of the best

kind; that, wherever the copper on her bottom appeared to have received any injury, it was repaired with new. In these respects there cannot be a doubt of her being placed in a better condition than she was in at the period immediately anterior to the action with the Boston. Her masts, bowsprit, spars, tops and caps, were all new, and made in the best and most substantial manner. Her shrouds, stays, and cordage were also all new, and of the best quality, being made of the finest yarns, excepting about four tons of the latter, supplied from the inventory purchased by the late agents at auction. She was furnished with a new cable of eighteen inches, one hundred and twenty fathoms in length, and amply supplied with spare cordage. In addition to upwards of thirty sails that were saved from the wreck, which were put in good order, she was furnished with a complete new suit of sails, made of the best duck. Her condition, as to her masts, spars, shrouds, stays, and sails, was doubtless made much better by the repairs than at the period referred to above.

Her supply of blocks and block-work was ample. She was furnished with a new barge, and her other boats were well repaired, and she was abundantly supplied with water casks. The surgeon's department was well furnished, excepting amputating instruments, which were not supplied, as it was discovered that her former surgeon had kept possession of those that were on board at the capture. Her cabin was sufficiently furnished with tables, desks, chairs, crockery ware, and other furniture. In these respects there cannot be a doubt she was also placed in a better condition than she was in at the period before referred to.

In conforming to the indents of the captain, she was furnished with beef, pork, bread, beans, rice, flour, oil, rum, wine, and other stores, for a voyage of three months, which were of the best kind.

The gunpowder, and other military stores supplied her, were also furnished in conformity to the indents of the captain.

She mounted on her battery twenty-two nine pound cannons, and two short twelve pound carronades.

On the 26th of last month she departed from hence for sea. The pilot that carried her out has since returned, having continued on board until she was fifty leagues at sea, when he was put on board of a vessel bound hither.

The bills in the account, agreeably to the abstract enclosed, marked No. 1, amounting to five hundred and nineteen dollars and thirty-seven cents, may not, perhaps, be considered as proper charges against the outfits of the corvette, as they were for supplies so made to her crew, soon after her arrival here, and for their transportation to New York. I have presumed, however, that there would be no impropriety in placing them therein.

The bills and supplies charged agreeably to abstract enclosed, marked No. 2, amounting to three thousand four hundred and eighty dollars, and eighty-two cents, for the hire of Apple island, for blankets and hammocks, for the transportation of the crew from New York, and for their subsistence after their arrival here, till they were ordered by the captain to repair on board the corvette, I have supposed, from the nature of the supplies and charges, might be reimbursed by the French Government. Necessity obliged me to furnish them, as the French commissary had then neither money nor credit, to enable him to do it. I also forward by this post, in a separate enclosure, the vouchers of the bills paid for the supplies made to Le Berceau, being from No. 1 to No. 114.

I am, with great respect, sir, your most humble servant,

SAMUEL BROWN.

Original cost of the corvette Berceau, - - - - - - - -	$13,349 44	
Commission on the purchase, two per cent. - - - - - - - -	266 98	
		13,616 32
Repairs of the Berceau, - - - - - - - - - - -		32,839 54
Total,		$46,455 86

French convention signed by the plenipotentiaries of the two nations, September 30, 1800.
Ratified by Mr. Adams with exception, &c. February 18, 1801.
Agreed to by Bonaparte, July 31, 1801.
Promulgated by the President, December 21, 1801.

Messrs. Stephen Higginson and Co. Boston, January 15, 1801.

Bought at Auction.

	Dls. Cts.	*Dls. Cts.*	*Dls. Cts*
Ship Berceau, per inventory, - - - - - - -			8,000 00
925 shot, (9 and 12 lb.) - - - - - - - -	16	148 00	
48 hand grenadoes - - - - - - - -	17	8 16	
11 pair 9 pound cannon carriages, - - - - - -	160 00	1,760 00	
1 pair 12 pound carronades, - - - - - -		105 00	
48 iron bound large casks, - - - - - -	8 25	396 00	
26 do. 50 gallons, - - - - - - -	3 00	78 00	
18 do. 19 and 30 - - - - - - -	1 20	21 60	
1 iron bound hhd. 2 harness tubs, 1 empty quarter cask, - -		6 00	
4 coils cordage 6 2 14 - - - - - - -	11 25	74 53	
4 do. 4 2 9 - - - - - - -	15 50	71 00	
4 do. 4 2 21 - - - - - - -	15 50	72 16	
6 do. 8 0 24 - - - - - - -	13 50	110 90	
69 muskets and 75 bayonets, - - - - - - -	5 00	345 00	
2 pair blunderbusses, - - - - - - -	9 50	19 00	
5½ pair pistols, - - - - - - - -	5 25	28 87	
2 pair brass swivels, - - - - - - -	95 00	190 00	
1 chest containing tools, - - - - - -		10 50	
13 lb. old iron, - - - - - - - -	5 25	68 25	
79 ensigns, jacks, and pennants, - - - - - -	3 10	244 90	
1 hawser 5 0 9 - - - - - - -	10 25	51 89	
1 do. 2 2 10 - - - - - - -	9 25	23 94	
1 do. 4 1 14 - - - - - - -	10 25	44 84	
1 do. 9 2 00 - - - - - - -	14 75	140 12	
131 3 0 standing rigging, - - - - - - -	5 25	691 68	
67 1 0 running do. - - - - - - - -	9 00	605 25	
1 3 10 do. - - - - - - - -	9 00	16 55	
8 0 0 wads, - - - - - - - -	2 10	16 80	
			5,349 44
			$13,349 44

Received payment of S. Higginson and Company, Navy Agents, amounting to thirteen thousand three hundred and forty-nine dollars, and forty-four cents.

S. BRADFORD,
Marshal Massachusetts District.

Abstract of repairs and expenditures on the French corvette Le Berceau, by order of the Secretary of the Navy, under date April 2, 1801, viz.

PUBLIC PROPERTY.

Timber,			$481 79
Copper,			904 75
Cordage,			5,980 00
Powder,			1,981 80
Shot,			245 28
Canvass,			912 29
Sails,			1,782 83
Kentledge,			1,256 20
Sundry small articles,			1,580 05
	Bread, soft,	898 59	
	hard,	1440 00	
			2,338 59
	Beef,	170 00	
	Pork,	513 00	
			3021 59
	Medicines,		198 52
			$18,345 10

CASH PAID FOR THE FOLLOWING BILLS:

Edmund Hart, shipwright,	$1,135 39	P. S. Medaro, putting up medicines,	20 00
Eben. Leman, blacksmith,	986 58	Wm. Dodd, water,	40 86
Joab Hunt, shipjoiner,	178 94	John Lamboard, cooper,	302 45
John Edmonds, mason,	7 25	Thayer and Chapman, ship chandlers,	345 73
William Bell, do.	16 00	Ben. Summer, crockery ware,	159 54
Simeon Killen, carver	27 00	David Tilden, wood,	84 00
P. Revere and Sons, coppersmiths,	79 51	Lawrence Gray, shipkeeper, two bills,	253 74
John Odin, hardware,	175 69	David Tilden, scaleage,	4 25
John How and Sons, plumbers,	9 25	John May and Son, dockage and wharfage,	697 94
James Ridgway, painter,	299 04	George Blanchage, truckage,	62 49
James Prince, tar, &c.	21 90	Gleason and Thayer, do.	53 42
Fred. W. Major, do.	247 88	John Sargeant, lighterage,	8 50
Isaac P. Davis, rigging	202 75	Thomas Barmand, pilot,	6 00
Thomas and Watts, sailmakers,	258 67	Benjamin West, truckage,	113 66
Wm. Otis Wyer, do.	71 35	Joseph Ripley, rice,	36 86
John and B. T. Wells, coppersmiths,	18 00	Thomas Dennie, wine,	100 50
Benj. Seward, gunsmith,	115 04	John Parker, rum,	608 19
William Callender, armorer.	133 15	Jos. Shed, groceries, two bills,	254 55
Elisha Segourney and Sons, iron hoops	34 67	A. and C. Davis, flour,	560 00
John Hooton, wood,	47 17	David Whiton, fowls,	11 00
Isaac Collins, labor,	724 00	John Dawson, corn,	6 00
John Davis, do.	3 00	Thomas K. Jones, claret wine,	327 40
William Downe, do.	5 00	Andrew Dunlap, beer,	2 25
William and I. Harris, mast-makers,	1084 51	E. and A. Winchester, fresh provisions,	767 28
M'Clennan and Sanders, riggers,	722 91	Jos. Russel, hire of island,	150 00
Jonas S. Bass, leather,	79 10	John May and Son, wharfage, &c.	47 45
W. C. Hunneman, coppersmith,	58 13	Howard and Eaton, groceries,	117 90
Fowk and Dyer, blockmakers,	13 87	J. W. Thatcher, mattresses, &c.	14 05
Singleton and Himpson, do.	158 99	John Pintard, freight of French prisoners from New York,	300 00
Joseph Lovering, jun. and Co. candles, &c. two bills,	61 39	Joshua Hammond, do.	338 35
J. Hoffman, mattresses, &c.	13 44	John Rowe, do. to New York,	333 33
John May and Sons, store rent,	45 00	Mons. Clement, expenses of do. at Nantucket,	31 83
Boot and Pratt, blankets,	71 00	Thomas Dillaway, fixing berths on board cartel,	27 81
John Cushing, do. two bills,	143 33	H. G. Otis, apprehending French prisoners,	10 00
Thomas Hastings, beer, four do.	228 00	Jos. Lovering, jun. and Co. soap and oil for do.	11 86
Timothy Dodd, powder,	3 00	Charles Davis, wood axes for do.	4 83
E. and S. Larkin, stationary, five bills,	104 55	James Eunron, water casks for do.	72 00
John Hooton, wood,	26 66	Joseph Pierce, jun. ship chandlery for do.	27 71
Jos. Ripley, bread,	42 67		$14,210 24
Alley and Richardson, coppersmiths,	54 87	Commission on $14,210 24, at two per cent.	284 20
James Davis, blacksmith,	8 00		14,494 44
Samuel Thaxter, repairing compasses,	11 00		
Eben. Eaton, tinman, two bills,	51 34		
Joseph Roby, do.	51 39		
James T. Loring, medicines,	84 12		$32,839 54

Errors excepted:

SAMUEL BROWN.

BOSTON, *October* 16, 1801.

Extract of a letter from Fulwar Skipwith, Esq., Commercial Agent of the United States, to the Secretary of State.

"PARIS, *October* 29, 1801.

"For the information of our fellow-citizens, concerned in the causes of captured vessels in this country, since the institution of the council of prizes, I here transmit an official list of all those that have been condemned, of those that have been acquitted, and, finally, of those now depending for trial before that tribunal."

A list of the judgments rendered by the Council of Prizes, in the causes of American captured vessels, from its institution to the 3d Brumaire, 10th year, (October 25, 1801.)

CAPTURED VESSELS.		Captors.	Decisions.	Dates.
Names.	Captains.			
Pegou,	J. Green,	The Bravoure and the Cocarde.	Released, with damages,	Prairial 9 8
Union,	Ab. Lunt,	Tartare,	Ditto,	Messidor 9 8
Statira,	J. Seaward,	Hazard,	Cargo condemned, ship released,	Therm. 6 8
Republican,	J. Simpson,	Spartiate,	Condemned,	Do. "
Peggy,	G. Davidson,	Grand Decidé,	Released, compromise confirmed, as far as relative to the damages.	Do. "
Portland,	J. Pollard,	Diable à quatre,	Condemned,	Do. 16
Polly,	Tim. Tufts,	Grand Bonaparte,	Released, no damages,	Do. 19
Nancy,	Lew. Young,	Caroline,	Effects taken on board this vessel put to the disposal of Government till they are claimed.	Do. "
Ruby,	Luke Keefe,	Bourgainville,	Condemned,	Do. 27
Pearl,	W. Lattimer,	Effronte and Légéré,	Released with damages,	Do. "
Hetty,	Thos. Carter,	Brave,	Released, no damages,	Do. "
Woodrop Sims,	Hodgson,	Heureux,	Condemned,	Do. 29
Parkman,	L. Mackmillan,	Aventure,	Ditto,	Do. "
Retrieve,	Rub. John,	Impromptu,	Compromise ratified by the council	Fruct. 7
Ruby,	J. Girard,	Venus,	Released, no damages,	Do. 17
Columbia,	Feb. Coran,	Juste,	Condemned,	Do. 23
Ann,	Robert Lord,	Bellone,	Ditto,	Do. "
Exeter,	Morgan,	Légéré,	Released with damages,	Do. 27 8
Frederick,	J. G. Clark,	Arriege,	Condemned,	
Ariadne,	John Le Bosquet,	Laure,	Released, no damages,	Brumaire 9
Apollo,	John Walker,	Ouverture,	Ditto,	Do. 13
Eleonora,	Lanc. Davidson,	Légéré,	Ditto,	Do. "
Molly,	Burrowdale,	Eole,	Condemned,	Do. 17
Martin, Norfolk,	P. Parcells,	Fortune,	Released, no damages,	Do. 27
Suffolk,	Is. Hussey,	Ouverture,	Damages not granted the owners,	Do. "
Amsterdam,	Ad. Scott,	Odele,	Released, no damages,	Do. 29
Tom,	J. Bailey,	Eole,	Ditto,	Frimaire 3
Flora,	Le Pelley,	Bouches du Uione & l'Afrique.	Compromise ratified,	Do. "
Pool Carey,	J. Benson,	Heureux Spéculateur,	Released, no damages,	Do. 9
Fame,	John Rusth,	Beyonnair,	Ditto,	Do. 23
Ann Susann,	Richard Pickett,	Heureux Spéculateur,	Ditto,	Do. 27
Minerva,	Thomas,	Gironde,	Desistance of the captors ratified,	Nivose 17
Juliana,	Thomas Haward,	Esperance,	Condemned,	Do. "
Eagle,	Churchills,	Minerva,	Compromise ratified,	Do. 29
Lambert,	Anth. Stolesbury,	Volney's 2d frères,	Ditto,	Floreal 27 9
Amazone,	Jos. Trask,	Mouche,	Released, no damages,	Fruct. 13
Lucy,	William Russell,	Struck near Calais,	Permitted to put again to sea on bail, and afterwards definitively released.	Do. "
Fanny,	Jene Smith,	Papillon,	Released, no damages,	Do. "
Argo,	Chipman,	Moucheron,	Ditto,	Do. 17 9
Nancy,	Appl. Warden,	Juste,	Ditto,	Do. 23
Charles Carter,	J. Tomkins,	Cygne,	Released with damages,	Do. 27
Sally,	Alex. Frazer,	Emouches and Audaceux.	Appeal rejected as being too late,	Do. "
Pacific,	Samuel Kenedy,	Argus,	Ditto,	Vend. 3 10
Pomona,	Robert Hooper,	Eole,	Released, no damages,	Do. 7
Lenox,	Ruf. Green,	Eole,	Ditto,	Do. "
Ann and Mary,	Thomas Hunt,	Espoir and Faveur,	Released with damages,	Do. 17
Rodolph Frederick,	Thomas Crocker,	Laure,	Condemned,	Do. 23
Josephus,	Wm. Loveless,	Abeille et Moucheron,	Released, no damages,	Do. "
Dublin Packet,	H. Green,	Abeille,	Condemned,	Do. "
Alknomac,	Miller,	Gironde,	Released, no damages,	Brumaire 3
Amelia,	Logan,	Deux Amis,	Ditto,	Do. "

The above list of the judgments rendered by the council of prizes, on the American captured vessels, is true, and conformable to the records of said council.

CULMELIS, *Secretary General.*

A true copy:

F. SKIPWITH.

7th CONGRESS.] No. 173. [1st SESSION.

SPAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, APRIL 20, 1802.

APRIL 20, 1802.

Gentlemen of the House of Representatives:

I transmit you a report from the Secretary of State, with the information desired by a resolution of the House of Representatives of the 8th of January, relative to certain spoliations, and other proceedings therein referred to.

TH: JEFFERSON.

DEPARTMENT OF STATE, *April* 18, 1802.

The Secretary of State respectfully reports to the President the information requested by the resolution of the House of Representatives, of the 8th of January last, relative to spoliations committed on the commerce of the United States, under Spanish authority; and also relative to the imprisonment of the American consul at Saint Jago de Cuba.

This report has been delayed longer than was wished; but the delay has been made unavoidable, by the sickness and absence of the chief clerk in this Department, who had partially gone through the necessary researches, and could most readily have completed them.

JAMES MADISON.

PHILADELPHIA, *October* 10, 1801.

SIR:

The situation in which I am placed, as president of an incorporated insurance company, affords me a pretence for addressing the Secretary of State on a subject in which I conceive the honor and interest of the United States are in a considerable degree involved. But as you will probably receive more formal applications on the same subject from other quarters, I shall be the less formal in my communication, considering it merely as an auxiliary which may or may not be brought into action, as occasion may require. The chamber of commerce of this city have been collecting materials on which to form an address to the Government, concerning the depredations lately made by the Spaniards on our commerce, in full confidence that proper measures will be taken to obtain from the Spanish Government compensation for the injuries sustained, and security from further depredations.

The sufferings and apprehensions of suffering from such depredations are far from being confined to this city: they extend to every sea-port in the Union, and though the merchants and insurers feel them most pointedly in the first instance, they are more or less affecting to every individual in the United States. I have lately received a letter of request from the three incorporated insurance companies in Baltimore, to join in devising a mode of laying the matter before our Government. The chamber of commerce having previously taken up the business, I communicated this letter to them, presuming it will be properly regarded.

Since the measures lately taken by the British Government respecting their colonial admiralty jurisdictions, we have perceived a sensible abatement of their unjustifiable treatment of the American commerce; and it is but justice to the French to admit, that, since the last convention, they have generally desisted from capturing our vessels, and have treated them in a friendly manner. It seems improbable, therefore, that they have either authorized or countenanced these captures by the Spaniards; nor can I conceive any ground for them more plausible than the idle pretence of holding Gibraltar in a state of blockade by a few paltry privateers. This, one would suppose, could not afford a tolerable pretence for capturing our vessels bound to their own ports, or others in amity with them, within the Mediterranean.

Vessels bound thither must necessarily pass near Gibraltar, and frequently find occasion to call there for information, or to obtain convoy. I therefore conclude that these depredations have been committed by marauders without the assent or knowledge of the Spanish Government, and that they will be suppressed, and restitution awarded, on application from the United States.

I have the honor to be, with due deference and respect, sir, your most obedient servant,

CHARLES PETTIT.

JAMES MADISON, Esq. *Secretary of State.*

PHILADELPHIA, *October* 10, 1801.

SIR:

I have the honor to send herewith a memorial from the chamber of commerce of this city, on the subject of Spanish captures, together with four letters, received by the owners of the captured vessels, which I pray the favor of you to lay before the President of the United States.

The business to which they relate has occasioned a very strong sensation in the minds of the merchants of this city. The property they have at risk is very great, and their information respecting its insecurity alarming. If Gibraltar is to be considered in a state of blockade, and American vessels directed to call there are, on that account, subject to capture and condemnation, there is reason to fear that most of those which were intended for the Mediterranean are in that predicament. They have generally been directed to call at that port, either to benefit of convoy, or to learn the state of the markets in the ports to which they were destined; and as Algeziras is so situated that few vessels can go in or out of Gibraltar without being seen from thence, it is hardly possible to escape the vigilance of their cruisers.

What the conduct of the Spanish tribunals (with respect to captures of this kind) may be, can only be conjectured, as no ultimate decisions had taken place in the cases immediately referred to. If we are to judge from the information received, and their conduct on former occasions, the prospect is sufficiently discouraging. Where the property has been of small value, it has sometimes been released, after long detention and considerable expense; but as yet we know no instance of restitution where the value was great, nor for what has been plundered by the captors.

The alarm created by these captures is not confined to Philadelphia. A letter from the Insurance Company of Baltimore to the President of the Insurance Company of North America has already been received, proposing a joint representation to the President of the United States on this subject: and there is no doubt but like measures will be pursued by the other trading towns.

It is hoped that the representation now made will be thought of sufficient weight to engage the immediate attention of the President, and that such measures will be adopted as the nature and circumstances of the case require. As other information on this subject is received, it will be communicated to Government; and when any measures are determined on by the President proper for the merchants to know, a communication of them will be thankfully received.

In the meantime, I am, with great respect, sir, your most humble servant.

THOMAS FITZSIMMONS,
President Chamber of Commerce Philadelphia.

Hon. JAMES MADISON, Esq.

To Thomas Jefferson, President of the United States, the Philadelphia Chamber of Commerce respectfully represent:

That the commerce between the United States and the ports of the Mediterranean has become very important, and, from its extent, had furnished to the merchants the pleasing expectation that it might be so extended as to compensate, in some measure, for the restrictions they have experienced in other quarters; but, that it has latterly met with obstructions from vessels cruising under Spanish colors, which threaten its extinction.

By recent advices from thence, it appears that a number of American vessels have been captured and carried into the Spanish port of Algeziras; among which are three belonging to this port, and one to Baltimore, the value of which, together, exceeds four hundred thousand dollars.

That although the decision of the courts had not (at the dates of the advices) been made, and although it is possible some part of this property may be liberated, yet it is perfectly ascertained that the vessels were plundered of goods to a considerable amount by the captors, and that the passengers and crews were grossly abused and ill-treated, for which no compensation or retribution was expected.

That the pretence for capturing these vessels is, that they were intended for Gibraltar; and it was publicly declared that all vessels which should touch, or intend to touch, at that port, would, if met with, be subject to like consequences.

That Gibraltar is little resorted to by American vessels for the purposes of trade, but, from its situation in relation to the Mediterranean, they are often obliged to put into that port; and of late, have generally been directed to do so, for the purpose of obtaining convoy from some of the national ships against the Barbary corsairs.

Whether, under present circumstances, Gibraltar ought to be considered as in a state of blockade by the Spaniards, or not, we by no means undertake to determine; but we can assert, with confidence, that the merchants of this city have not had such notice thereof as is usually given by nations acting with good faith to each other; although the United States have had a minister and consuls in that country, and the Spanish Government have constantly had like functionaries residing in this. This Government having given information that the American squadron would rendezvous at that place, and the commander be instructed to give convoy to their vessels when applied for, and he could do it with propriety, their owners were led to conclude that, in endeavoring to benefit of that protection, they were not liable to be molested by any friendly Power.

As it is extremely important to the American merchants to be informed whether, under the existing circumstances, they ought to consider the port of Gibraltar as blockaded, one object of their application to the President is, to obtain that information. Should it be so determined, they trust, till legal notice thereof shall have been given, they ought not to be subject to the losses and detention which they have experienced, and that retribution will be obtained therefor.

They flatter themselves, too, that vessels which do not call there, or which may be obliged to put in by stress of weather, or for convoy, and not for the purposes of trade, may not be carried into the Spanish ports, and undergo the losses attendant on such detention; but that, where their papers are fair and clear, they may be permitted to pursue their voyages without molestation.

In full confidence that the President will take this, their respectful representation, into consideration, they console themselves with the hope that he will take such measures thereon as the nature and importance of the case may, in his opinion, require.

In behalf of the chamber of commerce of Philadelphia:

THOMAS FITZSIMMONS.

PHILADELPHIA, *October* 10, 1801.

ALGEZIRAS, *August* 3, 1801.

GENTLEMEN:

I wrote you last in a hurry, acquainting you with the unfortunate capture of the ship Molly, after an action of two hours. You will please to observe, gentlemen, we were attacked under the red flag and French colors, although it appears, and indeed is actually the case, they were under Spanish commissions; and undoubtedly we have a plea and defence against the proceedings of those pirates. Mr. Gibson's communicating to you fully respecting the capture of the ship, and the situation she is in, if there are any hopes of her release, &c. it is unnecessary for me to mention any thing further on that head.

With attention to your interest, I remain, gentlemen, your most obedient servant,

RICHARD FLIMM.

Messrs. NICKLIN and GRIFFITH.

ALGEZIRAS, *July* 26, 1801.

GENTLEMEN:

It is with sincere regret that I have to acquaint you of the capture of your brig Sophia, and of her arrival here on the 24th instant; and last evening, to increase the misfortune, the armed gun-ship, the Molly, towed in by seven Spanish privateers, with whom she had warmly fought for upwards of two hours; but I have the pleasure to say that Mr. Gibson, the captain, and officers, are well: several were wounded. The crew, without exception, have shared a similar fate to that which we experienced on board the Amelia, being plundered of every article of clothing, and otherwise treated with the greatest inhumanity. I made two attempts to get along side, but so rigid are the privateers-men, that I was reluctantly compelled to sheer off; however, I shall use the greatest exertions to afford them relief, and you may be assured of my utmost endeavors to make myself serviceable; and I feel it more particularly my duty where you are so deeply interested. I have offered a trifling gratification to get the Sophia liberated from quarantine, and I am in hopes that to-morrow Mr. Dugan will be on shore. I have received your favors by that gentleman, and have taken means to get the business in a train, the result of which I shall not fail communicating.

In great haste, gentlemen, believe me, very respectfully, your most obedient servant,

CLEMENT HUMPHREYS.

P. S. All American vessels that have *Gibraltar* written on their papers, and met with by Spanish privateers, will be brought in and condemned. The following American vessels, in addition to what I have mentioned, have been sent in since the 24th instant:

Brig Maria, captain Hardie, from Philadelphia,
Brig Milford, —— from Baltimore,
} in quarantine.

Messrs. WILLINGS and FRANCIS.

John Gibson, Esquire, to Messrs. Willings and Francis, Nicklin and Griffith, and Henry Nixon, Philadelphia.

ALGEZIRAS, *July* 31, 1801.

GENTLEMEN:

It is with sincere pain I inform you of our unfortunate capture by the French and Spanish boats, after an action of two hours. It still bears more hard upon us when we reflect we had every reason to suppose we could have made good our passage to Gibraltar, had our guns been sufficiently heavy for their weight of shot. Our crew went to their quarters with alacrity, and did not offer to desert them.

I have not before this had it in my power to write a line, all communication being with us cut off, until we had given in our declaration to the commander at San Roque, from whence I returned yesterday.

The principal plea for condemnation is our being bound to Gibraltar. Our firing on the gun-boats will be no injury to our cause, as we were attacked by the flag of Tripoli, (a red flag,) and no right to regard any colors afterwards hoisted. By continuing the action until we were come up with by a gunboat in the King's service, we fall directly under the cognizance of Government, and I understand our cause will go direct to Madrid; no notice being taken of it here, which is not the case with those ships who have struck to private armed vessels. In consequence of which, I hope, gentlemen, I shall get more redress, but fear it will be a long time. Those who have to apply here are detained a considerable time, and have their decision ultimately from Madrid.

The ship is stripped, the sails unbent, and a guard of Spanish soldiers put on board by the orders of the commandant, which now puts a stop to any further pillage, which was carried on with so much diligence while under the direction of the privateers-men, that ten thousand dollars will not replace what they have stolen.

By this conveyance I have written to Messrs. Turnbull and Co. of Gibraltar, requesting all the information they can give, as also a credit on Cadiz or Madrid, (could it be obtained without much expense,) by which I might be enabled to give security for a certain amount, and obtain the release of the ship.

This plan appears to be the most eligible, as we were taken by a Government vessel, who are responsible for all damages in case of acquittance; they may, perhaps, be more inclined to accept the obligations of some safe house in Cadiz, than detain the ship until the final decision. I shall anxiously wait an answer from Messrs. Turnbull and Co. (under cover to whom I send this letter,) from whom I expect much information, which is not to be obtained here; Mr. Clement Humphreys being gone to Cadiz, and the American consul, Mr. Molony, a superannuated gentleman, either not having it in his power, or being unwilling to render any assistance to Americans brought in here. On Mr. Turnbull's opinion I shall principally rely in the prosecution of my business.

It is a pity some vessels are not kept constantly cruising in the mouth of the straits. One or two frigates would entirely prevent the depredations of the boats, who are no better in their treatment than the brigand barges in the West Indies. Were our Government to make a spirited representation, I have no doubt but redress might be obtained for the depredations committed on our flag, as they tremble for their possessions in the West Indies and South America. The French commissary has great influence here, and has the power of removing all causes of capture to Paris, where possession has been taken by the French flag, which makes me think ourselves fortunate in not submitting early. All armed French vessels can obtain the privilege of wearing a Spanish flag by paying two thousand dollars, so that there are none but what carry the standard of both nations.

I shall write you by every conveyance, and hope to hear from you, either by the way of Gibraltar, Cadiz, Malaga, or Alicant, under cover to Mr. Molony, American consul here. You will please to be very guarded in your expressions, for fear of your letters falling into the hands of our opponents. Our situation is very delicate; the smallest trifle will condemn the ship and cargo.

Our treatment has been infinitely more harsh than I experienced in Porto Rico, and think we stand as little chance of being liberated as there, unless I can interest our minister, when I go to Madrid, to act strongly in our behalf.

You will please inform me, whether it is necessary for me to stay after the first decision and appeal, if you abandon the property to the underwriter. I consider myself released after the papers are in such a train that their agents can carry on the appeal. As long as the property remains yours, I shall remain by it, and shall, to the utmost of my power, endeavor to protect it.

Remaining, gentlemen, your most obedient servant,

JOHN GIBSON.

John Gibson, Esq. to Messrs. Willings and Francis, Nicklin and Griffith, and Henry Nixon.

ALGEZIRAS, *August* 7, 1801.

GENTLEMEN:

Enclosed you receive a copy of my last to you, under date of the 31st ultimo, forwarded via Gibraltar; since when, nothing has been done in our case. I was in hopes, then, from the information received, of the cause being carried immediately to Madrid, but have been deceived. The point in dispute at present is, who shall have the right of trial, the Government of San Roque or Algeziras, both strenuously contending, and fear we shall have to remain until an order is sent down from court.

Since my last, I have received a letter from Messrs. Turnbull and Co., in reply to the queries asked; they are of opinion we shall certainly be condemned, unless a sum of money is properly applied, which corresponds with my sentiment. Every officer under this corrupt Government is open to bribery, and have no doubt but a few thousand dollars would be the most solid argument we could advance in our defence. Upon the subject of bribery, I beg leave to state my ideas. Whatever sum is applied must be done before a condemnation takes place; otherwise, the cargo will be landed; and, if prevented from being sold (which is not always the case, particularly if valuable,) upon an appeal, it will be pillaged at least 50 per cent. if any time in store, and no vigilance will protect it. As underwriters have hitherto refused paying, unless condemnation takes place, will they not refuse in this instance? Their conduct in this respect has already cost them dear, and, if they pursue, will prevent many from coming forward. Several vessels might have been liberated, by advancing the judge two or three thousand dollars; but the agents, not considering themselves at liberty to do it, have refused, and afterwards compromised for a much larger sum, on carrying on the appeal. In a conversation with Mr. Francis, previous to my departure, I mentioned the subject of ransom, should we unfortunately be captured by the Tripolines, not at that time apprehending any thing from the gun-boats; but he was of opinion I could not ransom the vessel for any thing short of her real value, and would, therefore, decline mentioning the subject in my instructions. It is by no means certain we shall be released, even by offering a sum of money, so many being concerned in our capture; but Messrs. Turnbull and Co. have guarantied the payment of any sum I may choose to advance, and recommend the coming forward immediately. Mr. Clement Humphreys, at present at Cadiz, has mentioned my case to the house of Bernard Lacoste, the particular correspondent of Mr. Leamy; they have offered their services here, and a nephew is now with me, with whom I communicate. Mr. Humphreys, from his long stay, has had an opportunity of becoming acquainted with them, and strongly recommends them as a house of honor, on whom I may place the utmost reliance; they have had the principal American business under their protection, and, from the loans they have made to Government, have considerable influence. The young gentleman, who has come down from Cadiz since my arrival, appears to be pretty well acquainted with the forms and corruptness of the courts, having managed many similar causes, and being personally acquainted with the principal officers here. I have written to Messrs. Grevignee and Co. of Malaga, forwarding them a recommendatory letter from Messrs. Turnbull and Co. Messrs. Grevignee and Co. are known to you gentlemen; their influence in many places in Spain is not doubted, and I believe in this province they have great power. I expect much from their reply, and believe they will be willing to render you every assistance.

Considering the subject maturely, I am determined to go as far as ten to twelve thousand dollars, provided the ship is placed in security, say at Gibraltar, and hope you will be able to arrange matters with the underwriters, should any such advances take place. Convinced that you will think I am acting from motives purely for your interest, and not wantonly and without hesitation running you to expense, induces me to form my determination. Convinced, also, that the prosecution of an appeal will be attended with more expense, and that every prospect of benefit from proceeding on the voyage, if ultimately released, will be destroyed by delay.

I am sorry Captain Flimm incautiously delivered to an American captain, while I was in San Roque, a hasty account of our action. It was meant entirely for your eye, dictated by him, and to be by him enclosed to you. It was a true statement, but was never intended to be made public, and am apprehensive the underwriters may hesitate on finding the guns were not adequate. The conveyance of letters from this place is always attended with danger, the privateers-men being constantly on the watch, endeavoring to intercept all they can; you will not, therefore, be surprised should you not often hear from me: for, in my situation, one letter intercepted would ruin all our plans.

Enclosed you receive copy of our protest in the consulate here; if it is not regular, you must attribute it to the ignorance of the forms, for I am obliged to draw out all writings, our consul not rendering any assistance. Hoping soon to have it in my power to give you better news,

I remain, gentlemen, your most obedient servant,

JOHN GIBSON.

To Thomas Jefferson, President of the United States.

NEWPORT, RHODE ISLAND, *November* 10, 1801.

SIR:

The Newport Insurance Company, in Rhode Island, think it a duty they owe to themselves, and those of their fellow-citizens who are immediately concerned in trade, respectfully to represent to the Chief Magistrate of the Union that great spoliations have been, during the present year, committed upon their lawful commerce by vessels acting under authority from the Government of Spain.

As underwriters, we have been unexpectedly injured by these spoliations, and are apprehensive of sustaining further and great losses by a continuance of them; we, therefore, beg leave to remonstrate against them.

The differences between the United States and France having been terminated by their late treaty, and the treaty subsisting between this country and *Spain* expressly allowing our citizens the liberty of trading to and from the ports of the enemies of the *latter*, it was presumed that vessels of the United States, destined to ports in the Mediterranean sea, would not be, *by being cleared for, or ordered to touch at, a British port*, rendered liable to be captured and condemned by the French or Spaniards.

War with several of the Barbary States having been apprehended for some months previous to the declaration of it by the Government of Tripoli, the merchants of the United States had deemed it prudent, for nearly a year past, to have their vessels, when bound to any port in the Mediterranean sea, *cleared for, or ordered to touch at, Gibraltar*, to obtain information that might lead them to avoid, or to procure convoy to protect them against, the Barbary corsairs. And it has not been unusual for American vessels, in times of the greatest security, to touch at Gibraltar, merely for the purpose of gaining commercial intelligence, always useful, and sometimes absolutely necessary, for the success of their Mediterranean voyages. But, since the existence of the danger alluded to, it has been considered essential to the safety of our merchant vessels, bound as before mentioned, that they should touch at Gibraltar; and, when cleared for, or ordered to touch at, that port, they have been insured at a lower rate than they otherwise would have been. It now appears, however, that clearances and orders of this kind have exposed them to new dangers. They have been, *avowedly in consequence of them*, taken near Gibraltar, and carried into the port of Algeziras, in Spain, by gunboats and other armed vessels, sailing under the flag and authority of Spain, but in company, as we are informed, with French privateers, and have there been condemned by a Spanish tribunal. We have to regret the capture and condemnation, under the circumstances and in the manner above recited, of two vessels, with valuable cargoes, owned wholly by citizens of the United States, and not laded with any goods contraband of war; in which, as underwriters, we were interested to the amount of thirty thousand dollars; that sum, however, comprising only a small part of the whole value of them. The papers relating to, and proving the capture and condemnation of, one of these ships, called the Hercules, Courtenay, of Newport, we are assured, were transmitted by the owners of her to the Secretary of State, some months since; and the facts respecting the case of the other, called the Molly, of Philadelphia, have, we doubt not, been fully stated to the Secretary by the owners of her, who are merchants of that city. It is, therefore, unnecessary for us, and we shall not presume, to lay before the President all the circumstances attending these two captures. We, nevertheless, think it proper to mention, that it was alleged, on the part of the captors, that Gibraltar had been declared in a state of blockade by the Government of Spain. This declaration was, however, not known here at the time of the sailing from the United States of the two vessels referred to, and of many other vessels that have experienced a similar fate. It can, indeed, be considered only as a pretext for capturing defenceless neutral vessels, when it is known that Gibraltar has not been actually blockaded, for at least several years past, by any Spanish naval force capable of preventing a single British sloop of war from going into or coming out of that port.

The hostile disposition manifested by the Spaniards towards our commerce in the Mediterranean sea and elsewhere, excites in our minds serious apprehensions for its safety, when we consider the reduction that has lately taken place in our navy, and the present unarmed state of our merchant vessels. But, relying upon your assurances to the Legislature of this State, that "commerce will be cherished by you, both from principle and duty," we confidently hope that the powers vested in the President by the constitution and laws of the United States will be exerted to obtain indemnification for the losses, and to prevent a repetition of the injuries of which we complain.

By order and in behalf of the Newport Insurance Company:

SAMUEL ELAM, *President*,
Attest: J. DENNISON, *Secretary*.

The subsequent remarks concerning Spanish depredations on American commerce are extracted from Col. Humphreys's letters to the Secretary of State, written at different periods, as will appear below.

"Schooner Active, of Penobscot, Captain Holbrook, from Liverpool, bound to the United States, was captured by a French privateer, recaptured by the English, who restored her to the Americans on board. On her arrival at Gijon, she was seized, and the Americans imprisoned: but both the vessel and crew were afterwards released—13th June, 1800."

"Ship Swansbury, Jonathan Bunting, supercargo, was lately taken by a French privateer and Spanish gunboat, and carried to Cadiz. She was seized because of her destination to Gibraltar. [She was afterwards finally condemned in the supreme council of war]—19th August, 1800."

"Ship Catharine, of Baltimore, James Mills, master, was seized at Barcelona in September, 1800, under pretence that lights were hoisted on board her as a signal, when on the 4th of that month, the boats of a British man-of-war cut two armed vessels out of that harbor—30th September, 1800."

"I still continue to receive frequent reports of vessels belonging to citizens of the United States, carried into Algeziras by privateers fitted out in the ports of Spain; and that, in some instances where they have been captured by French and Spanish armed vessels or boats jointly, they have been delivered by the agents of the former to the agents of the latter, under a conviction that they would not, at present, be condemned as legal prizes by French tribunals, of which I have complained in the most explicit terms to the first Secretary of State—13th January, 1801."

"Several of our merchant vessels which had been captured and carried into Algeziras, by Spanish armed boats or vessels, have been set at liberty, but no compensation has been allowed for the great losses and damages occasioned by their unjust detention. In all those cases which have been reported to me, I have taken due measures for maintaining the claims for indemnification—November 5, 1801."

Extract of a letter from Josiah Blakely, Esq., American Consul at St. Jago de Cuba, to the Secretary of State.

"NOVEMBER 1, 1801.

"More than a month ago, by an order from the Intendant at Havana, my person was arrested, books and papers all seized, and stores locked up, and guards placed over them. I was conducted to *prison*, from which I now

write. I have not yet been informed why this took place. At the time, nine vessels were here under my charge. The cash found in my house was taken away. The detention, disappointment, loss, and vexation to the captains of those vessels, and my correspondents, is *immense*. Some of the goods belonging to others have been given up; some are yet detained.

"My total ignorance of the cause of such very extraordinary treatment has prevented my writing you before, to inform you of my situation; by the questions which have been put me, only can I conjecture.

"In March or April last, the ship Prudence, of Boston, Captain Rogers, last from another island, at which she had sold her cargo, came to this port for a cargo of molasses. No molasses could be had. She then left this for a port near Havana, in search of molasses. When arrived near Havana, the ship was boarded by the officers, who demanded where from. She answered from St. Jago de Cuba. Not having entered or cleared at this port, she could show no such papers, and was instantly seized; all her papers taken possession of, among which, it is said, was found the sales of goods, landed from the ship at this place. No such goods had been entered. This sale, it is said, was made by one Peter Lay, who, as he spoke three languages, did much business for me; he also did business for himself, and many others. But, it is said, he signed this sale, as done by me. If any goods were landed, or sold from said ship, I knew nothing of, nor had I any thing to do with the business. Mr. Lay having long since left this island, I can get no information from him on the subject.

"My books and papers have been critically examined by the officers here, who have reported that they can find no such sales in my books or papers, nor even the name of such a ship. They declare that, by all the evidence they can get, I am wholly innocent, not only of that charge, but of ever attempting, in the least degree, to defraud the customs. Thus the custom-house officers have declared.

"With the Governor here, and all the first people of the city, I have lived, not only in habits of friendship, but of intimacy. They all appear distressed at my situation, and say they will at all times certify to the strict propriety of my conduct, both as a merchant and a resident. Not a single inhabitant here has ever made the least complaint of my conduct since among them.

"If Captain Rogers landed or sold goods from his ship Prudence, at this place, as in fact I knew nothing of it, how far I can be implicated by a signature said to be done for me, particularly when such act was illegal, I should think must depend upon circumstances which cannot apply in this case.

"As I have been presented with no charge whatever, the whole of what I have written may be foreign to the real cause of my being thus situated. It is probable the mail which is to arrive from Havana fifteen days hence will bring despatches concerning me. Being impatient to inform my Government of my situation, I have troubled you with the foregoing, which is all I know of the subject. I have forwarded to Havana my protest against the usage I have received. The Americans being permitted free access to my apartment, and I permitted by the Governor here to continue the functions of my office, I continue to execute the duties of it.

"The damages to me and my correspondents being *immense*, the best informed lawyers here say, large damages can be recovered of the *Intendant;* but situated as I shall be with him, it is not probable I can obtain relief, but through the *demands* of my Government. Soon as I can obtain any official charges or legal statement of this business, I will forward to you copies of the same. From the officers of Government and the inhabitants of this place, and part of the island, I have experienced politeness and friendship, for which I render the homage due. But from the nation do we not receive many insults? In these seas our flag is constantly insulted by their privateers. When I mention the treaty, their officers affect to treat it with the greatest contempt, saying it does not extend to the colonies, &c. Possibly the Intendant at Havana is highly displeased at some of the protests I have made against the cruel treatment some of our vessels have experienced. In them I only declared the *truth,* and the rights of our nation."

Extract of a letter from Josiah Blakely, Esq., American Consul at St. Jago de Cuba, to the Secretary of State.

DECEMBER 26, 1801.

"On the first of November last, I wrote you on the unpleasant subject of the cruel treatment I had experienced in this place by an order from the Intendant at Havana. In that letter I informed you, that on the 18th of September last my person was arrested and conducted to the common prison in this city. My account books and the keys of my cabinets, trunks, &c. all taken from me; stores all locked up; guards placed around my house and stores.

"My account books, receipt books, &c. were most critically examined from the moment I commenced business in this place to that day. Each article of goods in my stores was also examined, to know if properly entered, the duty paid, &c. After many days' examination, the King's officers were forced to report that they could not find the least cause of complaint. I was not informed why this took place, yet I was still confined, and the embargo continued upon my stores and property.

"At the time of this arrest, I protested, in the most solemn manner, against such proceedings; demanding to know the cause of such disgrace to myself, total ruin to my business, disappointment and loss to my correspondents, and insult to my Government and nation. The only answer I could obtain was, 'it was the order of the Intendant at Havana;' that I would soon be informed why this had taken place, my person be liberated, and the embargo be taken from my property.

"Though in such extreme distress, I felt unwilling to be troubling my Government with complaints so very awkward and unintelligible. Thus situated, I have waited the arrival of one post after another from Havana; but, since the tremendous order for my arrest, and the embargo upon all my property, I am informed by the Governor here not a line has come to him respecting me or the property so embargoed, though much of it was in provisions of perishable articles.

"Insulted, ruined in my business, distressed, and wholly in the power of those, perhaps, whose official existence will depend on my ruin and apparent guilt, I shall be under the necessity of humbly praying permission, as a native citizen, merchant, and consul of the United States, to approach the high Executive of my nation, there to pray that my tale of woe may be heard; that the unpleasant application I am under the necessity of making to the court of Spain for compensation, for the great injury done me and my correspondents, the unlawful insult offered to my commission and nation, may be supported and enforced.

"When this arrest and embargo first took place, the whole port appeared lost in astonishment. It seems the order of the Intendant at Havana was dreadfully severe and positive. I was writing in my office when the King's officers entered to execute the awful mandate; it is said they brought with them a guard of fifteen soldiers. The whole city stood silent in wonder and expectation. The high charge given the guards; the number of sentinels; my person conducted to prison; all my stores instantly shut; an instant stop put to all my mercantile proceedings; the rigorous solemnity with which the whole was conducted, deterred the good people here almost from looking at me: few of them had sufficient courage to visit me; many of my friends feared even to send their domestics to inquire how I was; many supposed the order must have come from the King himself, by the awful severity with which it was executed. I then thought that my crimes had been so great, that, like *Cain*, a mark of infamy had been set upon me by God Almighty.

"My fast declining state of health, when in prison, induced the Governor here, on the 25th of November, humanely to permit me to leave the prison, on giving bail for my person. I hoped my statement of damages, and certificate from the civil officers and principal inhabitants of this city respecting my peaceable, proper conduct since residing here, would have accompanied this, but, since I have been out of prison, all the principal inhabitants of this city have been at a neighboring village, celebrating to the Virgin an annual feast. The holidays, in which no business can be done, will now continue for some time. Soon as possible, I shall forward to your office the said papers. I pray you to inform the President of the United States of the contents of this letter."

Vessels of the United States seized or detained by the Spaniards in the ports of Spain.

1. Ship Margaret, Seth William Ferry, master, of Boston, David Dehon, owner: the ship, and thirty-one thousand one hundred reals in cash, seized at Rivadeo on the 21st of April, 1796, under pretence that the money was unlawfully shipped; the helm taken away, and the captain confined in a dungeon: a royal order was afterwards obtained to deliver up the vessel; the captain prosecutes for damages.

2. Brig Sally, John Harrison, master, Thomas Eldred, of Newport, Rhode Island, owner: vessel and cargo seized at Alicant by the Governor, in May, 1797, on information that the property was English; cargo sold for twenty-five thousand current dollars, put in deposit; the vessel lately sunk in the harbor, value six thousand dollars of the United States: suit depending before the supreme council of war.

3. Ship Josiah Collins, George Blair, master, supposed to belong to New York; detained in consequence of a Spanish guard having seized the people of the ship's launch, going on board with provisions and stores, and imprisoning them on shore, which occasioned the loss of the property by a gale of wind in the night, near Ferrol, in September, 1798.

4. Brig Baba Sidi, owned by consul Montgomery, at Alicant; seized and detained by the Governor there as not being legally manned; afterwards liberated: Mr. Montgomery prosecutes for damages.

5. Brig Greyhound, William S. Plummer, master, of Boston, owned by Ebenezer Parsons; seized and detained at Palma, in Majorca, where the captain was imprisoned on suspicion of being a spy, 29th April, 1799; on the 21st of September, a royal order was obtained for the liberation of the vessel, and for the payment of the cargo of fish sold to the King for a certain sum to be paid in specie.

6. Schooner Governor Carver, Nathaniel Spooner, master, of Boston, owned by Ebenezer Parsons; seized and detained at Palma, in Majorca, where the captain was imprisoned on suspicion of being a spy, 29th April, 1799; on the 21st of September a royal order was obtained for the liberation of the vessel, and for the payment of the amount of the cargo of fish sold to the King for a certain sum to be paid in specie.

Collected from the best information hitherto received.

M. YOUNG.

MADRID, *October* 1, 1799.

Cargoes belonging to citizens of the United States, seized or embargoed by the Spaniards on board of American vessels.

1. Of the brig Paddy, (sugars, segars, and Campeachy wood,) Peter Caruth, master, of Charleston; eight guns and fifteen men: the whole owned by Thomas Tunno and John Price, and consigned to James Kennedy, supercargo; seized at Cadiz, in October, 1798, as the property of subjects of His Catholic Majesty.

2. Of the schooner Hannah, (*i. e.* that part of her cargo of fish destined for Bilboa, and which the administrador obliged the captain to land at Corunna,) embargoed on the supposition that the master, George Barker, of ———, was attempting to introduce it fraudulently, January, 1799.

3. Of the ship Portland; proceeds of the fish embargoed at Alicant in February, 1799, on suspicion that it was not the produce of the fishery of the United States; embargo taken off by a royal order, dated 16th March, 1799.

4. Of the brig Pacific Trader, Joshua Woodbury, master, of Boston; permission to land the fish was refused, on suspicion that it was not the produce of the United States' fishery: permission afterwards granted, on giving security to produce, within a given time, the vouchers required.

5. Of the ship Hazard, Richard Gardner, master, (seventeen bags of sugar, being a part omitted to be entered, seized at Alicant on suspicion of an attempt to defraud the King of Spain of his duties,) in April, 1799.

Collected from the best information hitherto received.

M. YOUNG.

MADRID, *October* 1, 1799.

Cargoes, the property of citizens of the United States, taken or seized by the Spaniards on board foreign vessels.

1. Of the English ship Anne, Andrew Miller, master, of Londonderry, owned by Obadiah Bowen and others, of New York, consigned by Messrs. Bulkely, of Lisbon, to L. O'Brien, at Ferrol, in July, 1792; seized on account of a part being damaged; the suit lately decided at Valladolid against the owners of the cargo: no appeal made, for want of funds and orders.

2. Of the Swedish galliot Patrona, Ellje Jacob Vesser, of Wismar, master; owned by William Sontag and Co. of Philadelphia, taken in the year 1795; wines, loaded by Strobel and Martini at Bordeaux, for Hamburg; condemned at Santander: appealed to the council of war, and then discontinued, I cannot learn why.

3. Of the Swedish snow Louisa Johanna, John H. Rogers, of Boston, supercargo, taken March 3, 1797; condemned at Ceuta 17th May following; confirmed by the King 6th October, with leave to the supercargo to be heard in the supreme council of war: suit still depending.

4. Of the Spanish vessel Sacra Familia; proceeds of the cocoa embargoed at St. Sebastian in 1797; property of merchants in Charleston: embargo taken off.

5. Of the Danish brig Count Bernstorff, David Fairchild, of Boston, supercargo; taken and condemned at Algeziras; appealed; sentence of condemnation reversed by the council of war; captor prayed for a re-hearing: suit still depending in the council of war.

6. Of the Swedish ship Nora, Israel Trask, of Boston, supercargo, taken 26th of June, 1797, and sent into Ceuta, where it was condemned; appealed: sentence of condemnation reversed by the council of war.

7. Of the Danish brig Concordia, Julius Cæsar Alberganti, supercargo; taken into Algeziras and condemned; appealed: suit depending in the council of war.

Collected from the best information hitherto received.

M. YOUNG.

MADRID, *October* 1, 1799.

Cases of violation of the Spanish territory by the French, not included in either of the general reports, the vessels having been sent into the ports of France.

1. Schooner Alert, Jacob Oliver, of Beverly, bound to Santander, and taken within half gun shot of the port, on the 17th of January, 1799; sent into Bayonne, in France, where she was condemned, together with the cargo, by the tribunal of commerce, on the 2d of April; the schooner had been out forty-three days, when she was taken by three French cruisers, manned with Spanish sailors: did not appeal.

2. Ship Pearl, —— Latimer, of and from New York, owned by Gouverneur and Kemble, Mr. Olmiere, supercargo, taken with the assistance of a Spanish shallop, sent from the town of St. Sebastian, 19th January, 1799, and sent into St. Jean de Luz; cleared by the tribunal of commerce at Bayonne; captor appealed to Pau; sentence reversed: suit now depending in cassation.

3. Brig Molly, Peter Kelley, of Philadelphia, cargo of codfish, oil, and whalebone, owned by Reid and Forde, and consigned to Aquila M. Bolton, supercargo, taken within three-quarters of a mile of the shore at Cape Santona, 11th March, 1799, and sent into St. Jean de Luz, having a Spanish pilot on board, and bound to Bilboa; privateer La Victoire, of Bayonne.

Collected from the best information hitherto received.

M. YOUNG.

MADRID, *October* 1, 1799.

General Report of such vessels of the United States as have been taken and brought into the ports of His Catholic Majesty, in Europe and Africa, by the French, since the 1st day of October, 1796.

No.	Name of vessel.	Tons burden.	Name of master.	Seamen.	To what port belonging.	Where cleared out U. S.	To what port bound.	Places touched at, or whence last bound.	Cargo.	Owners of cargo.
1	Brig Rover,	-	Arthur Smith,	-	Baltimore,	-	Gibraltar,	-	Rum, coffee, sugars,	William Patterson.
2	Brig Mercury,	-	Samuel Brooks,	-	Boston,	Norfolk,	Gibraltar,	-	Tobacco, rice, flour.	
3	Schooner Eliza,	-	William Flag,	-	Charleston,	Charleston,	Gibraltar,	-	Rum, rice.	
4	Brig Atalante,	-	Elnathan Minor,	-	Yorktown, Va.	-	Hamburgh,	Altia, London,	Raisins,	R. Hughes & R. Montg.
5	Brig Kitty,	-	Thomas Horton,	-	Philadelphia,	-	-	-	Codfish,	Philip Care.
6	Ship Three Brothers,	-	Lindal Smith,	-	Portland,	-	Leghorn,	-	Provisions and lumber,	Smith and Webster.
7	Brig Despatch,	-	Philip Brown,	-	Philadelphia,	Philadelphia,	Marseilles,	-	Rice, flour, coffee, staves,	Peter Kuhn.
8	Brig Nancy,	141	Samuel Brown,	8	Quincy & Plank, Cr.	Boston,	Malaga,	-	40,000 staves,	S. Brown & N. Downes.
9	Snow Two Friends,	-	Gilbert Howland,		Boston,	-	Malaga,	-	Staves,	David Pearce.
10	Brig Betsey,	-	Gideon Snow,	-	Boston,	-	Boston,	-	Wines and brandy,	Joseph Lee, Jr.
11	Ship Governor Mifflin,	-	John Dove,	-	Philadelphia,	-	Philadelphia,	Civita Vecchia,	Candles, soap, wines, marble	J. and P. Mackie.
12	Ship Polly,	-	Wm. Bradshaw,	-	Salem,	-	Malaga,	-	Provisions and lumber,	John Norris.
13	Schooner Orrington,	-	Ambrose Atkins,	-	Penobscot,	-	Malaga,	-	Staves,	Thatcher Avery.
14	Sloop Peggy,	-	Henry Leader,	-	Richmond,	-	Malaga,	-	Staves,	Joseph Gallego.
15	Schooner Abigail,	-	James Atwood,	-	Boston,	-	Boston,	Alicant,	Brandy and wines,	Eben. Parsons.
16	Brig Telemachus,	-	William Plummer,	-	Boston,	-	Boston,	Alicant,	Brandy,	Eben. Parsons.
17	Ship Pomona,	-	John Cruft,	-	Boston,	-	Boston,	Alicant,	Brandy,	Head and Amory.
18	Brig Eliza,	-	William Mugford,	-	Salem,	-	Malaga,	-	Wines and brandy,	William Gray.
19	Brig Brothers,	-	James Summer, Jr.	-	Charlestown, Mass.	-	Carthagena,	Barbary,	Wheat,	The King of Spain.
20	Brig Friendship,	-	John Proud,	-	Providence, R. I.	-	Providence, R. I.	Valencia,	Brandy,	John Arnold.
21	Ship Alfred,	-	Lister Askwith,	-	-	-	Saffee,	Lisbon,	10,000 dollars.	
22	Ship Plato,	-	Andrew Lawrence,	-	Baltimore,	-	Surinam,	Leghorn,	Wines, oil, soap, &c.	Oliver and Brothers.
23	Ship Outram,	-	Samuel Clark Hill,	-	Boston,	-	Leghorn,	Falmouth,	Ballast,	Henry Preble.
24	Snow Hampton,	-	Moses Andres,	-	-	Charleston,	Cadiz,	-	Rice.	
25	Ship Marianne,	-	Jos. Paul Smith,	-	Philadelphia,	-	Lisbon,	Saffee,	Wheat.	
26	Schooner Juliet,	96	Nathaniel Horton,	-	New York,	-	Malaga,	London,	Ballast.	
27	Brig Atalante,	-	Epes Ellery,	-	-	Boston,	Malaga,	-	Staves, butter.	
28	Brig Mentor,	117	Wm. Thompson,	8	-	-	Malaga,	Dunkirk,	Ballast.	
29	Ship Hancock,	96	William Johnson,	9	New York,	-	Malaga,	Ostend, London,	Ballast,	William Johnson.
30	Schooner Atalante,	-	Wm. Montgomery,	-	-	Norfolk,	Leghorn,	-	Tobacco, rum, gin, staves.	
31	Ship George,	234	Francis Waite,	-	Portland,	Edenton,	Cadiz,	-	Staves,	F. Dunn and Waite.
32	Brig Harmony,	-	Seth Clark,	-	-	Charleston,	Malaga,	-	Rice, sugar, flour.	
33	Ship Aurora,	110	Benjamin Fernall,	8	Boston,	-	Lisbon,	Hamburgh,	Dry goods and wheat,	Several shippers.
34	Ship Federalist,	-	John Pratt,	-	Charleston,	Charleston,	London,	-	Sugars, coffee, cotton, &c.	
35	Ship Otter,	-	Daniel Bennett,	-	Boston,	Boston,	Leghorn,	-	Sugars, fish, &c.	Loring and Curtis.
36	Schooner Willard,	-	Andrew Harrison,	-	Boston,	Salem,	Barcelona,	-	Coffee and pepper,	Willard Peel & Co.
37	Ship Three Sisters,	210	Timothy Wood,	-	Wiscasset,	-	Boston,	Whitehaven,	Salt and coals.	
38	Brig Franklin,	152	Clark A. D. Gilbert,	10	Wilmington, N. C.	-	Wilmington,	Liverpool,	Salt and dry goods,	John Hugg & J. Miller.
39	Schooner Atlas,	-	Thomas Kimble,	-	-	Boston,	Malaga,	-	Tobacco, beef, beans, fish, &c.	
40	Brig Zephyr,	-	Henry Elkins,	-	Boston,	Boston,	Leghorn,	Algeziras,	Fish, and Havanna sugars.	

GENERAL REPORT OF FRENCH CAPTURES—Continued.

No.	Owners of vessels.	Consignees.	Where, or in what latitude taken.	When taken.	By whom taken.	To what port conducted.	Time of arrival.	Value of vessels in dollars of U. S.	Value of cargo in dollars of U. S.	
1	William Patterson,	John St. Martin,	- - -	9 Oct. 1796,	Privateer le Furet,	Malaga,	-	-	-	Spanish territory violated.
2	William Smith,	- - -	Going into Gibraltar,	-	Privateer,	Malaga,	-	-	-	Spanish territory violated.
3	- - -	- - -	Going into Gibraltar,	-	Privat. Rights of Man,	Ceuta,	-	-	-	Condemned.
4	Elnathan Minor,	Reed, P. and Bell,	Bet. Alic. & Carthagena,	13 Jan. 1797,	Privateer Aziza,	Carthagena,	14 Jan. 1797,	8,000	35,000	Condemned.
5	Thomas Horton,	- - -	- - -	Feb. "	- - -	Almeria,	-	-	-	Violation of territory.
6	Smith & Webster,	Peter Bretagne,	- - -	1 April, "	Aziza,	Malaga,	1 April, "	-	-	Condemned by French consul.
7	Peter Kuhn,	Peter Bretagne,	- - -	2 April, "	Zenador,	Malaga,	2 April, "			
8	Brown & Downes,	- - -	- - -	3 April, "	Furet,	Algeziras,	-	-	-	Condemned.
9	David Pearce, Jun.	Grivegnee & Co.	- - -	13 April, "	Neuf Thermidor,	Malaga,	26 April, "			
10	Joseph Lee, Jun.	Wm. Wyman, sup.	Within gun shot,*	18 April, "	Neuf Thermidor,	Malaga,	19 April, "	-	-	Violation of territory.
11	J. & P. Mackie,	John Dove,	10 lea. from C. de Gat,	27 April, "	Zenador,	Carthagena,	29 April, "	15,000	70,000	Condemned.
12	John Norris,	Grivegnee & Co.	- - -	29 April, "	Neuf Thermidor,	Malaga,	29 April, "			
13	Thatcher Avery,	Grivegnee & Co.	- - -	2 May, "	Neuf Thermidor,	Malaga,	2 May, "			
14	Jedediah Leeds,	Grivegnee & Co.	- - -	2 May, "	Neuf Thermidor,	Malaga,	5 May, "			
15	Eben. Parsons,	Reed, P. and Bell,	- - -	18 May, "	Launch of Rev. & Zen.	Carthagena,	19 May, "	3,000	11,620	Violation of territory; condemned.
16	Eben. Parsons,	Reed, P. and Bell,	Bay of Alicant,	18 May, "	Do.	Carthagena,	19 May, "	6,000	27,330	Violation of territory; condemned.
17	Head & Amory,	Head & Amory,	Going out of the harbor,	18 May, "	Do.	Carthagena,	-	12,000	35,000	Violation of territory; condemned.
18	William Gray,	Demaziere & Stem.	Bay of Alicant,	18 May, "	Do.	Carthagena,	19 May, "	5,000	20,360	Violation of territory.
19	Terry & Scott,	James Summer, Jr.	2½ leag. from the harbor,	6 June, "	Privateer,	Carthagena,	-	6,000	-	Condemned.
20	F. & J. Arnold,	John Proud,	1 hour from Valencia,	19 June, "	Privateer Fortune,	Alicant,	23 June, "	5,000	17,080	Condemned.
21	- - -	- - -	- - -	-	Privateer,	-	-	-	-	Run ashore and lost.
22	- - -	W. Lowry, super'go.	Near Almeria,	14 July, "	- - -	Almeria,	14 July, "	10,000	33,000	
23	Henry Preble,	Henry Preble,	Off Cape de Gat,	23 June, "	Privateer Courageux,	Carthagena,	-	10,000	-	Condemned.
24	- - -	- - -	- - -	19 July, "	Privateer,	Algeziras,	-	-	-	Sailed September 28.
25	- - -	- - -	- - -	-	Privateer,	Cadiz.				
26	Seton, Maitl'd, & Co.	- - -	- - -	11 Aug. "	Privateer,	Algeziras,	29 Aug. "	-	-	Condemned.
27	- - -	- - -	- - -	5 Sept. "	Privateer,	Algeziras,	-	-	-	Cleared and sailed September 8.
28	- - -	- - -	- - -	5 Sept. "	- - -	Algeziras,	5 Sept. "	-	-	Condemned.
29	William Johnson,	- - -	- - -	14 Sept. "	Privateer Hazard,	Algeziras,	14 Sept. "	-	-	Condemned.
30	- - -	- - -	- - -	23 Sept. "	Privateer,	Algeziras,	-	-	-	Vessel cleared; cargo condemned.
31	Waite & Dunn,	- - -	- - -	7 Oct. "	Privateer,	Algeziras,	7 Oct. "	-	-	Condemned.
32	- - -	- - -	- - -	6 Nov. "	Privateer,	Algeziras,	-	-	-	Cleared and sailed November 15.
33	O. Peabody, & others,	- - -	5 lea. from Bayona Isl'd.	1 Oct. 1796,	Privat. Amphibe, Neal,	Vigo,	3 Oct. 1796,	12,000	16,000	Condemned Dec. 11, 1796; appl'd.
34	- - -	- - -	Latitude 49 North,	9 Dec. 1797,	Privat. of Bor. l'Uron,	Pasages,	-	-	-	Condemned and sold.
35	Loring & Curtis,	Daniel Bennet,	Bet. Cape Gat & Carth.	17 Jan. 1798,	Privateer Courier,	Carthagena,	20 Jan. "	14,000	55,000	Condemned.
36	Willard Peel & Co.	Andrew Harrison,	Bet. Cape Gat & Carth.	18 Jan. "	Privateer Courier,	Carthagena,	-	4,600	65,000	Condemned.
37	Abrahain Wood,	- - -	- - -	27 Feb. "	Priv. Julie, of Nantes.					
38	Hugg & Miller,	- - -	Lat. 49, lon. 16, fr. Paris	10 March, "	Priv. Julie, of Nantes,	Corunna,	15 Mar. "	4,000	9,016	Condemned March 27; appealed.
39	- - -	- - -	- - -	22 March, "	Privateer,	Algeziras,	-	-	-	Acquitted.
40	- - -	- - -	8 leagues from Malaga,	19 April, "	Privateer,	Malaga,	-	-	-	Cleared May 4.

* Proved by twenty-six witnesses.

GENERAL REPORT OF FRENCH CAPTURES—Continued.

No.	Name of vessel.	Tons burden.	Name of master.	Seamen.	Guns.	To what port belonging.	Where cleared out the United States.	To what port bound.	Places touched at, or whence last bound.	Cargo.	Owners of cargo.
41	Brig Farmer,	130	Jacob Whittemore,	11	-	New York,	N. York, 19 Aug.	St. Michael's,	Liverpool,	Coals, cheese, earthenware,	Jacob Whittemore.
42	Schooner Retrieve,	-	Reuben Jones,	-	-	Newburyport,	Newburyport,	-	-	Cocoa, codfish, tobacco,	Faris & Stoker.
43	Barque Albany,	201	Emanuel Perady,	12	-	Hudson,	-	Philadelphia,	Dublin,† Cork,	Linens and coals,	Citizens of the U. S.
44	Schooner Barbara,	-	James Sharp,	-	-	New York,	New York,	Leghorn,	-	Tobac. rice, flour, coffee, &c.	
45	Brig Kitty,	-	Thos. or Jas. Carter,	-	-	Newburyport,	Boston,	Malaga,	-	Tob. staves, beef, cheese, &c.	Smith & Carter.
46	Ship Maria,	-	Uriah Starbuck,	-	-	New York,	-	Altona,	Barcelona,	Brandy,	Murray & Mumford.
47	Ship Parkman,	135	Lewis M'Millan,	10	-	Alexandria,	Alexandria,	Liverpool,	-	Tobacco, cotton, and staves,	Several shippers.
48	Ship Liberty,	-	Philip Bonet,	-	-	Philadelphia,	-	Boston,	St. Ube's,	Salt.	
49	Brig Ruby,	-	James Art,	6	-	Philadelphia,	Philadelphia,	Bilboa,	-	Cocoa,	Jones & Clark, & oth's.
50	Barque Peggy,	-	William Baird,	10	-	Philadelphia,	Philadelphia,	Bilboa,	-	Cocoa and bees' wax,	Cony, Nesbitt, & Co.
51	Ship Intrepid,	-	John Sutter,	-	-	Baltimore,	-	-	London,	Dry goods.	
52	Ship Atlantic,	-	-	-	-	Charleston,	-	-	England,	Dry goods.	
53	Ship Superb,	-	Joseph Barnet,	-	-	Boston,	Charleston,	London,	-	Cotton, logwood, rice.	
54	Ship Nelly and Kitty,	-	Samuel Church,	-	-	Baltimore,	Baltimore,	Amsterdam,	-	Tobac. rice, and Hav. sugars.	
55	Ship Marianne,	-	—— Patterson,	-	-	Salem,	-	-	London,	Dry goods.	
56	Ship Nancy,	-	Jesse James,	-	-	Salem,	-	-	London,	Dry goods.	
57	Ship Federal,	-	-	-	-	Wilmington.					
58	Ship Eleazer,	-	-	-	-	New York.					
59	Ship John & Martha,	-	Benjamin Feltknap,	-	-	Newburyport,	-	Hamburgh,	-	Barilla,	John Wells.
60	Schooner Peggy,	-	Thomas Tucker,	-	-	New York,	-	New York,	-	Wines and fruit,	Thomas Clayton.
61	Schooner Harriet,	-	Timothy Crocker,	7	-	Boston,	Boston,	Bilboa,	-	Cocoa, sugar, corn, &c.	Gregory & Pickard.
62	Schooner Nancy,	-	Henry Atkins,	-	-	-	New York,	Malaga,	-	Tobacco, beans, staves, &c.	
63	Snow Elizabeth,	-	George Loring.								
64	Ship Eliza,	-	Neil McNeal,	-	-	Charleston,	Charleston,	London,	-	Rice, sug. coffee, indigo, &c.	
65	Ship Joseph,*	-	Henry Wm. Bool,	-	-	New York,	New York, June 1.	Cadiz,	-	Tobacco, rice, staves,	Isaac Clason.
66	Brig Mary,	-	Phineas Stoder,	-	-	-	New York,	Leghorn,	-	Tobacco, rice, flour, bread.	
67	Ship Polly & Nancy,	-	I. M'Knight,	-	-	-	-	-	-	Tobacco.	
68	Ship Mercury,	-	Henry Hubbard,	-	-	Philadelphia.					
69	Snow William,	-	Benjamin Lord,	-	-	Philadelphia,	-	Philadelphia,	Lisbon,	Wines and salt.	
70	Brig Washington,	-	John Bonnell,	-	-	-	-	Marseilles,	Copenhagen,	Cocoa.	
71	Sloop Minerva,	-	George Keyler,	-	-	New York,	New York,	Gibralt. or Malaga,	-	Tobacco, flour, staves, & wax,	Yates & Co. & Pollock.
72	Ship Apollo,	234	John Walker,	11	-	Portsmouth,	Portsmouth, Va.	London or Flm'th,	-	Tobacco and staves,	R. Colquhoun.
73	Ship Jane,	250	John Whitby,	15	-	Norfolk,	Norfolk,	Falm'th or London	-	Tobacco,	R. Colquhoun, & oth's.
74	Brig Amelia,	130	Thomas Logan,	10	-	New York,	New York,	Gibralt. or Malaga	-	Tob. beef, sugar, cocoa, &c.	W.Craigy & H.Sadlier
75	Schooner Sally,	-	—— Stacey,	-	-	Marblehead,	-	Bilboa,	Corunna,	Codfish.	
76	Brig Aurora,	135	William Toad,	7	-	Boston,	Savannah,	London,	-	Tobacco, rice, cotton, &c.	Several shippers.
77	Brig Eleanor,	-	—— Davidson.								
78	Schooner Martin,	-	Nath. Williams,	7	8	Gloucester,	-	Cadiz,	-	Beef, pork, rice, butter.	
79	Brig Fell's Point,	144	John Brown,	8	-	Baltimore,	-	Baltimore,	Oporto.		
80	Barque Ship Peggy,	-	William Davidson,	14	-	Baltimore,	-	Falmouth, Engl'd.	-	319 hhds. tobacco.	

* The captain obtained a written permit from the Governor of Cadiz to put on board guns for defence; the permit taken from him, by the same Governor, in October.
† Sailed thence March 10, 1798; touched at Cork, and left it March 25.

GENERAL REPORT OF FRENCH CAPTURES—Continued.

No.	Owners of vessels.	Consignees.	Where, or in what latitude taken.	When taken.	By whom taken.	To what port conducted.	Time of arrival.	Value of vessels in dollars of U. S.	Value of cargo in dollars of U. S.	
41	Cons. Pintard & cap.	- - -	Latitude 37, long. 25 12.	20 April, 1798,	Privateer Revenge, Bor.	Corunna, -	21 Apl. 1796,	8,000	2,500	Condemned May 8; appealed.
42	Faris & Stoker, -	Bustam. of St. And.	Off Cape Ortegal, -	April, "	Privateer lug. 4 guns, -	Gison.				
43	T. Jenkins & sons, -	- - -	Lat. 39 50 N. 39 40 W.	24 April, "	Privateer Heureuse, Bor.	Corunna, -	9 May, "	20,000	90,000	Cond. sh. & cl. May 19; ap.
44	- - -	William Wood, -	- - -	23 April, "	Privateer, -	Algeziras, -	26 April, "			
45	- - -	Thomas Carter, -	Cape St. Mary, -	6 May, "	Private Brave Democ. -	Algeziras, -	-	-	-	Vessel cleared; cargo cond.
46	Murray & Mumford,	- - -	- - -		Privateer, -	Carthagena.				
47	Thomson & Vietch, -	- - -	Lat. 50 N, long. 18 W.	15 May, "	Privateer of Bor. Aven.	Rivades, -	23 May, "	10,000	44,885	Condemned June 25.
48	- - -	- - -	- - -	10 May, "	Privateer Vigilt. Nant. -	Vigo,* -	19 May, "			
49	J. & C. & Shoemaker,	Gardoqui, -	Near Luarca, -	24 May, "	Privateer lug. of Bayonne,	Luarca, -	28 June, 1798,	-	-	Condemned; appealed.
50	Conyngh. & Nesbitt,	John Cook, of Phil.	Near Cape Pinas, -	31 May, "	Privateer Hazard, Bay. -	Santander, -	1 June, "	6,000	127,500	Condemned and sold.
51	Smith & Speers, -	- - -	- - -		Privateer, -	Pasages.				
52	- - -	- - -	- - -		Privateer, -	Pasages.				
53	- - -	- - -	Latitude 48 35 N.	6 March, "	Privateer la Loire, F. Gale,	Pasages, -	-	-	-	Condemned and sold.
54	- - -	- - -	- - -	7 March, "	Privateer Vant. le maitre,	Pasages, -	-	-	-	Condemned and sold.
55	- - -	- - -	- - -		Privateer, -	Pasages.				
56	- - -	- - -	- - -		Privateer, -	Pasages.				
57	- - -	- - -	- - -		Privateer, -	Pasages.				
58	- - -	- - -	- - -		Privateer, -	Pasages.				
59	John Wells, -	Grivegnee & Co.	- - -	28 May, "	Privateer, Sans Façon, -	Malaga, -	21 May, "			
60	Thomas Clayton, -	Peter Bretagne, -	- - -	26 June, "	Privateer l'Italique, -	Malaga, -	27 June, "			
61	- - -	Gordia & Bayo, -	- - -	28 June, "	Privateer Adel. Nantes, -	Santander, -	29 June, "	-	-	Condemned; in appeal.
62	- - -	- - -	- - -	1 July, "	Privateer, -	Algeziras, -	-	-	-	Liberated.
63	- - -	- - -	- - -	2 July, "	Privateer, -	Algeziras.				
64	- - -	- - -	Lat. 48 35 N. lon. 13 W.	5 July, "	Privateer Heur. Decide, -	Pasages, -	-	-	-	Condemned and sold.
65	- - -	Henry W. Bool, -	C. Spartel, 4 l. fr. Cadiz,	5 July, "	Privateer (6 arm-boats,) -	Algeziras, -	-	-	30,000	Ship cleared; cargo condem'd.
66	- - -	- - -	- - -		- - -	Algeziras.				
67	- - -	- - -	- - -		- - -	Algeziras.				
68	- - -	- - -	- - -	26 July, "	Privateer, -	Algeziras.				
69	Daniel Bickley,	- - -	Bet. Lisbon & W. Isl'ds.	Aug. "	Privateer, -	Huilva, -	-	-	-	Condemned.
70	- - -	- - -	- - -	3 Aug. "	Privateer, -	Algeziras.				
71	- - -	Joseph Barret, -	Off Spartel, -	9 Aug. "	Privateer Democrat, -	Algeziras, -	-	-	16,388	
72	James Sheaf, -	- - -	49 15 lo. 26 10 fr. Paris,	21 Sept. "	Privateer l'Aventure, -	Rivadeo, -	1 Oct. "	10,500	91,600	Condemned.
73	William Pennock, -	- - -	49 15 lo. 26 10 fr. Paris,	19 Sept. "	Priv. l'Aventure of Bord.	Rivadeo, -	30 Sept. "	11,000	99,424	Condemned twice.
74	Craigy & Sadlier, -	- - -	39 30 lo. 18 20 fr. Paris,	4 Sept. "	Privateer Deux Amis Bay.	Muros, -	9 Sept. "	6,000	18,706	Condemned Oct. 18, 1798.
75	- - -	- - -	- - -		Privateer Gran. Bonap. -					
76	Oliv. Peabody & others,	- -	45 20 N. lo. 40. fr. Lon.	22 Dec. "	Privateer Spartiate of B. -	Corunna, -	5 Jan. 1799,	5,000	2,077	Condemned January 26.
77	- - -	- -	- - -		Privateer, -					
78	- - -	Nathl. Williams, -	3 leag. from St. Sebast's,	26 April, "	Privateer, -	St. Lucar.				
79	- - -	- - -	39 16 lo. 14 15 fr. Lon.	6 Sept. "	Les Deux Amis de B. -	Vigo, -	9 Sept. 1798,	5,000	22,426	Condemned Sep. 15; appl'd.
80	- - -	- - -	Latitude 46, -	20 May, 1799,	Privateer Gran. Decide, -	Gison, -	-	-	-	Condemned.

* The only interpreter at Vigo is the son of the captain of a French privateer.

GENERAL REPORT OF FRENCH CAPTURES—Continued.

No.	Name of vessel.	Tons burden.	Name of master.	Seamen.	Guns.	To what port belonging.	Where cleared out, United States.	To what port bound.	Places touched at, or whence last bound.	Cargo.	Owners of cargo.
81	Ship Republican,	292	James Simpson,	14	-	Baltimore,	Baltimore,	London, Falm.	- -	Tobacco, coffee, Hav. sugars.	H. Court & D. Stewart.
82	Ship Sarah,	227	Ph. R. Cooper,	16	-	New York,	New York,	London,	- -	Hav. & French sug. pot ash,	Several shippers.
83	Schooner Felicity,	-	Hugh Wilson,	-	-	Baltimore,	Baltimore,	St. Lucar,	- -	Tobacco, flour, & sassafras.	
84	Brig N. Y. Packet,	-	Joseph Innes,	-	-	Charleston,	Charleston,	Cadiz,	- -	Tobacco, cocoa, sugars.	
85	Brig Fame,	94	James Hunt,	-	-	Lamberton,	Lamberton,	Madeira,	- -	Teas, wax, flour.	
86	Brig Thos. Pinckney,	117	George Pelor,	8	-	New York,	New York,	Cadiz or Gibral.	- -	Tobacco, flour, rice, wax, &c.	
87	Brig Commerce,	-	Robert Caleff,	8	-	Norfolk,	Norfolk,	London,	- -	Tobacco,	Buchanan & Dunlap.
88	Schooner Telegraph,	-	Jeremiah Freeman,	8	-	Baltimore,	Baltimore,	Bilboa,	- -	Cocoa,	John McFaden & Co.
89	Brig Jane,	-	Samuel Patterson,	8	-	Wiscasset,	- -	Norfolk, Va.	Liver'l, cl'd Oc. 6,	Dry goods and salt.	
90	Ship Pacific,	270	Samuel Kennedy,	27	16	Charleston,	- -	Charleston,	Portsm'th, in Eng.	Dry goods,	Several shippers.
91	Schooner Hannah,		John Griste,	-	-	Marblehead,	- -	Alicant,	- -	Fish,	Loring and Curtis.
92	Brig Eagle,	118	Charles Churchill,	7	-	New York,	Nantucket,	Leghorn,	- -	Sugars,	Seth Russel.
93	Pol. Vicklehadge,	-	Thomas Dasson,	-	-	Boston,	- -	Boston,	- -	Wines, pepper, soap, &c.	Consul R. O'Brien.
94	Brig Delaware,	-	James Dunphy,	-	-	Philadelphia,	Philadelphia,	-	- -	Coffee, sug. tob. indigo, &c.	Notnagel & Montmol.
95	Brig Diana,	-	James Freeman,	-	-	Boston,	- -	Malaga,	- -	Fish, sugar, &c.	Loring and Curtis.
96	Schooner Frederick,	-	Daniel Bender,	-	-	New York,	- -	Malaga and Alic.	- -	Tobacco, sug. rice, & flour.	
97	Schooner Maria,	60	Jacob Stone,	12	5	Newburyport,	Newburyport,	Leghorn,	- -	Coffee and sugars,	Jackson, Parsons, &c.
98	Brig George,	122	Isaac Howland,	7	-	Philadelphia,	Philadelphia,	Oporto,	- -	Staves and Indian corn,	Clason Heiches, & Co.
99	Ship Fame,	-	William Story,	-	-	New York,	- -	A port in Eng.	Bay of Honduras,	Mahogany.	
100	Ship Ann and Mary,	-	Thomas Hunt,*	11	-	Philadelphia,	- -	Bilboa,	- -	Sugars, coffee, cocoa, tobacco.	
101	Brig Jane,	108	Nathaniel Knight,	8	-	Boston,	Boston,	Lisbon,	- -	Beef, pork, butter, lard, tar,	Gregory & Pickard,
102	Ship Fox,†	-	Richard Penniston,	-	4	Philadelphia,	Charleston,	Bilboa,	- -	Tob. cotton, and Hav. sugars,	Morgan & Price, &c.
103	Ship Hope,	-	George Hastie,	11	-	Philadelphia,	- -	Barcelona,	Santander,	Ballast.	
104	Brig Apollo,	-	Henry Waddel,	-	-	New York,	N. Y. out 34 days,	-	- -	Sugar and cocoa.	
105	Schooner Frederick,	90	I. G. Clark,	8	-	New York,	- -	-	Senegal, Hamb.	Ivory and gums,	J. Doty, I. Franklin.
106	Ship Ardent,	236	Alexander Smith,	25	-	Baltimore,	Baltimore,	Leghorn,	- -	Sugars,	Samuel Smith.
107	Ship Anne,	-	William Robinson,	26	-	Baltimore,	- -	Batavia,	Lisbon,	Wines and specie, $40,000,	R. Oliver & Brothers.
108	Brig Eliza,	-	—— Michael,	-	-	Philadelphia,	Philadelphia,	Malaga,	- -	Tobacco and rice.	
109	Ship Francis & Mary,	311	William Peterkin,	-	8	Baltimore,	Baltimore,	Lisbon,	- -	Ballast.	
110	Ship Commerce,	-	Gideon Gardner,	19	-	Baltimore,	- -	Calcutta,	Lisbon,	Specie, $50,000,	N. & Troup, of Balt.
111	Brig Patty,	-	Arch. Campbell,	-	-	New York,	- -	Hamburg,	- -	Barilla, manna,	Arch. Campbell and
112	Ship Marianne,	195	Knowles Adams,	21	-	New York,	New York	Hamburg,	- -	Flour and tobacco,	Murray and Mumford.
113	Ship Abigail,	-	John Hildreth,	13	-	New York,	New York, June 14,	Bilboa,	- -	Tobacco, whalebone, oil, rice,	Gelston and Co.
114	Schooner Eagle,	98	Josiah Ingersol,	9	-	New York,	New York,	Gibraltar,	- -	Coffee, sugars, cocoa, tobac.	Abraham King, N. Y.
115	Ship Barbary,	238	Henry Clark,	31	-	Boston,	- -	Alicant,	Malaga,	Fish and iron,	—— Parsons.
116	Ship Rufus,	200	John Holland,	13	-	New York,	New York,	Cadiz,	- -	Cocoa, indigo, beef, & staves,	Sp. subjects of Cadiz.
117	Ship Olive Branch,	-	Alex. McConnell,	11	-	Norfolk,	- -	Norfolk, Va.	Liver. left July 10,	Dry goods.	
118	Ship Lenox,	-	—— Green,	-	-	Philadelphia,	- -	Cadiz,	- -	Cocoa, sugars, logw. staves.	
119	Ship Sally,	-	J. Farrell,	15	10	New London,	- -	-	- -	Cocoa, pep. logwood, hides,	Spanish subjects.

* Kept a close prisoner for six days on board, without being permitted to correspond with any body; he then agreed to ransom the vessel for 30,000 dollars of the United States, on condition of obtaining the consent of the consignee.

† Had no commission as a letter of marque, not being intended to visit the commissioned privateers of any of the belligerent Powers, but only to keep off uncommissioned armed boats.

GENERAL REPORT OF FRENCH CAPTURES—Continued.

No.	Owners of vessel.	Consignees.	Where, or in what latitude taken.	When taken.	By whom taken.	To what port conducted.	Time of arrival.	Value of vessel in dollars of U. S.	Value of cargo in dollars of U. S.	
81	H. Courtney,	- - -	La. 44 16, lo. 37 5, fr. P.	24 Dec. 1798,	Priv. Spartiate of B.	Corunna,	11 Jan. 1799,	10,000	90,240	Condemned twice.
82	Archibald Gracie,	- - -	50 10, lon. 15 20, fr. P.	31 Dec. "	Private Baalgad,	Corunna,	11 Jan. "	15,000	137,620	Condemned 30th January.
83	James Jaffry,	- - -	- - -	Sept. "	Privateer,	Huelva.				
84	Messrs. Booth,	- - -	- - -	Sept. "	Privateer,	Huelva.				
85	James P. Hunt,	J. P. Hunt & others.	Lat. 34 38, long. 14 43,	13 Sept. "	Priv. Fulminante,	Algeziras,	- -	-	11,752	
86	- - -	George Pelor,	Off Tarifa,	17 Sept. "	Priv. Furieux,	Algeziras,	- -	-	15,512	
87	Richard Caleff,	- - -	Off Newfoundland,	11 Oct. "	Priv. Gironde of B.	Santander,	8 Nov. "	-	-	Condemned and sold.
88	J. McFaden & others,	Ezekiel Freeman,	Off St. Vic. de Barg.	16 Oct. "	Priv. l'Horoscope,	Santander,	24 Oct. "	2,500	21,700	Condemned; in appeal.
89	William Foster,	- - -	- - -	27 Oct. "	Priv. Fripnone Bouil,	Santander,	14 Nov. "	-	-	Condemned and sold.
90	Samuel Kennedy,	- - -	Lat. 30 45, lon. 17, fr. P.	9 Dec. "	Priv. Argus Martin,	Fer. or Cor.	30 Dec. "	10,000	75,000	Condemned 10th Jan.; appealed.
91	Loring and Curtis,	Grivegnee and Co.	- - -	10 Dec. "	Priv. Fillibustier,	Malaga,	11 Dec. "			
92	Seth Russel,	- - -	La. 35 59, long. 23 48,	1 Jan. 1799,	Priv. Min. Nantes,	Corunna,	23 Jan. "	5,000	15,822	Condemned 5th Feb.; appealed.
93	Consul R. O'Brien,	Peter Bretagne,	- - -	1 Jan. "	Privateer Emilia,	Malaga,	2 Jan. "			
94	Ambrose Vasse,	- - -	Close in with the coast,	13 Jan. "	Privateer Vautour,	Santander,	15 Jan. "			
95	Loring and Curtis,	Grivegnee and Co.	- - -	24 Jan. "	Priv. Dugammier,	Malaga,	25 Jan. "			
96	- - -	- - -	- - -	1 Feb. "	- - -	Algeziras.				
97	Jackson, Parsons, &c.	Jacob Stone,	Straits of Gibraltar,	13 Feb. "	6 privateers,	Algeziras,	- -	-	4,000	
98	John Donaldson,	- - -	- - -	23 Mar. "	Privateer Egyptienne,	Vigo,	25 Mar. "	8,000	5,187	Condemned 21st April.
99	- - -	- - -	45 N. long. 33 W. of L.	17 Mar. "	Courageux, of Bor.	St. Sebast.	4 April, "	-	-	Condemned and sold.
100	Richard Gernon,	V. Gomez de la Tor.	- - -	28 Mar. "	2 privateers,	Santona,	29 Mar. "	-	-	Cleared by Fran. cond.; appealed.
101	Gregory and Pickard,	- - -	*La. 40, lon. 13, fr. Par.	6 April, "	Priv. schoon. of Brest.	Vigo,	9 April, "	6,000	5,960	Condemned 1st October.
102	Morgan and Price,	R. Andrews, super.	Near C. Machicacao,	8 April, "	Courageux, of Bor.	Pasages,	10 April, "	-	-	Condemned at Bayonne.
103	- - -	- - -	1½ mile from Tarifa,	21 April, "	2 privateers,	Algeziras,	- -	-	-	Violation of territory.
104	Doty, Fran. Wattles,	Grivegnee and Co.	In sight of Malaga,	May, "	- - -	Malaga.				
105	- - -	- - -	46 29, long. 14 38, fr. L.	16 May, "	Avviege, of Bor.	Corunna,	16 May, "	5,000	80,128	Condemned; appealed.
106	General Smith,	F. C. Kalkman,	Straits of Gibraltar,	17 May, "	5 privateers,	Algeziras,	- -	-	60,000	
107	R. Oliver & Brothers,	- - -	Near Lisbon, lat. 36½,	25 June, "	Privateer Fly,	Cadiz,	27 June, "	-	40,900	
108	- - -	- - -	Near Cadiz,	June, "	- - -	Cadiz,	20 June, "			
109	R. Miller and others,	Robert Miller,	Off the rock of Lisbon,	16 June, "	Private Volney,	Cadiz.				
110	N. and Troup,	Charles Davis,	Near Lisbon, lat. 37 21,	4 July, "	Private Fly,	Cadiz,	27 June, "			
111	A. Campbell, and	Grivegnee and Co.	- - -	1 June, "	Sans Pareil,	Malaga,	3 June, "	-	-	Schr. and cargo condemned.
112	Murray and Mumford,	Benj. B. Mumford,	Straits of Gibraltar,	11 May, "	4 privateers,	Algeziras.				
113	David Gelston,	Gardoqui,	- - -	4 July, "	Gran. Bonaparte,	Santander,	18 July, "	-	-	In suspense.
114	Abraham King,	Josiah Ingersol,	Straits of Gibraltar	29 July, "	2 privateers,	Algeziras,	30 July, "	5,000	12,000	Violation of territory.
115	——— Parsons,	Henry Clark,	Lat. 36 25, lea. from M.	2 July, "	Vautour lugger,	Cadiz,	- -	-	20,000	Violation of Spanish rights.
116	- - -	John Barry,	4 leagues from Cadiz,†	10 July, "	La Cocarde frigate,	Cadiz,	- -	-	-	Cargo cleared; ship condemned.
117	- - -	- - -	Lat. 50 N. long. 19, W.	21 July, "	*Private, of Bordeaux,	Gison Aust.	31 July, "	-	-	Condemned.
118	- - -	- - -	- - -	Aug. "	- - -	St. Lucar.				
119	Henry Butler,	- - -	- - -	30 July, "	2 privateers,	St. Lucar,	30 July, "			

* The captain kept on board three days without being permitted to go on shore; the 14th April the master and crew turned out of the vessel.
† Within hail of the Spanish ships.

GENERAL REPORT OF FRENCH CAPTURES—Continued.

No.	Name of vessel.	Tons burden.	Name of master.	Seamen.	Guns.	To what port belonging.	Where cleared out, United States.	To what port bound.	Places touched at, or whence last bound.	Cargo.	Owners of cargo.
120	Ship Chatham,*	229	James Peters,	12	-	New York,	-	New York,	Salsa,	Brandy and nuts,	Seton, Maitland, & Co.
121	Schooner Esther,	68	Zechariah Morgan,	7	-	Beverly,	Beverly,	Corunna,	-	Fish and fish oil,	Thorndike, Chap. & Co.
122	Brig Robertson,	-	George Wakefield,	25	14	Norfolk,	Norfolk,	Malaga,	-	Tobacco, sugar, coffee, cocoa.	King of Spain & others.
123	Brig Charlotte,	134	Daniel McKenny,	12	-	Philadelphia,	-	Leghorn,	Liverpool,	Rum, sugar, coffee, logwood,	English subjects.
124	Brig Hannah,	-	John Norris,	-	-	Savannah,	Savannah,	Gottenburg,	-	Sugars, tobacco, rice, & oil,	W. and Sam. Vernon.
125	Ship Marianne,	147	Knowles Adams,	20	-	New York,	-	Barcelona,	Gibraltar, Algeziras,	Ballast.	
126	Schooner Sally,	96	Luther Stevenson,	8	-	Boston,	Boston,	Cadiz,	-	Cocoa, rice, beef, and staves,	Board. Cobb, & Sawy.
127	Schooner Catharine,	-	James Cox,	6	-	Marblehead,	-	Bilboa,	-	Fish and oil,	Peter Osgood & others.
128	—— Friendship,	-	William Beacon,	-	-	-	Philadelphia,	Buenavista, Braz.	-	Ballast;	
129	Ship Galen,	-	John McKay,	-	-	Boston,	-	Boston,	Lo. S. 11 Mar. 1798,	Dry goods.	
130	Ship John Adams,†	335	James Johnson,	17	-	Petersburg,	-	Madeira and Calc.	London,	Dry goods, beer, staves,	The capt. and others.
131	Ship Mary,	-	John Hunter,	-	-	-	-	Charleston,	Greenock,	Dry goods.	
132	—— St. George,	-	Joseph Pick,	-	-	-	-	Liverpool,	Lisbon,	Lemons, oranges, cotton.	
133	Brig Sterling,	149	Timothy Trafton,	8	-	Portsmouth,	-	Portsmouth, Eng.	Lisbon,	Salt, rum, molasses,	Daniel Huntress.
134	—— Vulture,	-	James Rich,	6	-	-	-	Lisbon,	Cork,	Butter and provisions.	

No.	Owners of vessels.	Consignees.	Where or in what latitude taken.	When taken.	By whom taken.	To what port conducted.	Time of arrival.	Value of vessels in dollars of U. S.	Value of cargo in dollars of U. S.	
120	W. Seton and Son,	De Arabet and Co.	Off Salon, five leagues,	25 July, 1797,	Privateer Fortune, Blanc.	Barcelona,	25 July, 1799,	20,000	§35,000	Condemned.
121	Abner Chapman,	-	5 leagues from Lisarga,	Mar. 1799,	La Legere of Bayonne,	Camarinas,	7 Mar. "	2,500	6,782	Condemned April 8.
122	-	John Randolph,	Straits of Gibraltar,	18 June, "	Six privateers,	Cadiz,	19 June, "	12,000		
123	-	-	-	23 Dec. 1798,	Privateer Decalion,	Algeziras.				
124	W. and S. Vernon,	John Norris,	Straits of Gibraltar,	6 Apr. 1799,	Three privateers,	Algeziras.				
125	Murray and Mumford,	-	Cape Pallas, ‡	29 June, "	La Romaine frigate,	Cadiz,	-	-	-	Condemned; violation.
126	Board. C. & Sawyer,	Luther Stevenson,	Cape Trafalgar,	21 July, "	Privateer Furieux,	Algeziras,	-	3,000	9,000	
127	P. Osgood and others,	Gordia and Bayos	-	20 Feb. 1799,	La Heureux of B.	Santander,	23 Feb. 1799,	-	-	Ransomed.
128	-	-	-	4 Aug. 1797,	L'Aventure,	Rivadeo,	7 Aug. 1797,	-	-	Condemned; supposed British.
129	-	-	Latitude 42, north,	25 Apr. 1798,	La Uron Arismen.	Pasages,	-	-	-	Condemned and sold.
130	James Bell,	-	Latitude 33 18,	29 Dec. 1796,	Reflechi pet Souc.	Corunna,	9 Jan. "	20,000	19,000	Condemned; appealed.
131	-	-	Latitude 48,	1 Apr. 1799,	Decide Domet,	Pasages,	-	-	-	Condemned and sold.
132	-	-	Latitude 49 31,	9 Mar. 1797,	L'Aigle Dartique,	Corunna,	20 Mar. "	-	-	Condemned.
133	Daniel Huntress,	-	L. 40 20, lon. 20 30, f. P.	19 Sept. 1798,	Vigilant of Nant.	Muros,	27 Sept. 1798,	5,000	5,083	Condemned October 15.
134	-	-	-	12 Mar. 1797,	La Heureux Ditr.	Muros,	19 Mar. 1797,	-	-	Condemned; supposed British.

* Built of good materials, sound and well fitted with every thing; a very fast sailer. † Or John and James. ‡ Taken within hail of the Spanish ships. § Would have been in New York upwards of $50,000.

Imperfect as this report is, it contains all and the best information I have been able to obtain.

M. YOUNG.

MADRID, *October* 1, 1799.

General Report of such vessels of the United States as have been taken and brought into the ports of His Catholic Majesty, in Europe and Africa, by the Spaniards, since the 1st day of October, 1796.

No.	Names of vessels.	Tons burden.	Names of masters.	Seamen.	Guns.	To what port belonging.	Whence cleared out of United States.	To what port bound.	Places touched at.	Cargo.
1	Brig Elizabeth,	-	John Gardner,	-	-	Philadelphia,	-	Seville,	London,	Ballast.
2	Pol. brig Independent,	-	John Robertson,	-	-	-	-	Algiers,	-	Presents for the Dey.
3	Brig Sarah,	-	George Douglass,	-	-	Boston,	Boston,	Leghorn,	-	Codfish, salmon.
4	Ship Columbus,	-	Sterry Cook,	-	-	Dartmouth,	Dartmouth,	Naples,	-	Codfish, salmon, tar.
5	Ship Albemarle,	-	—— Laign,	-	-	-	-	Barcelona,	Cadiz,	Wines, beef, and staves.
6	Brig Spackman,	-	William Wren,	-	-	Norfolk,	-	Naples,	Penzance,	488 barrels of sardinias.
7	Brig Despatch,	-	Philip Brown,	-	-	Philadelphia,	Philadelphia,	Marseilles,	-	Flour, rice, staves.
8	Snow Mary,	-	Thomas Barnam,	-	-	Boston,	-	Alicant,	Lisbon,	Codfish, pepper.
9	Ship Columbus,	-	John Cook,	-	-	-	Boston,	Malaga,	-	Codfish.
10	Ship Veneris,	-	Henry Dowriel,	-	-	-	-	Marseilles,	Cadiz,	Coffee, flour, tobacco, staves.
11	Schooner Samuel,	-	James Blake,	-	-	-	Boston,	Malaga,	-	Codfish.
12	Ship Sarah,	-	Thomas Hopkins,	-	-	-	Boston,	Alicant,	-	Staves, flour, iron, tallow.
13	Brig Hawke,	-	Jonathan Hall,	-	-	-	-	Tangier,	Lisbon,	Cheese, codfish, bale goods.
14	Ship Palishore,	-	Stephen Mumain,	-	-	-	-	Genoa,	Cadiz,	Sugars, cotton.
15	Brig Pacific,	-	Shubal Dunham,	-	-	Boston,	-	Lisbon,	Havre de Grace,	Dry goods.
16	Ship Venus,	-	—— Shields,	-	-	Baltimore,	-	Baltimore,	Marseilles,	Wines, brandy, and oil.
17	Brig Minerva,	-	David Bray,	-	-	Philadelphia,	-	-	-	Salmon and coals.
18	Brig Maria,	-	Thomas Ringe,	-	-	New York,	-	L'Orient,	Cadiz,	Wines, sugars, fruit.
19	Snow Eliza,	-	H. Perry Benson,	-	-	-	Baltimore,	Malaga & Barcelona,	-	Flour.
20	Brig Commerce,	-	Golfink, (George)	-	-	-	Wilmington,	Malaga,	-	Flour.
21	Ship Levant,	-	David Fairchild,	-	-	Boston,	-	Malaga,	-	Ballast.
22	Brig Friendship,	-	John Bolter,	-	-	New York,	-	Barcelona,	Dunkirk,	Ballast.
23	Brig Fox,	-	David Norie,	-	-	New York,	-	Leghorn,	London,	Household furniture.
24	Brig Delight,	-	John Purkett,	-	-	-	-	-	-	Lumber, wax.
25	Brig Nancy,	-	John Le Bosquet,	-	-	Boston,	-	‡Havre de Grace,	Lisbon,	Sugars, cotton, fruit.
26	Brig Marianne,	-	Benjamin Peak,	-	-	-	New York,	Malaga,	-	Flour and staves.
27	Ship Eliza,	-	Elisha Turner,	-	-	Boston,	-	Leghorn,	London,	Tobacco, iron, bale goods.
28	Brig Marianne,	-	Peter York,	-	-	-	-	Malaga,	-	Flour.
29	Schooner Martin,	-	Nathaniel Williams,	-	-	-	Boston,	-	-	Codfish, butter, &c.
30	Ship Rachel,	-	Joseph Ropes,	-	-	-	New York,	Cadiz,	-	Rice, staves.
31	Brig Anne,	-	Daniel Bythewood,	-	-	-	Philadelphia,	Cadiz,	-	Sugar, logwood.
32	Schooner Samuel,	-	Shubal Coan,	-	-	-	Boston,	Malaga,	-	Codfish.
33	Snow Byfield,	-	Simon Kinsman,	-	-	-	Boston,	Alicant,	-	Butter, fish, pepper.
34	Ship Roanoak,	-	Ebenezer Pain,	-	-	-	South Carolina,	Cadiz,	-	Staves.
35	Ship Sussex,	-	Philip Atkins,	-	-	Philadelphia,	-	Lisbon or Cadiz,	Newry, Bordeaux,	Ballast.
36	Schooner Nancy,	-	Job Palmer,	-	-	-	Virginia,	Malaga,	-	Flour, fish.
37	Brig Harriet,	-	Edward Slocum,	-	-	-	Charleston,	Malaga,	-	Rice, flour, cocoa.
38	Schooner John,	-	Nehem. Roundy,	-	-	-	Beverly,	Cadiz,	-	Codfish.
39	*Brig Elizabeth,	-	†Sylvester Wilson,	-	-	New York,	-	Lisbon,	‖ Flushing, in Zeal.	Ballast.

* American built; taken in the West Indies, where she obtained a British register. In London was bought by Captain W. Johnson, of New York, who received from the American consul there, Mr. Johnson, a certificate of the property; there was also a passport from V. C. Coffin, at Dunkirk: and with these papers Captain W. navigated for eighteen months, without interruption, either in England, France, or Holland.

† The brig Elizabeth having been condemned at Pontevedia, the captain appealed to the council of war; and after I had expended about five hundred reals at his request, he abandoned the suit, and left the country without reimbursing me.—M. Y.

‡ Chartered at Bordeaux, in March, 1797, for a voyage to Lisbon.

‖ Sailed thence for Lisbon, on the 23d August, 1797.

GENERAL REPORT OF SPANISH CAPTURES—Continued.

No.	Owners of cargo.	Owners of vessel.	Consignees.	Where, or in what latitude taken.	When taken.	By whom taken.	To what port conducted.	Time of arrival.	Value of vessels in dollars of U. S.	Value of cargo in dollars of U. S.	
1	- - -	- - -	- - -	Coast of Spain,	1796,	Pr. Sacra Familia,	Cadiz,	..	-	-	Condemned; in appeal.
2	United States, -	- - -	Agent of the U. S.	- -	-	Privateer, -	Cadiz.				
3	- - -	- - -	- - -	- -	15 Dec.	- - -	Algeziras,	-	-	-	Cleared & sailed 20th December.
4	- - -	- - -	- - -	- -	1 Mar. '97.	- - -	Algeziras,	-	-	-	Ship cleared; cargo cond. app.
5	- - -	- - -	- - -	- -	1 March,	- - -	Algeziras,	-	-	-	Ship cleared; cargo condemned.
6	Thomas Bradwell, -	Thomas Bradwell,	- - -	- -	March,	Privateer, -	Ceuta,	-	-	-	No claimant; condemned; app.
7	- - -	- - -	- - -	- -	3 March,	- - -	Algeziras,	-	-	-	Condemned.
8	- - -	- - -	- - -	- -	4 March,	- - -	Algeziras,	-	-	-	Condemned; in appeal.
9	- - -	- - -	- - -	- -	4 March,	- - -	Algeziras,	-	-	-	Cleared and sailed 7th March.
10	- - -	- - -	- - -	- -	11 March,	- - -	Algeziras,	-	-	-	Disappeared same night.
11	- - -	- - -	- - -	- -	11 March,	- - -	Algeziras,	-	-	-	Cleared and sailed 15th March.
12	- - -	- - -	- - -	- -	29 March,	- - -	Algeziras,	-	-	-	Cleared and sailed 31st March.
13	- - -	- - -	Jos. Wilkes, superc.	- -	1 April,	- - -	Algeziras,	-	-	-	†Cleared and sailed 26th August
14	- - -	- - -	- - -	- -	15 April,	- - -	Algeziras,	-	-	-	Cleared and sailed 20th April.
15	S. Dunham & others,	- - -	- - -	- -	-	P. Bolero, of Vigo,	Vigo,	-	-	-	Condemned.
16	D. Stewart and Sons,	- - -	- - -	- -	-	Priv. St. Antonio,	Alicant,	-	-	-	Liberated.
17	- - -	- - -	- - -	- -	22 April,	Priv. of Tarifa,	Ceuta,	-	-	-	Condemned; appealed.
18	Benjamin Vail, -	- - -	Benjamin Vail, -	6 l. fr. Cape Finisterre	23 April,	Priv. Venganza,	Vigo,	-	-	-	Condemned thrice, with costs.
19	- - -	- - -	- - -	- -	23 April,	- - -	Algeziras,	-	-	-	Liberated; sailed 12th June.
20	- - -	- - -	- - -	- -	23 April,	- - -	Algeziras,	-	-	-	Liberated; sailed 27th June.
21	- - -	Stephen Codman,	Grivegnee and Co.	- -	26 April,	Priv. of Tarifa,	Ceuta,	-	-	-	Condemned; appealed.
22	- - -	Elias Nexden, -	I. B. Blondeau, -	51. W. of Bayona, Sp.	2 May,	Priv. Atalante,	Vigo,	-	-	-	Condemned twice.
23	W. Seaman, of N. Y.	Lattry and Deall,	Otto, Frank, and Co.	Near Bayona, in Sp.	4 May,	Priv. Venganza,	Vigo,	-	-	-	Condemned finally.
24	- - -	- - -	- - -	- -	13 May,	Priv. of Ceuta,	Ceuta,	-	-	-	Cleared.
25	B. Homans, jr. of Bos.	- - -	Benj. Homans, sup.	- -	22 May,	P. St. Berna Rivo,	Rivadeo,	28 May,	-	-	Cleared; prosecuted for damages.
26	- - -	- - -	- - -	- -	11 June,	- - -	Algeziras,	-	-	-	Free; sailed 16th June.
27	Henry Preble, -	Henry Preble, -	Henry Preble, -	Near Algeziras,	13 June,	Sn. Jos. & Sn. Ant.	Algeziras,	-	10,500	35,530	Condemned; in appeal.
28	- - -	- - -	- - -	- -	24 June,	- - -	Algeziras,	-	-	-	Cleared, and sailed 2d July.
29	- - -	- - -	- - -	- -	-	- - -	Ceuta,	-	-	-	Prosecution for damages.
30	- - -	- - -	- - -	- -	26 June,	- - -	Algeziras,	-	-	-	Cleared; sailed 17th.
31	- - -	- - -	- - -	- -	27 June,	- - -	Algeziras,	-	-	-	Cleared; sailed 26th August.
32	- - -	- - -	- - -	- -	6 July,	- - -	Algeziras,	-	-	-	Cleared; sailed 20th July.
33	- - -	- - -	- - -	- -	13 July,	- - -	Algeziras,	-	-	-	Cleared in October.
34	- - -	- - -	- - -	- -	15 July,	- - -	Algeziras,	-	-	-	Cleared, & sailed 8th November.
35	T. S. & Miers Fisher,	T. S. & M. Fisher,	- - -	Off Cape Finisterre,	19 July,	Priv. Guerrero,	Pontevedra,	-	-	-	Condemned twice; in appeal.
36	- - -	- - -	- - -	- -	20 August,	- - -	Algeziras,	-	-	-	Cleared; sailed 15th October.
37	- - -	- - -	- - -	- -	24 August,	- - -	Algeziras,	-	-	-	Cleared; sailed 10th September.
38	- - -	- - -	- - -	- -	26 August,	- - -	Algeziras,	-	-	-	Cleared; sailed 18th October.
39	- - -	William Johnson,	- - -	Coast of Portugal,	24 Septem.	* Pr. Galgo, of B.	Bayona, Sp.	..	-	-	Condemned; app. abandoned.

* They robbed Captain Wilson of his watch and money, and confined him for fifteen days on board his own vessel, in the harbor of Bayona.

† Cargo condemned; appealed, and obtained a royal order to restore the vessel and cargo; vessel sailed 26th August, 1797, but a considerable part of the cargo was stolen while under the lock of the tribunal.

GENERAL REPORT OF SPANISH CAPTURES—Continued.

No.	Names of vessels.	Tons burden.	Names of masters.	Seamen.	Guns.	To what port belonging.	Whence cleared out of United States.	To what port bound.	Places touched at.	Cargo.
40	Schooner Raven,	-	Amb. P. Martin,	-	-	-	-	Marblehead,	Malaga,	Wines, brandy, raisins.
41	Schooner Winthrop,	-	William Doliver,	-	-	-	-	Gloucester,	Malaga,	Wines, brandy, raisins.
42	Ship Newport,	-	Henry Tew,	-	-	-	Philadelphia,	Algiers,	-	Stores.
43	Ship Birmingham,	-	Ezra Pearce,	-	-	-	Baltimore,	Cadiz,	-	Sugar, coffee, cocoa, pepper.
44	Brig Mary,	-	Tim. Gardner,	-	-	-	-	Algeziras,	Gibraltar,	Hides.
45	Brig Alert,	-	Benjamin Rich,	-	-	Boston,	Boston,	Leghorn,	-	Sugars, coffee, and tobacco.
46	Brig Zephyr,	-	Henry Elkins,	-	-	Boston,	Boston,	Leghorn,	-	Fish, and Havana sugars.
47	Brig Minerva,	157	William Riddle,	10	-	Boston,	Boston,	Dublin,	-	Pot and pearl ash, oil, logwood.
48	Ship Negotiator,	311	Charles Lindegreen,	-	-	Boston,	-	Cadiz & Baltimore,	Nantes,	Sundry articles merchandise, and ballast.
49	Schooner Speedwell,	-	John Story,	-	-	-	-	Malaga,	Cadiz,	Sherry wine.
50	Ship Washington,	-	Francis Roberts,	25	8	Boston,	Boston,	Malaga & Alicant,	-	Fish, sugar, salmon.
51	Snow Commerce,	-	Henry Danglois,	-	-	Boston,	-	Genoa,	Greenland,	Codfish.
52	Brig Paramaribo,	-	George Creed,	-	-	Baltimore,	Baltimore,	*Cadiz,	-	Tobacco.
53	Schooner Debonnaire,	-	Charles Parsons,	-	-	Boston,	Boston,	Malaga,	-	172,428 pounds rice.
54	Ship Hunter,	-	William Whitlock,	-	-	New York,	New York,	Genoa & Marseilles,	-	Oil, nankeens, logwood.
55	Schooner Success,	-	Samuel Shaw,	-	-	Boston,	Boston,	Malaga,	-	Tobacco, beans, staves.

* First stopped by the British blockading squadron, and prevented from entering Cadiz; then, on the way to Malaga, taken possession of by a Spanish, and afterwards by a French privateer, and sent into Algeziras.

GENERAL REPORT OF SPANISH CAPTURES—Continued.

No.	Owners of cargo.	Owners of vessel.	Consignees.	Where, or in what latitude taken.	When taken.	By whom taken.	To what port conducted.	Time of arrival.	Value of vessels in dollars of U. S.	Value of cargo in dollars of U. S.	
40	- - -	- - -	- - -	- -	4 Oct. '97,	- - -	Algeziras,	-	-	-	Cleared; sailed 10th October.
41	- - -	- - -	- - -	- -	4 Oct.	- - -	Algeziras,	-	-	-	Cleared; sailed 10th October.
42	- - -	- - -	- - -	- -	20 Oct.	- - -	Algeziras,	-	-	-	Cleared; sailed 26th October.
43	- - -	- - -	- - -	- -	19 Nov.	- - -	Algeziras,	-	-	-	Cleared.
44	- - -	- - -	- - -	- -	2 Dec.	- - -	Algeziras,	-	-	-	Cleared.
45	- - -	- - -	- - -	- -	21 Feb. '98,	Gunboats, -	Algeziras,	-	-	-	Cleared.
46	- - -	- - -	- - -	- -	13 April,	Privateer, -	Algeziras,	-	-	-	Cleared; sailed 18th October.
47	Greg. & Pickard, &c.	Elijah Dix, -	John Lindsey & Co.	Lat. 43, lon. 33 11,	1 Sept.	Let. mar. Bolante,	Rivadesella,	11 Sep. '98,	3,500	30,000	Part of cargo condemned; app.
48	- - -	David Dehon, -	- - -	- -	8 Oct.	Pr. St. Mich. Vigo,	Muros,	-	-	-	Condemned; in appeal.
49	- - -	- - -	Grivegnee and Co.	- -	15 April,*	Priv. of Ceuta, -	Ceuta,	-	-	-	Condemned; in appeal.
50	- - -	- - -	- - -	- -	1 Feb. '99,	Gunboats, -	Algeziras,	-	-	-	Detained; cleared 26th September.
51	- - -	- - -	- - -	- -	15 Nov. '96,	- - -	Algeziras,	-	-	-	French in company; condemned.
52	The King of Spain, -	Bernard Lacoste,	- - -	- -	28 July, '97,	- - -	Algeziras,	-	-	-	French in company; cleared by S.
53	Eben. Parsons, -	Eben. Parsons, -	- - -	Cape Trafalgar.	3 Aug. '97,	- - -	Algeziras,	-	-	-	French in company; condemned.
54	Frankl. Robinson & Co.	Franklin, Rob. & Co.	Don Jos. Lop. Dias,	Straits of Gibraltar,	12 Mar. '98,	- - -	Algeziras,	-	18,000	92,000	French in company; compound.
55	- - -	- - -	Samuel Shaw, -	- -	17 April,'98,	- - -	Algeziras,	-	-	-	French in co.; turned over to F.

* In the latter end of April a gale of wind obliged her to part her cable, and go to Malaga, where the consignee obtained a royal order, that the owner of the privateer give security, in three thousand dollars, for the result in the council of war.

Imperfect as this report is, it contains all the information I have been able to obtain.

MADRID, *October* 1, 1799.

M. YOUNG.

Abstract of the cases of capture of American vessels by Spanish cruisers, and others under Spanish authority, subsequent to the late treaty with that Government, of which complaint has been made to the Government of the United States.

No.	Vessels' names.	Of what port.	Masters.	Owners.	Voyage.	Cargo.
1	Sloop Scrub,	Middletown, Conn.	John Russell,	Benjamin Williams,	From Kingston to Havana,	Rum, negroes, and specie.
2	Ship Beaver,		Robert Moore,	George Tyson,	From Jamaica to the Spanish main.	
3	Schooner Marcus,		Samuel Moody,	John M. Moody, and others,	From Luce, in Jamaica, to Bath,	Rum and sugar.
4	Ship Hercules,	Newport, Rhode Island,	C. Henry Hudson,	Gibbs and Channing,	From Newport to Leghorn,	Sugar, tea, and nankeens.
5	Brigantine Atalanta,	Boston,	Samuel Taylor,	Daniel Sergeant and Son,	From Boston to Leghorn.	
6	Sloop Rainbow,	Charleston,		William Cook,	From Charleston to New Orleans,	Dry goods, household furniture.
7	Schooner Sewell,	Charleston,	Charles Ronewell,	Joshua Hargraves,	From Charleston to Bay of Honduras.	
8	Ship South Carolina,	Charleston,	Paul Post,	Tunno and Price,	From Charleston to Leghorn.	
9	Ship Columbus,	New York,	James Woods,		From Cadiz to Havana.	
10	Ship Prudence,	Boston,	William Rogers,	Thomas Walter,	From Boston to Kingston,	Fish and lumber.
11	Ship Stag,	Norfolk,	Thomas Dutton,	Thomas Dutton,	From Kingston to Savannah,	Negroes.
12	Ship President,	New Bedford,	Andrew Pinkham,		From New York to Gibraltar.	Flour, principally.
13	Brigantine Celia,	Dighton, Mass.	Aaron Dean,		From Dighton to Havana,	Provisions and lumber.
14	Brigantine Greenwich,	Newport,	Edward Landers,	A. Crary and Son,	From Newport to Havana,	Provisions, dry goods.
15	Ship Orion,	New York,	John Farmer,	Farmer and Patrick.		
16	Brigantine Franklin,	Wilmington, Del.	Andrew Morris,			Sugar, pimento, cochineal.
17	Brigantine Nancy,	Baltimore,	Philip Arenberg,		From Vera Cruz to Baltimore,	Cochineal, sugar, specie.
18	Schooner Nancy,	Charleston,	—— Foss,		From Charleston to Havana.	
19	Schooner Lydia,	Baltimore,				Rum.
20	Schooner Nymph,	New York,	—— Raymond,		From L'Ancevaux to New York,	Flour, soap, provisions.
21	Brigantine Maria,	Philadelphia,	—— Hardie,		From Philadelphia to Leghorn.	
22	Brigantine Little John Butler,	Philadelphia,	James Smith,	Reed and Ford,	From Philadelphia to Havana.	
23	Schooner Brothers,	Annapolis,	William Fairfield,	James Williams,	From Annapolis to Havana,	Provisions, dry goods.
24	Sloop Commerce,	New London,			From Jamaica to New London.	

ABSTRACT OF SPANISH CAPTURES—Continued.

No.	When taken.	Capturing vessels.	Port carried into.	Sentence.	Observations.
1	April 30, 1797,	French schooner Revenge,	Havana,		This vessel being taken within the territorial limits of Spain, application for restitution was made to the Governor of Havana, who refused to restore her.
2	August 24, 1799,	French schooner Bonaparte.			
3	May 17, 1799,	Schooner Fortune,	Campeachy,		Vessel sold at auction, by order of the Spanish Government, before a legal trial was had, as stated by the owners.
4			Algeziras,	Condemned.	
5	August 18, 1800,	Spanish xebeck,	Carthagena,	Condemned.	
6	August 22, 1801,		Havana,		Forcibly seized and detained at Havana by the officers of the customs.
7			Vera Cruz.		
8	July 25, 1800,	One French and four Spanish privateers,	Palma,	Condemned.	
9	June 24, 1800,	French schooner called Rights of Man,	Navitas,		The vessel, as appears by the protest of the supercargo, was anchored near a Spanish fort, and placed under a Spanish guard, but was forcibly taken by the captors from the guard, and fired, and thereby was totally consumed.
10	May 6, 1801,	Spanish coaster,	Cabannos,		Vessel and cargo liberated, but without compensation for loss and detention.
11	April 13, 1798,		Puerto Cabello.		
12	March 30, 1801,		Algeziras,	Condemned,	For being destined to Gibraltar.
13	December 28, 1799,	French and Spanish schooner Maria,	Matanzas,		Vessel and cargo abandoned to the captors under circumstances of violence.
14	December 18, 1799,	Schooner Maria,	Matanzas,		Vessel and cargo also abandoned.
15	October 18, 1800,	Spanish brigantine La Fluka,	Vigo,	Condemned,	The captain and crew imprisoned and ill treated.
16	June 16, 1799,	Schooner Bonaparte,	Campeachy,		The commission of the privateer, which was granted by the French agent Houdeville, had expired more than a month previous to the capture.
17		The same,	Campeachy,		Vessel and cargo ordered to be sold, and the proceeds to be applied agreeably to the final sentence in this case.
18	June 28, 1800,		Matanzas.		
19	September 24, 1797,		Trinidad,		After a detention of seven months, during which time a trial was pending, it was decreed by the court that the vessel and cargo be restored. The captors appealed. The vessel, however, was finally restored, but in such a decayed situation, as rendered her of little value.
20		Spanish privateer St. Joseph,	Navitas,		A suit was instituted against the captors, and a decree obtained for the amount of the vessel and cargo, to be had of the captors, who were totally unable to pay.
21	July 23, 1801,	Spanish gun-boats,	Algeziras.		
22	August 17, 1799,	Privateer Bayornorse,	Porto Rico,		Commission of the privateer had expired before the capture.
23	December 28, 1799,	Schooner Maria,	Matanzas.		
24			Campeachy,		This vessel was not condemned in pursuance of a trial, but sold by order of the Governor of the province, and the proceeds deposited in the treasury, in order, as was said, to be paid over if a decree to that effect should be obtained in the proper tribunal.

7th CONGRESS.] No. 174. [1st SESSION.

FRANCE.

REPORTED TO THE HOUSE OF REPRESENTATIVES, APRIL 22, 1802.

Mr. GILES, from the committee appointed the 5th of February last, to whom were referred the memorials and petitions of sundry citizens of the United States, and resident merchants therein, praying relief in the case of depredations committed on their vessels and cargoes, while in the pursuit of lawful commerce, by the cruisers of the French republic, during the late European war, made the following report:

On the 6th day of February, 1778, a treaty of amity and commerce was concluded between the United States and France, containing a variety of reciprocal commercial stipulations and regulations between the two countries, which were deemed by both nations to be in force at the time of the commencement of the late European war, and to continue so for some time thereafter. On the 9th of May, 1793, after Great Britain had become a party in the war, and whilst the treaty between the United States and France was considered to be in force by both nations, the National Convention passed a decree relative to the commerce of neutrals, the first article of which is in the following words: "The French ships of war and privateers may stop and bring into the ports of the republic such neutral vessels as are loaded, in whole, or in part, either with provisions belonging to neutrals, and destined for enemy ports, or with merchandise belonging to enemies." This decree, after being several times repealed and re-enacted, was finally repealed on the 27th of July following. On the 2d of July, 1796, the Executive Directory made the following decree: "That all neutral or allied Powers shall, without delay, be notified that the flag of the French republic will treat neutral vessels, either as to confiscation, as to searches, or capture, in the same manner as they shall suffer the English to treat them." On the 1st of August, 1796, the special agents of the Executive Directory to the Windward Islands made a decree to the following effect: "That all vessels laden with contraband should be seized and confiscated for the benefit of the captors." On the 27th of November, 1796, the commission delegated by the French republic to the Windward Islands, made a resolve to the following effect: "That the captains of French national vessels and privateers are authorized to stop and bring into the ports of the colony American vessels bound to English ports, or coming from the said ports." On the 1st of February, 1797, the special agents of the French Directory to the Windward Islands made a decree to the following effect: "Subjecting to capture and confiscation neutral vessels destined for the Windward and Leeward islands of America, delivered up to the English, and occupied and defended by the emigrants. These ports are said to be Martinico, St. Lucie, Tobago, Demerara, Berbice, Essequibo, Port au Prince, St. Marks, L'Archaye, and Jeremie. The decree also subjects to capture all vessels which have cleared out for the West Indies, *generally*." On the 2d of March, 1797, the Executive Directory made the following decree: "After the seventeenth article of the treaty of London, of the 19th of November, 1794, all merchandises of the enemy's, or merchandise not sufficiently ascertained to be neutral, conveyed under American flags, shall be confiscated; but the ship, on board of which such merchandise shall be found, shall be released and given to the proprietor. The commissaries of the Directory are enjoined to accelerate, by all the means in their power, the decision of the contests which shall arise, either upon the validity of the captures of the cargoes, or upon freights and insurances."

"According to the eighteenth article of the treaty of London, dated the 19th of November, 1794, relative to articles declared contraband by the twenty-fourth article of the treaty, dated February 6, 1778, are added the following:

"Ship timber,
"Oakum, pitch, and rosin,
"Copper for sheathing vessels,
"Sails, hemp, and cordage,

and every thing which serves directly or indirectly to the arming and equipping of vessels, excepting bar iron and fir in planks. These articles shall be confiscated as often as they shall be destined, or attempted to be carried to the enemy.

"According to the twenty-first article of the treaty of London, of the above date, every American who shall hold a commission from the enemies of France, as well as every seaman of that nation, composing the crew of the ships and vessels, shall, by this fact alone, be declared piratical, and treated as such, without suffering the party to establish that the act was the consequence of threats or violence.

"In pursuance of the law of the 14th of February, 1793, the regulations of the 21st of October, 1794, and of the 26th of July, shall be complied with, according to their form and tenor.

"Every American ship shall therefore be deemed a lawful prize which shall not have on board a bill of lading in due form, according to the plan annexed to the treaty of the 6th of February, 1778, the execution of which is enjoined by the twenty-fifth and twenty-seventh articles of that treaty.

"The commissioners of the Executive Directory are required to carry into effect the penalties that attach on all clandestine attempts that may be made by American, or vessels belonging to any other nation, to pass as neutral, on board the vessel where the fraud is attempted to be practised, in the manner that these penalties have been repeatedly carried into effect during the present war. The penalty shall attach where the blanks in the consignments and invoices are not filled up, though signed and sealed; where the papers are in the form of letters, containing fictitious signatures; where are double passports or policies, specifying different destinations; where consignment is made to two or more factors; and where there are different receipts, or papers of any kind, which consign the whole or part of the same goods to different owners or different destinations.

"By this article, provisions of the treaty of the 9th Frimaire last, relative to freight and insurance, are repealed, as far as they apply to insurance.

"The present treaty shall be published in the bulletin of the laws. The Ministers of the Marine, and of the Colonies, of Justice, and for Foreign Affairs, are charged with the execution of it in their respective Departments."

The American commerce must have suffered considerable spoliations in consequence of these various regulations of the French Government and its dependencies.

On the 5th and 22d of June, 1797, the President of the United States appointed three envoys extraordinary for the purpose of adjusting the differences which then existed between the two nations, and on the 15th July, 1797, gave instructions to the envoys, which, so far as they respect the depredations on the commerce of the United States, are in the following words:

"In respect to the depredations on our commerce, the principal objects will be to agree on an equitable mode of examining and deciding the claims of our citizens, and the manner and periods of making them compensation. As to the first, the seventh article of the British, and the twenty-first of the Spanish treaty, present approved precedents to be adopted with France. The proposed mode of adjusting those claims, by commissioners appointed on each side, is so perfectly fair, that we cannot imagine it will be refused. But when the claims are adjusted, if payment in specie cannot be obtained, it may be found necessary to agree, in behalf of our citizens, that they shall accept public securities, payable with interest at such periods as the state of the French finances shall render practicable. These periods you will endeavor, as far as possible, to shorten.

"Not only the recent depredations under color of the decrees of the Directory of the 2d of July, 1796, and the 2d of March, 1797, or under the decrees of their agents, or the illegal sentences of their tribunals, but all prior ones, not already satisfactorily adjusted, should be put in this equitable train of settlement. To cancel many, or all, of the last mentioned claims, might be the effect of the decree of the Executive Directory of the 2d of March last, reviving the decree of the 9th of May, 1793: but this being an *ex post facto* regulation, as well as a violation

of the treaty between the United States and France, cannot be obligatory on the former. Indeed the greater part, probably nearly all the captures and confiscations in question have been committed in direct violation of that treaty, or of the law of nations. But the injuries arising from the capture of enemies' property in vessels of the United States may not be very extensive; and if for such captured property the French Government will, agreeably to the law of nations, pay the freight and reasonable demurrage, we shall not, on this account, any further contend. But of ship timber and naval stores taken and confiscated by the French, they ought to pay the full value, because our citizens continued their traffic in those articles under the faith of the treaty with France. On these two points we ought to expect that the French Government will not refuse to do us justice: and the more, because it has not, at any period of the war, expressed its desire that the commercial treaty should, in these respects, be altered.

"Besides the claims of our citizens for depredations on their property, there are many arising from express contracts made with the French Government, or its agents, or founded on the seizure of their property in French ports. Other claims have arisen from the long detention of a multitude of our vessels in the ports of France. The wrong hereby done to our citizens was acknowledged by the French Government, and in some, perhaps in most of the cases, small payments towards indemnifications have been made; the residue still remains to be claimed.

"All these just demands of our citizens will merit your attention. The best possible means of compensation must be attempted. These will depend on what you shall discover to be practicable, in relation to the French finances. But an exception must be made in respect to debts due to our citizens by the contracts of the French Government, and its agents, if they are comprehended in any stipulation; and an option reserved to them, jointly or individually, either to accept the means of payment which you shall stipulate, or to resort to the French Government directly for the fulfilment of its contracts.

"Although the reparation for losses sustained by the citizens of the United States, in consequence of irregular or illegal captures or condemnations, or forcible seizures or detentions, is of very high importance, and is to be pressed with the greatest earnestness, yet it is not to be insisted on as an indispensable condition of the proposed treaty. You are not, however, to renounce these claims of our citizens, nor to stipulate that they be assumed by the United States as a loan to the French Government."

Whilst these envoys were in Paris, endeavoring to effect the objects of their mission, the French Government, on the 18th of January, 1798, passed the following law:

"The character of vessels, relative to their quality of neuter or enemy, shall be determined by their cargo; in consequence, every vessel found at sea, loaded in whole or in part with merchandise, the production of England or of her possessions, shall be declared good prize, whoever the owner of these goods or merchandise may be.

"Every foreign vessel which, in the course of her voyage, shall have entered into an English port, shall not be admitted into a port of the French republic, except in case of necessity; in which case, she shall be bound to depart from the said port as soon as the causes of her entry shall have ceased.

The envoys not having been received by the Directory, and not having effected the object of their mission, on the 28th day of May, 1798, the Government of the United States passed the following law:

An act more effectually to protect the commerce and coasts of the United States.

Whereas, armed vessels sailing under authority, or pretence of authority, from the republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on or near the coasts, in violation of the law of nations and treaties between the United States and the French nation; therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the President of the United States, and he is hereby authorized to instruct and direct the commanders of the armed vessels belonging to the United States to seize, take, and bring into any port of the United States, to be proceeded against according to the law of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States, for the purpose of committing depredations on the vessels belonging to citizens thereof; and, also, to retake any ship or vessel of any citizen or citizens of the United States, which may have been captured by any such armed vessel.

On the 7th of July, 1798, the Government of the United States passed the following law:

An act to declare the treaties heretofore concluded with France no longer obligatory on the United States.

Whereas, the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government, and the just claims of the United States for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity: *And whereas*, under authority of the French Government, there is yet pursued against the United States a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States are, of right, freed and exonerated from the stipulations of the treaties, and of the consular convention heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government or citizens of the United States.

On the 9th July, 1798, the Government of the United States passed a law further to protect the commerce of the United States, the two first sections of which relate to this subject, and are in the following words:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall be, and he is hereby, authorized to instruct the commanders of the public armed vessels which are, or which shall be, employed in the service of the United States, to subdue, seize, and take any armed French vessel which shall be found within the jurisdictional limits of the United States, or elsewhere, on the high seas; and such captured vessel, with her apparel, guns, and appurtenances, and the goods or effects which shall be found on board the same, being French property, shall be brought within some port of the United States, and shall be duly proceeded against, and condemned as forfeited, and shall accrue, and be distributed, as by law is or shall be provided, respecting the captures which shall be made by the public armed vessels of the United States.

And be it further enacted, That the President of the United States shall be, and he is hereby, authorized to grant to the owners of private armed ships and vessels of the United States, who shall make application therefor, special commissions in the form which he shall direct, and under the seal of the United States; and such private armed vessels, when duly commissioned, as aforesaid, shall have the same license and authority for the subduing, seizing, and capturing any armed French vessel, and for the re-capture of the vessels, goods, and effects of the people of the United States, as the public armed vessels of the United States may by law have; and shall be, in like manner, subject to such instructions as shall be ordered by the President of the United States, for the regulation of their conduct. And the commissions which shall be granted, as aforesaid, shall be revocable at the pleasure of the President of the United States.

On the 28th day of May, 1798, instructions were given to the commanders of armed vessels, belonging to the United States, in the following words:

"Whereas, it is declared by an act of Congress, passed the 28th day of May, 1798, that armed vessels sailing under authority, or pretence of authority, from the French republic, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations and treaties between the United States and the French nation:

"Therefore, and in pursuance of the said act, you are instructed and directed to seize, take, and bring into any port of the United States, to be proceeded against according to the laws of nations, any armed vessel sailing under authority, or pretence of authority, from the French republic, which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing, depredations on the vessels belonging to

citizens thereof; and, also, to retake any ship or vessel of any citizen or citizens of the United States which may have been captured by any such armed vessel.

On the 10th day of July, 1798, further instructions were given to the commanders of armed vessels of the United States, in the words following:

"In pursuance of the acts of Congress, passed the 28th day of May, the 20th day of June, and the 9th day of July,

"You are *hereby* authorized, instructed, and directed to subdue, seize, and take any armed French vessel or vessels, sailing under authority, or pretence of authority, from the French republic, which shall be found within the jurisdictional limits of the United States, or elsewhere, on the high seas; and such captured vessel, with her apparel, guns, and appurtenances, and the goods and effects which shall be found on board of the same, to bring within some port of the United States; and, also, retake any vessel, goods, and effects, of the United States, or persons resident therein, which may have been captured by any French vessel, in order that *proceedings* may be had concerning such capture or re-capture, in due form of law, and as to right shall appertain."

Instructions were also given, after the passage of the aforesaid laws, to the captains of private armed vessels of the United States, to the same effect with the instructions given to the public armed vessels of the United States.

In consequence of these measures, the treaty of the 6th of February, 1778, between the United States and France, in virtue of which most of the reclamations were made, became no longer obligatory; a partial state of hostility took place between the United States and the French republic; several hostile actions occurred between the armed vessels of the two nations, and several captures were made of French vessels, both by public and private armed vessels of the United States, which have been condemned and sold as lawful prizes.

On the 25th of February, 1799, the President of the United States nominated three other envoys extraordinary, for the purpose of adjusting the differences between the United States and the French republic; and, on the 30th day of November, 1800, a convention for terminating certain differences which had arisen between the United States and the French republic, was concluded at Paris. On the 3d day of February, 1801, the Senate passed a resolution in the constitutional mode, advising the ratification of the said convention, provided the second article be expunged, &c. The second article is in the following words:

"The ministers plenipotentiary of the two parties not being able to agree, at present, respecting the treaty of alliance, of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed; the parties will negotiate further on these subjects, at a convenient time; and, until they may have agreed upon these points, the said treaties and convention have no operation, and the relations of the two countries shall be regulated as follows." This article was introduced into the convention at the intimation of the American envoys, being, it is to be presumed, the best stipulation it was in their power, at that time, to make for negotiating hereafter upon the indemnities mutually due, or claimed by the citizens of the two countries. On the 18th of February, 1801, the President of the United States, in conformity with the advice of the Senate, did ratify the said convention, excluding therefrom the aforesaid second article. The Senate not having accompanied their advice for expunging the said second article with any explanation of their motive for the measure, it was understood, both by the Chief Consul and the American envoy then at Paris, that the object of expunging the said second article was, 'the retrenchment of the respective pretensions of the two Governments, which were the objects of the said second article;' and, with an explanation to that effect, on the 31st of July, 1801, the Chief Consul ratified the said convention. The convention thus ratified, was laid before the Senate, by the President of the United States, on its return from Paris; and, on the 19th day of December, 1801, the Senate resolved, "that they considered the said convention as fully ratified;" and, in pursuance thereof, on the 21st of the same month, the President caused the said convention to be promulgated as it was originally ratified.

From these circumstances, and a recurrence to the fifth article of said convention, in the following words: "The debts contracted by one of the two nations with individuals of the other, or by the individuals of one with the individuals of the other, shall be paid; or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two states. But this clause shall not extend to indemnities claimed on account of captures or confiscations." It appears that the exclusion of the second article of the convention was considered as a renunciation of the indemnities claimed by the citizens of the United States for spoliations and depredations upon their commerce, so far as the Government might otherwise have been instrumental in obtaining such indemnities.

Upon the whole view of the case, the committee submit it to the House to determine whether the Government of the United States be, in any respect, bound to indemnify the memorialists; and whether there be any ground for discrimination between the cases of losses sustained before the acts of the 28th of May, 1798, the 7th of July, 1798, and the 9th of July, 1798, and cases of losses sustained after those periods.

7th CONGRESS.] No. 175. [2d SESSION.

BARBARY POWERS.

COMMUNICATED TO CONGRESS, ON THE 15TH DECEMBER, 1802.

Extract from the President's message of that date.

"A small force in the Mediterranean will still be necessary to restrain the Tripoline cruisers, and the uncertain tenure of peace, with some other of the Barbary Powers, may eventually require that force to be augmented."

Extracts of letters from James Leander Cathcart, Esq. Consul of the United States of America at Algiers, to the Secretary of State, dated at

"LEGHORN, *July* 2, 1801.

"SIR:

"The King of Sweden has protested the bills drawn by Mr. Tornquist, to the amount of two hundred and forty thousand dollars, the sum promised by him to the Bashaw of Tripoli as the price of peace, and he has resolved to repel the demand for an annuity of twenty thousand dollars, by force of arms, and will send a squadron against Tripoli as soon as he has settled his affairs with Great Britain."

"Many of our merchants and captains dispute the consul's authority to detain their vessels in port, nowithstanding the national consequences of their capture being fully explained to them. I, therefore, presume that this point merits the immediate determination of Government, and that positive instructions ought to be given to all consuls in the Mediterranean, in order that they may know whether they have power to retain the vessels of their nation in port, as the consuls of all other nations have, or whether they are to permit them to sail after being informed of war being declared against us by any of the Barbary States."

Extracts from Mr. ——— letters to Mr. Cathcart, dated at Tripoli, from 12 March, to 30 April.

"TRIPOLI, *March* 12, 1802.

"The Bashaw expects the frigate formerly commanded by Murad Raiz, and blockaded by the ships of the United States at Gibraltar, from Tangier, with a cargo of corn; having sent an ambassador to solicit the favor from the Emperor of Morocco."

"28th do. was launched a xebeck of fourteen guns, which is to be fitted out as a cruiser."

"I have been disputing with the Jews, but have only recovered one thousand three hundred dollars from them yet."

"The Bashaw had taken the opinion of his counsellors, in writing relative to the American war; only three were opposed to it. Sidi Mahomet Daguize, the Grand Kaya, and another whom I do not know.

"On the arrival of the American frigates before Tripoli, the Bashaw began to reflect on the advice he had received: now the scene is changed, Murad Raiz, the chief promoter of the war, is in very low estimation; his companion Raiz Squsy has literally drank himself into the other world about a month ago, and Murad was in a fair way to follow him, when a little recollection made him abstain from liquor some days."

"April 22d. It is currently reported that the Bashaw intends to fit out five cruisers, three quarter galleys, a guerlingwich, or polacre, that returned from a cruize with a prize a few days ago, and a xebeck."

"April 30th. I have to inform you that two quarter galleys of twenty-eight oars, and four carriage guns, and four swivels, manned with from fifty to sixty men each, one commanded by Raiz Halifa, and the other by Raiz Osman Candiotto, are ready to sail upon a cruise."

Extract of letters from Mr. ——— to Mr Cathcart, dated at

"TRIPOLI, *May* 10, 1802.

"On the evening of the 1st instant, the consuls were summoned to the castle, when the Bashaw, in the presence of the two Swedish officers, stated the treatment he had received from Sweden *since* the conclusion of Tornquist's treaty, and compared his treatment to them *since* that period, and ended his observations by asking, if he had not sufficient reason to declare war against that nation; and then solemnly declared that he never intended to enter into another treaty with Sweden. War was to be declared the next day; nevertheless, it was postponed to the 5th instant, in hopes that, by continuing the negotiation, an accommodation would take place; but the admiral would not listen to any terms but those he proposed, which were as follows: "The Swedish prisoners to be liberated without ransom; peace to be established without paying any consideration whatever for it, as presents, or otherwise, upon the same terms as it was before the declaration of war in 1800." The admiral alleged that the Bashaw, having captured Swedish property to a considerable amount, could not possibly have any claim against Sweden.

"I know the Bashaw of Tripoli has made an effort to conclude a treaty with the United States of America through the mediation of *Algiers*, and I am very much mistaken if there are not at this moment other plans under consideration, as several of the Bashaw's adherents endeavor to gain his confidence by suggesting them."

"On the night of the 19th instant departed two galliots (quarter galleys) to cruise along shore; it is said they are in quest of some American vessels that are at Susa."

Extract of letters from James Leander Cathcart, Esq. Consul of the United States of America at Algiers, to the Secretary of State, dated at

"LEGHORN, *July* 4, 1802.

"You will please to observe that the cruisers of Tripoli have been frequently at sea since the war commenced, and thence conceive the danger our merchant ships have been exposed to. From the returns of our consuls, you will be informed of the extent of our commerce in this sea, which never was so valuable as it was at the period, and since the Bashaw of Tripoli commenced hostilities. I have seen twenty-four sail of American vessels in this port at once last year, two-thirds of whom were unarmed. Can the wisdom of Government devise no means either to prevent the cruisers of Tripoli from putting to sea, or our merchant ships from passing up the Mediterranean, unarmed and without convoy. Is it not possible to prohibit them (for their own sakes) from coming past Gibraltar unless armed sufficiently to defend themselves, when three or four are together, or under convoy of some of our ships of war."

"The Bashaw of Tripoli seems disposed to enter into a treaty with us, but upon what terms he has not yet declared; Mr. Eaton informs me that a proposition of peace on the part of the Bashaw of Tripoli came through the Bey of Tunis, when it was proposed that the latter should be mediator and guarantee. Mr. Eaton answered that we prefer peace to war when we can obtain it upon honorable terms, but not otherwise."

From No. 9, dated

"LEGHORN, *July* 15, 1802.

"On the 10th instant, Mr. Appleton and myself endeavored to dissuade the masters of vessels, now in port, from sailing, until some of our frigates, or those of Sweden, arrive to take them under convoy, but without effect; they seem, at present, as they ever have seemed, intent upon gain only, without properly appreciating the risk."

CIRCULAR.

ALGIERS, *June* 26, 1802.

This morning arrived a Tripoline corsair, and with her a prize; the Philadelphia brig Franklin, Captain Morris, who sailed from Marseilles the 8th instant, was captured the 15th instant adjacent to Carthagena, and another American brig, which was in company, got off.

On the morning of the 21st instant, I saw, three leagues east of Algiers, another Tropoline cruiser, with a brig in her possession, standing to the eastward, which I take to be an American vessel. I am trying on what terms I can obtain the ransom of Captain Morris and crew, in all, nine; and, if possible, afterwards shall see on what conditions I can get the brig and cargo.

It is a fact that there is at sea, at present, six sail of Tripoline cruisers; and it is asserted that the frigates of the United States and those of Sweden are blockading Tripoli.

Sir, I am, &c.

RICH. O'BRIEN.

By comparing this with Mr. Nordeling's letter, it would appear that more cruisers than the two galleys are out; but I can hardly believe it possible that they could evade the diligence of two squadrons, or that they have enterprise to attempt it in any thing but row boats, such as the galleys.

Cathcart, it is reported, heard, but not authenticated by official authority, that Lieutenant Sterrett, in the Enterprise, has recaptured a Swede. God send it may be true.

Extracts of a letter from Andrew Morris, Captain of the brig Franklin, to James Leander Cathcart, Esquire, Consul of the United States, &c. dated

"TRIPOLI, *July* 22, 1802.

"I take this early opportunity to inform you of my capture. I sailed with the brig Franklin, belonging to Messrs. Summer and Brown, of Philadelphia, from Marseilles, with an assorted cargo for the West Indies, on the 8th ultimo, and, on the night of the 17th following, then off Cape Gallos, was boarded by one of three Tripoline corsairs, mounting four carriage and four swivel guns, that sailed from this place on or about the 20th of May. I shall pass over the occurrences of that night, as you are well acquainted with the conduct of these barbarians towards the unfortunate that fall into their hands. They proceeded with the prize to Algiers, where we arrived the 26th; and, as I conjecture, by the representations of Mr. O'Brien, they were obliged to make a hasty retreat on the 27th following, but not without giving me an additional load of chains; what with calms and contrary winds, we did not reach Biserta, in the neighborhod of Tunis, until the 7th instant; where, after a tarry of five days, we departed, leaving the brig in charge of their agent, and arrived here on the 19th instant. Through the interference of Mr. Nissen, His Danish Majesty's consul here, I have the liberty of the town; and, by a lucky event, a Mr. Benjamin McDonough has claimed my two officers and one seaman, and has obtained their release as British subjects; two more that were foreigners, which I reported as passengers, have likewise been liberated, so that they have only myself and three seamen captives. You will readily agree with me that this will lessen the value of the capture to the Bey. But I cannot pass over the disappointment I experienced in not falling in with some of our vessels of war, during one month's captivity on board the corsair, especially off Cape Bon, a place that the necessity of strictly guarding must appear to every naval commander at war with Tripoli. But more on this subject if time will permit: the most provoking circumstance was off this place: when we had arrived within about five leagues of the port, the corsair, with our flag reversed, began, according to their custom, to salute, and so continued at intervals, for more than five hours, until we anchored in the harbor."

"The three galliots are now all in port; they are to sail immediately; it is said Morad Raiz, alias Lisle, is to go in one of them, or in a small Italian polacre of twelve guns."

Extract of a letter from William Eaton, Esq., Consul of the United States of America, at Tunis, to the Secretary of State, dated

"TUNIS, *December* 13, 1801.

"On the 28th arrived the Danish Commodore Koefred, and a consul Holch, five days from Leghorn. The evening of the 2d ultimo they passed at the American house. As the commodore had lately been at Tripoli, on a negotiation, it was very natural to inquire of him what seemed to him to be the general sentiment of the Tripolines, respecting the American war. He said it was very unpopular, and that the subjects of the Bashaw, chiefly on this account, were ripe for a revolt; they waited for nothing but succor. They clamor against the madness and oppression of their chiefs; say he makes war on his friends to the destruction of their little commerce; takes all the plunder to himself; and, in the issue, reduces them to starvation and the loss of their friends, without allowing them the wretched consolation to mourn for those friends when slain. He forbade the surviving relations to mourn for Sterrett's dead.

"They almost unanimously desire the restoration of their rightful sovereign, who is a mild man of peaceable dispositions."

Extract of a letter from Richard O'Brien, Esquire, Consul of the United States of America at Algiers, to the Secretary of State.

"ALGIERS, *February* 1, 1802.

"The Algerine ministry, on the 20th of January, proposed to me, that now, as the Tripoline ambassador was here, to settle or arrange with Tripoli. At the same time alluded that a little money would be required. I answered, I had no orders on this subject; and that I was convinced that the United States would never give any; that we had sufficient of the bad faith of Tripoli. I considered this hint, or proposition, in order to feel my pulse to know if I had orders or latitudes."

Extract of a letter from William Eaton, Esq., Consul of the United States of America at Tunis, to the Secretary of State, dated

"LEGHORN, *February* 3, 1802.

"It may not be improper to mention here, that Thursday 17th December, latitude 39° 45′, spoke Snow Fox, of Boston, from Naples, bound to Messina, with very few men and no guns. The Mediterranean is covered with this kind of adventurers. If individuals will neither have regard to their own safety, nor the general interests of the United States, should not the Government interdict this loose manner of hazarding both by legal prohibitions to commerce here without convoy? One single merchantman's crew, in chains at Tripoli, would be of incalculable prejudice to the affairs of the United States in that regency."

Extract of a letter from Richard O'Brien, Esq., Consul of the United States at Algiers, to the Secretary of State, dated at

"ALGIERS, *June* 14, 1802.

"On the evening of the 10th instant arrived here two Tripoline corsairs, and this morning they sailed for the coast of Spain, in search of Americans and Swedes. These two corsairs are row galleys, with three lattine sails, each having four guns; one a crew of forty men, the other thirty-five. They are well calculated for rowing, and boarding vessels in calms or light winds. They say they are about twenty days from Tripoli; sailed with three others; and those two have coasted it down the Barbary shore to Algiers."

JUNE 26.

"This morning, at 6, A. M. entered the port of Algiers a Tripoline corsair, and with her the American brig Franklin, Captain Morris, of Philadelphia, with his crew, nine persons, in chains, on board the Tripoline corsair. The Tripoline corsair had her colors flying at each mast head, and kept firing guns; at the same time, under her prow was hoisted the American flag reversed: all this I [have] seen with my own eyes. On this, I went to the Marine, to the General and Minister for Foreign Affairs; told him, as the treaty of the United States with Tripoli was under the guaranty of this regency, that, if the Dey had not power or influence over the Government, or Bashaw of Tripoli, the Dey had it now in his power, and in his port, and under the eyes of the city, to do me the justice that he had pledged the faith and honor of the regency to do; that I demanded, in the name of the United States, the American brig and cargo, and crew, of this Government; that all was in their port, with the Tripoline corsair; that [she] had been supplied here, from the 10th to the 14th of June, with all her wants, which enabled her to proceed to sea, and capture Americans.

"To this he answered, that the regency's guaranty was intended to be as a mediator, but not to use force; that now the guaranty could not much be talked of; that the United States had sent frigates to blockade Tripoli; had taken last year a Tripoline corsair and crew, and let them go; if we had brought them to Algiers, and given them up to the Dey, that he would again settle our affairs with Tripoli, with a little money or expense. To this I answered, that the regency had been repeatedly solicited to use their influence before that hostilities had commenced; that, when Algiers had any business of their own, it was respected by Tripoli; but when any affairs of the United States, I was told that Algiers had not power to command the Government of Tripoli to act contrary to its interests; that timid, indeed, would the United States be, knowing, for eight months before it had happened, that Tripoli intended a war of plunder on our commerce, that we depended on this regency's guaranty; but to give a greater security, we sent three frigates; to show our moderation, we let go the Tripoline corsair and crew; that this circumstance the regency well knew of. Finally, he told me he could do nothing without first receiving the Dey's orders; that he would remain in my favor all in his power. I had known that this said marine minister had encouraged the Tripolines from the 10th to the 14th of June; that, if they took any prizes, they might bring them into the ports of this regency and dispose of them.

"I declared publicly that the regency's conduct this day was a breach of faith, and of the treaty which they had made and guarantied to the United States. I next went to the prime minister; and stated to him every thing, as I had to the marine minister. He observed that, if the American frigates were not blockading Tripoli, that Algiers would give up the American brig, cargo, and crew, and send the corsairs of Tripoli out of their ports; that, two years past, the Portuguese took an Algerine corsair; that the Bashaw of Tripoli had got from the Portuguese the corsair and crew, and sent both as a present to the Dey; that this great favor to Algiers would be badly repaid by Algiers taking from the Tripolines the American cargo, brig, and crew; that our colors being reversed was a custom of war; that our corsairs could do the same by Tripoli, when we took any of their vessels. I told him the favor rendered by Tripoli to Algiers had nothing to do with their guaranty of the treaty of the United States; that I demanded what was in the power of the regency to perform, and would not forget any service he would render me on this occasion.

"On the morning of the 27th June, I went again to the Minister of the Marine, who informed me that he had stated to the Dey the chief of what I had said to him the day before; that the Dey said Tripoli and the United States were at war; that this finished his guaranty; that the Dey did not think it to be right to take prisoners or prizes from the Tripolines to give to the Americans who were blockading Tripoli; that this was the Dey's answer; that I might take it to my Government: at the same time, that the Dey would admit of American corsairs to the same favors in his ports as he did to the Tripolines. I observed, to this definitive answer of the Dey, I had not much more to say at present than what I had repeatedly stated; that I would fully communicate the same to the Government of the United States, and was sorry to observe that our treaty was only adhered to in such parts as were favorable to this regency, and in no respects, in any manner, to the advantage of the United States. He cautioned me to be prudent; that it was well known to me that a little thing would irritate the Dey, and the consequence would be serious; that I well knew the terms the Dey had lately obliged the Spaniards to acquiesce to; and that both the British and French would soon share the same fate. I thanked him for his advice, and observed that it made no difference to the United States in what Spain acquiesced to, or what the Dey would do against the British or French; that I was convinced the Government of the United States would, with regret, learn, from facts, that Algiers was not the friend of the United States, but an evident friend of Tripoli. He observed that he did not believe that we, or any Christian nation, would keep the peace with Algiers, if we found it more our interest to be at war. I told him that we knew our interest, and, at the same time, would not sacrifice the honor of our nation under any consideration whatever; that the present time admitted of a favorable opportunity for him, the Dey, &c. to do me the just favor I required.

"The prime minister, and Brurach, the Dey's Jew broker, and in fact his principal director, went to the Dey at 2, P. M. on the day of the 27th of June, and stated all my arguments to the Dey. The same, I sent my dragoman to the Dey, to request the favor to befriend me on the present occasion; that nine of my countrymen were in chained captivity in his port, on board a Tripoline, with a prize, an American brig; and that the corsair of Tripoli had the American flag reversed at the prow of said corsair; that, at the same time, the Dey was the guarantee of the treaty of the United States with Tripoli; that, if the Dey was not occupied, I should be happy to see him on this occasion.

"The Dey answered that I need not come; that he had the whole of the business in his mind, and that I would shortly hear the result.

"On this, the Dey sends a messenger down to the marine, to the Vickelhadge, or General of the Marine, for him to call the Tripoline captain; that the Dey will purchase the nine Americans, brig, and cargo; that the Dey will give for these the sum of five thousand dollars; and that he would write to the Bashaw of Tripoli that this he did, and would remit him the money. After the Dey sent this message to the marine, the Dey went to his garden. The Minister of the Marine declared this message to the Tripoline captain; who said he could only part with the American prisoners by force, having the Bashaw of Tripoli's orders, above all things, if he should take any Americans, to take care and land them at some of the outports; that it was by having possession of them that his master, the Bashaw, would find thereby means to bring the Americans to a peace on Tripoli terms.

"At mid-day, on the 28th of June, being informed that several Moorish merchants were offering to purchase the brig Franklin and cargo from the captain of the Tripoline; on this information I went to the prime minister, and told him what I heard; he was very angry; said that the business should have been carried yesterday, agreeable to the Dey's orders, but that the business was in the hands of a lion, (the Dey,) and that the foxes were looking on, alluding to the Moorish merchants. Shortly after this, I heard that the agent of Tripoli went to the Dey, and also the Swedish dragoman; that the Dey got very angry, and ordered both the Tripoline corsairs and their prize, the American brig, to depart the port of Algiers directly. As they were getting under way, I went to the Minister of the Marine, and told him that this conduct of Algiers was as a friend to Tripoli, and not to the United States; that it was in his power to have done me justice, and that he neglected it. He said he was to obey the Dey's orders; that we should have kept a better look out, and not let the corsairs of Tripoli get out. I observed to this, that I was trying to remedy the evil, &c.; had I had his sincere assistance, the business would have been finished yesterday; that, at present, I had only to detail the whole affair to my Government; the result he would be informed of; and that, as Tripoli corsairs thus entered with American prizes into the ports of this regency, that certainly American frigates would frequent this coast, and difficulties would ensue.

"The Tripoline corsairs, and brig Franklin, and Captain Morris and crew, left Algiers on the 28th of June, at half past 2, P. M. with a light westerly wind, destined to the eastward, I suppose for Bona or Tunis, where, I hope, they will meet one of our frigates. It seems now to be reduced to a certainty that there are but those two Tripoline corsairs at sea."

Extract of a letter from James Simpson, Consul of the United States for the Kingdom of Morocco, to the Secretary of State, dated

"TANGIER, *January* 8, 1802.

"At this time, Muley Solyman has not a single vessel of war afloat. At Sallee, two frigates, of about twenty guns, are building, and may probably be launched next spring; but he is in want of many stores for them ere they can be sent to sea. At Tetuan, they have lately patched up an old half galley to carry two bow guns and fifty men; but, if I am to judge from her appearance last May, she is scarce fit to go to sea. This is all the navy.

"When Muley Solyman requested I would procure for his use the mentioned one hundred gun carriages, he particularly mentioned they would be paid for on delivery at this port, as advised in No. 33. I was in hopes Mr. Bulkley might have been able to contract for them, payable in that way; but he acquainted me they must be paid for in Lisbon; and that he judged they might cost about three hundred and twenty millreas each. Highly desirous of gratifying His Majesty, and having no other means of providing for payment of these carriages, I proposed drawing

for the sum that might be required on account of my salary. This, I trust, on your side, will be admitted as a proof that nothing in my power to do, on this occasion, has been wanting, notwithstanding what the Emperor and his ministers may suppose. Should Government think well of making the Emperor of Morocco a present, at this time, as a fresh proof of the friendship of the United States, (in the event of his continuing the peace uninterrupted, as I trust will be the case,) these carriages, in my opinion, would be more acceptable to him than any thing else. In that case, it will be necessary to give Mr. Bulkley directions respecting the payment of them. Should this measure be determined on, I would, with due submission, beg leave to recommend a letter being sent by the President to the Emperor, on the occasion; especially as, since the recognition of the treaty, in 1795, and his letter of the 18th August, that year, no direct communication whatever has been made to His Majesty on the part of the United States.

"The Tripoline ambassador, or messenger, come from thence so long ago, was permitted, on Saturday last, to proceed for Fez, to meet the Emperor. This man's business, in this country, is not precisely known, but will soon be, after he may have an interview with Muley Solyman.

"On Monday, the 14th ultimo, the Bashaw sent for me; and, after making his secretary and other attendants retire, he told me Muley Solyman was much displeased at my not having obtained for him the gun carriages he had commissioned; adding that the reasons I had alleged, in my last letter to the Emperor, on the subject, were by no means satisfactory, as they appeared to him to be merely excuses. Conscious that I had said nothing but what Mr. Bulkley had written me, on the part of the carpenter at Lisbon, who had offered to contract to make these carriages, I felt perfectly easy on the occasion, and endeavored to convince the Bashaw that the motive alleged for His Majesty's displeasure was groundless, of which he, at least, seemed to be satisfied. He then said he was also instructed by His Majesty to demand whether I was authorized to make him presents of moment, from time to time. I answered that in the treaty made between Sidi Mahomet and the United States of America, and confirmed by Muley Solyman, no stipulation whatever was made for my Government making presents, at any stated periods; of consequence, that I was without any instructions on that subject. The Bashaw then told me Muley Solyman looked upon the Americans as no better friends to him than the Dutch; and that I must consider myself in the same situation as their consul was at that day. Fully satisfied that the Government of the United States had given the most ample and unequivocal proofs of friendship to Muley Solyman, I readily saw that this intimation must proceed either from error, or that it was a prelude to His Majesty's making another attempt to get quit of the treaty of 1786, and obtain presents at stipulated periods. On this occasion, I beg to refer you to the several letters I had the honor of addressing the Department of State, from Rhabat, between the 15th July and 18th August, 1795, and to No. 55 of my Gibraltar correspondence, dated 24th September, same year. By these, you will see a strong attempt to effect this was at that time made, but that I had the happiness to overcome it, and obtain a recognition of that treaty, under well founded motives, in appearance, for believing Muley Solyman granted it from a full conviction of its being incumbent on him to do so. Bashaw Hackanaway having stated the American and Batavian Governments as standing in the same predicament, in relation to this country, I did not allow him to quit that ground until I had given him an ample detail of the very early attention the United States paid Muley Solyman, urging that, in the choice of the articles [which] chiefly composed their first present, they had given the strongest proof possible of the part they took in His Majesty's concerns at that interesting moment, and of their desire that he should overcome the opposition then actually making against his succession. It does not appear necessary to trouble you with all the other arguments at this interview, only to say that, having desired another, the Bashaw appointed the 16th, in the evening. We accordingly met; and I laid before him an Arabic translation of the treaty of 1786, with a copy of the Emperor's letter of the 18th August, 1795, to the President, confirming it; also, lists of the first and second presents I delivered, in the name of the United States, to Muley Solyman, at Rhabat, in 1795, and of that I had also the honor of delivering at Mequinez, 1798, on the occasion of showing His Majesty my commission as consul. He perused all these papers with attention, and assured me, as in holding these conferences in private, he had given me a proof of his friendship, so I might depend upon experiencing a continuance thereof, and that he would report to His Majesty on the occasion. At this second interview, not a syllable was said on my retiring from the country; neither have I, to this hour, heard any more on that subject."

Extracts from the same to the same, dated

"TANGIER, 20*th February*, 1802.

"I am happy in saying that, up to the present hour, I have not heard a syllable further relative to Bashaw Hackanaway's communications, of the 14th December, from which I draw a very favorable conclusion."

"The Tripoline who went to the Emperor, as ambassador, solicited some cargoes of wheat, and is gone to Rhabat with permission to load; but he certainly will not find vessels to charter whilst Tripoli continues blockaded. The Emperor having also been solicited to give his assistance towards getting the Tripoline brig, which lies at Gibraltar, sent home, consented to give a crew and provisions for that purpose. A few days ago, the Governor solicited from the Swedish consul and myself, in His Majesty's name, passports for her; which, having convinced him it was not in our power to grant, under the actual situation of Tripoli, it was agreed we should write Admiral Ciderstrom and Commodore Dale on the subject, which has been done."

From the same to the same, dated

"MARCH 19, 1802.

"I confirm that Muley Solyman has agreed to allow wheat to be sent from his country to Tripoli; but I should think it to be next to an impossibility for them to find vessels to charter for that voyage, whilst that port is so notoriously known to be blockaded. Whatever may be done in this particular, at any of the Emperor's ports, I shall take care to advise the commanders of the frigates on this station of."

Extracts from the same to the same, dated

"MAY 13, 1802.

"Yesterday I had certain intelligence of the Governor of Rhabat having received His Majesty's orders on the 6th instant for sending a schooner to Darelbeyda, immediately to load wheat for Tripoli."

"On the 2d instant, the two frigates were launched at Rhabat. I am assured they are pierced for twenty-six guns each, on the main deck. If so, they must be much crowded: for no ship, of a suitable length and draught of water, and that force, can enter any of the ports of this empire. Nothing that I yet know of has been done towards obtaining the small cruisers it was said His Majesty intended to station at this port."

From the same to the same, dated

"JUNE 5, 1802.

"I have the honor to transmit herewith the copy of No. 39, also translation of the minister's answer to the letter written him on the 25th April, by the Swedish consul and myself, on the subject of His Majesty's desire of sending

wheat to Tripoli, by which you will see he submits the propriety of that measure to the letter of the treaties of Sweden and the United States with this country. Unfortunately, neither make any provision for such a case, nor are blockaded ports mentioned in them. Hitherto none of the shipments have taken place.

"Sunday last, the Governor sent for Mr. Wyk and me, to show us a letter from His Majesty, desiring to know if we were yet authorized to grant passports for that wheat and the Tripoline ship lying at Gibraltar, which, of course, was answered in the negative.

"It did not appear he had been instructed to treat with us upon the subject, in the precise terms of the minister's letter. We, however, did not fail to repeat to him, that all sort of intercourse by sea with blockaded ports was pointedly opposite to the law of nations and common usage at this day. This conference was held in the presence of the commodore of the Tripoline ship and one of their ambassador's secretaries, who brought the letter from His Majesty."

Translation of a letter from Sidi Mahomet Ben Absalem Selaway.

"Praise is due to God alone. There is no power or strength but in God. To the consuls, Peter Wyk and Simpson—health.

"Your letter reached the high presence of our master, (whom God preserve!) and I read it to him; also what you say on the subject of a passport for the Tripoline ambassador.

"This wheat to be sent belongs to my master. If you allow it to pass, when the ambassador goes, as the property of His Majesty, it will be very well. If not, you will do what is regular, and as is established by the treaties of peace between us and you.

"The Governor, Hodge Abdarhaman Hasash, will confer with you on this matter. Let what is in the treaties of peace be done.

"Written to you on the 7th day of Muharram, 1217, (corresponding to the 10th May, 1802.)

"MAHOMET BEN ABSALEM SELAWAY."

Extract from James Simpson to the Secretary of State, dated

"JUNE 14, 1802.

"No. 40, concluded 10th instant, and forwarded to Gibraltar, I presume is still there, and that this will go from thence with it.

"I have now the honor to acquaint you, that yesterday the Governor sent for me, to say he had just received a letter from the Emperor, with orders to acquaint me that, since passports could not be granted for the two cargoes of wheat he wished to send to Tripoli, His Majesty had directed the vessels should go to Tunis; which I was happy to hear, as by that means we get rid of what threatened to be a very unpleasant piece of business.

"In the evening, at the request of the Governor, I wrote His Majesty, to explain again the powerful motives why I could not sanction vessels going to Tripoli, but that I was ready to grant the usual certificates for those His Majesty might direct to be laden with cargoes, his property, for Tunis."

Extract from the same to the same, dated

"JUNE 17, 1802.

"It is with great concern I am under the necessity of acquainting you, that, either the information given the Swedish consul and myself on Sunday last, respecting His Imperial Majesty having consented to allow his wheat vessels to go to Tunis, was extremely fallacious on the part of the Governor of Tangier, or the Emperor must speedily have repented of having taken that resolution.

"This morning the Governor sent for me again, to say he had received fresh instructions from His Majesty, with orders to demand from me passports for those vessels to go direct to Tripoli, and, in case of refusal, that I was to quit the country; adding, that the letter was written in such strong terms as must prevent his consenting to any mitigation. After a very long conference, he, at last, however, allowed me time to write to Commodore Morris, at Gibraltar, which I am now about to do fully."

Extracts from the same to the same, dated at

"GIBRALTAR, *June* 26, 1802.

"Within this, I beg leave to enclose copy of No. 42, and am extremely sorry to add the intelligence of my having been compelled, by the Governor of Tangier, to retire from thence, on Thursday evening, in consequence of positive orders from His Imperial Majesty to that effect, received on the evening of the 22d, accompanied with advice of his having declared war against the United States."

"I had another interview with the Governor of Tangier, when I succeeded in obtaining his promise to suspend again the execution of His Majesty's orders, received on the 16th, for my expulsion, until he could represent to His Majesty the impossibility he was then satisfied had always existed to my granting the required passports, since the commodore could not sanction them."

Extract from the same to the same, dated at

"GIBRALTAR, *July* 3, 1802.

"I have now to acquaint you that yesterday I received a letter from the Governor of Tangier, dated 30th June, advising that His Imperial Majesty (in answer to the letter he wrote on the 22d) had directed that I might be permitted to remain there six months; adding, that I was, in consequence, at liberty to return to my house in Tangier, or not, as I should see fit."

Extracts of a letter from the same to the same, dated at

"GIBRALTAR, *July* 16, 1802.

"I have the honor of transmitting with this duplicate of No. 44, also a copy of the letter I wrote the Governor of Tangier, in answer to that I mentioned to have received from him. On same sheet is extract of a letter from the Danish consul at Tangier to me, containing the substance of what the Governor encharged him to communicate, by way of reply to my letter to him; all which I beg leave to submit to your perusal.

"In constant hope of seeing the Adams, upon mature consideration, I thought, as I had been expelled the country, and the alarm given of danger to the American flag, it was best to wait her arrival, and receipt of the instructions I fully depend on receiving by that ship, before I closed with the Governor's proposal of returning to Tangier, or entirely reject it. By this I was guided in the answer I gave to his letter, and it is satisfactory to see the determination meets his entire approbation."

"My friend at Rhabat writes me, under 25th July, that the equipment of the two frigates there goes on but slowly. At Tetuan I find they make all despatch with the two galleys, and that this day week, guns, anchors, and cables were sent from Tangier by a Moor's boat for them."

Copy of a letter from James Simpson, Esq., Consul of the United States, &c. for the kingdom of Morocco, to the Governor of Tangier, dated at

GIBRALTAR, *July* 5, 1802.

SIR:

I have received your excellency's letter of the 29th last moon, advising me His Imperial Majesty Muley Solyman had been pleased to direct that I might remain in Tangier six months. Had that order reached you previous to my being compelled to retire from His Majesty's dominions, I should certainly have availed of it. The frigate we expected from America has not yet reached this place. The moment she arrives, I will do myself the honor of writing His Imperial Majesty; and, in the mean time, I beg you will be fully assured my best endeavors will continue to be exerted for a renewal of peace and good friendship between His Imperial Majesty and America.

Extract of a letter from Mr. Shausbor, Danish Consul General, to James Simpson, Esq., the American Consul, dated

"TANGIER, *July* 9, 1802.

"Your esteemed favor of the 5th instant is duly come to hand, with the enclosed letter for the Governor of this place. I delivered it in his own hand, and, according to your request, explained to him the contents of it. In answer, he desires me to tell you, that he found you were in the right, and that he would not neglect, by the first opportunity, to inform His Majesty that he had written to you a very good letter, and that he has got still a better answer."

Extracts from James Simpson to the Secretary of State, dated at

"TANGIER, *July* 27, 1802.

"I had the honor to receive, by Captain Campbell, of the Adams, the letter you wrote me on the 30th April, to which I must pray you will excuse my replying at length this morning. It was considered by Commodore Morris and myself proper that I should pass over to this place, for the purpose of more speedily and effectually making the communications you encharged me with for His Imperial Majesty, on part of the President."

"In the mean time, I have to acquaint you that the frigate at Larach lies quite ready for sea, and that her commander left this place on Sunday, fully authorized to capture American vessels."

From the same to the same, dated at

"TANGIER, *August* 3, 1802.

"The 27th last month, I had the honor of addressing No. 46 to you, with advice of my return to this country; original was sent Commodore Morris, and duplicate via Lisbon. Last night I returned from Tetuan, after having had an interview with Hodge Abdarhaman Hasash, who confirmed to me that the ship mentioned to be ready at Larach was destined to detain American vessels as well as others, and showed me His Majesty's original letter, written by himself, authorizing Hasash to give directions to the captain for that effect; the ship to be placed entirely under his direction."

"Hasash did not long hesitate ere he proposed to withdraw the authority he had given for the Larach ship taking Americans, provided I would grant the captain the usual certificates given by consuls to the Emperor's cruisers, that he might put to sea; but that I positively refused, or to sanction any vessel whatever belonging to the Emperor going to sea in any degree armed, until such time as His Majesty should see proper to give the most positive declaration of his being at peace as heretofore with the United States. After many arguments on both sides, Hasash promised me he would recommend to His Majesty to desist from his hostile intentions against the United States."

"Accordingly, it was agreed both he and I should immediately write His Majesty; and, enclosed with this, I have the honor of transmitting a copy of my letter, which I beg you will be good enough to lay before the President, together with this despatch, for his information on what has been done. At this moment, I have the highest gratification in saying I enjoy great hopes of a speedy accommodation; but, at the same time, although I have the conscious satisfaction of knowing that every exertion possible in my power has been made by paving the way for it, even during the time I was at Gibraltar, by endeavoring to gain my friends near the Emperor over to our interest; yet, I must candidly say, had there not been a naval force at hand to keep their cruisers in port, I very much doubt if all I could have done would have been attended with that success I now so much hope for."

"TETUAN, *July* 31, 1802.

"MAY IT PLEASE YOUR MAJESTY:

"With all due respect and deference, I beg leave to write your Imperial Majesty this letter, and to express my sincere wish it may meet your Majesty in the enjoyment of perfect health, which I pray God long to continue.

"After having retired from your Majesty's dominions, in consequence of your orders communicated to me for that effect, by your servant Hodge Abdarhaman Hasash, it is with the highest satisfaction I have returned for the purpose of laying before your Majesty the contents of a letter received from the Secretary of State of the United States of America, replete with expressions of the respect and particular regard the President of the said United States entertains towards your Majesty.

"That letter was written on the 30th day of April, corresponding with the 28th Dulhajja of last year. I have it in particular charge thereby to assure your Imperial Majesty, in the name of the President, how very highly he regards your Majesty's faithful observance of the peace established between your royal father (who is in glory) and the United States. The interruption that has happened since that letter was written, I trust I may be allowed to hope will speedily be done away.

"I further beg leave to represent to your Majesty, that, having found it impossible to obtain from Europe the one hundred gun carriages your Majesty was pleased last year to desire I would endeavor to provide for you, (as I had the honor of advising your Majesty at that time,) it became my duty to represent that disappointment to the Government I serve. The President, desirous of giving your Majesty a proof of his friendship, immediately directed that one hundred gun carriages, such as your Majesty desired me to procure, should be made, and sent by a vessel to Tangier, for your Majesty's use, so soon as they could be finished. Although the great distance of America from this country necessarily occasions considerable delay to answers on any subject submitted from hence, and, of consequence, that this determination of the President has been long in reaching your Majesty, yet I fully persuade myself your Majesty will see, in his ready attention to send to your Majesty what appeared would be acceptable, a strong proof of the sincere intention of the Government of the United States faithfully to maintain, not only peace, but the strictest friendship and good harmony with your Majesty.

"I purpose waiting at Tangier to receive such answer as your Majesty shall be pleased to order to be written to this letter, in full reliance your Majesty will now be pleased to show equally friendly sentiments towards the United States, and issue orders for annulling the declaration of war made against them, that peace may be restored, and their ships of war stationed in these seas again respect, in all cases, your Majesty's flag.

"In fulfilling my duty, by making these friendly communications on the part of the Government of the United States, I beg your Majesty will be persuaded I have sincere satisfaction, since it has ever been, and shall ever be, my constant endeavor to promote peace, harmony, and good friendship between this country and America.

"I pray the Almighty God to preserve your Majesty many years in health and prosperity, and beg leave to subscribe myself, with the highest respect and veneration, may it please your Majesty, your Majesty's most obedient and devoted humble servant,

"JAMES SIMPSON."

"His Imperial Majesty MULEY SOLYMAN BEN MAHOMET BEN ABDALLAH BEN ISMAEL,
"*Sheriff, Emperor of Fez, &c.*"

Extract of a letter from Mr. Simpson to the Secretary of State, dated at

"TANGIER, 12*th August*, 1802.

"Original of No. 47 was forwarded by way of Lisbon, duplicate and triplicate under cover of Mr. Gavino at Gibraltar, each accompanied by a copy of the letter I wrote the Emperor from Tetuan.

"I have now the honor of enclosing, with this translation of the answer I received last night to that letter, by which I am concerned to find new ground taken, likely to be productive of some trouble with His Imperial Majesty. A great consolation is, that the pretension of frequent embassies is totally founded in error: for no such arrangement, as is pretended, was made by me with the late minister Sidi Mahomet Ben Ottoman; nor has any thing of that nature ever been moved or hinted at, since the period alluded to, namely, 1795."

[TRANSLATION.]

TANGIER, 12*th August*, 1802.

In the name of the merciful God: there is no power or force but that proceeding from the Great and Most High God.

To JAMES SIMPSON, *Consul of America.*

Your letter reached the high presence of our master (whom God preserve!) and he was thereby informed of the orders you had received from the American nation.

Our master's pleasure is, that you return to your house; and he has given his orders accordingly, that you may remain, as you have hitherto been, in the exercise of your office, and herewith goes the order for that effect to Alcayde Abdarhaman Hasash: so return to your house. His Majesty also orders me to acquaint you that he still adheres to what you stipulated with Sidi Mahomet Ben Ottoman, (to whom God be merciful!) which is, that your nation shall send each year one of your people to the high presence of our master with your present; but if it be difficult for you to come every year, by reason of the distance of your country, you will come once in every two years.

Upon this the convention with your nation was made and the treaties signed. If you abide by this agreement and fulfil it, you will be as you were, and your attentions will increase our friendship; and if you do not fulfil it, you will see how you will have to settle your matters. What has happened to you now has been occasioned by your own tardiness and neglect in this particular; but our master (whom God preserve!) now forgives all that, and do you on your part as justice directs, and God will assist you.

Written by order of our master (whom the Almighty God has exalted!) on the seventh of Rabii á Tany, 1217, (corresponding with the 6th August, 1802,) by his servant Mahomed Ben Absalem Selaway. Exchanged with the affairs of foreign nations, whom God purify of his sins. Amen.

[L. S.] Translated from Arabic to Spanish by Don Manuel Bacca, professor of the formerl anguage, and from Spanish by

JAMES SIMPSON.

From No. 49 to the Secretary of State, dated

"TANGIER, 3*d September*, 1802.

"With this I have the honor of transmitting a copy of the letter I wrote the minister on the 1st instant. It will afford me much satisfaction to know what I have said on the subject of the Emperor's pretension meets the approbation of his excellency the President. I have stated only facts, and thought best to reserve copies of my letter of the 18th July, 1795, to the then minister, and that of Muley Solyman's to the President, on the 18th of August, following, as vouchers, more proper to be exhibited in support of my arguments, and in opposition to what further may be alleged on the part of this Government, on the subject of what they thought fit to advance rather than now."

"The business of bringing the Tripoline ship from Gibraltar, under the Emperor's flag, has been again agitated, and a general application made by Alcayde Hasash, to the consuls here, for passports for her as belonging to His Majesty, to sail from hence for Tripoli. I positively refused mine in these terms, nor do I find any has been granted; but it is certain men have been ordered from Tetuan for her, and that she is to hoist colors at Gibraltar so soon as the weather will allow these people to get over.

"I have acquainted Captain Campbell, of the Adams frigate, that, in my private opinion, the whole is a colorable business; but if the Emperor announces to the body of the consuls that the ship is his, and demands passports accordingly, merely to go to sea and navigate as his, I really do not see how I dare return to contest the matter; or, from circumstances, to express doubts on what is stated by the sovereign of the country as a fact, without running a great risk of drawing serious resentment on the commerce of the United States."

Extract of a letter from James Simpson, Esq. Consul of the United States, to his excellency Sidi Mahomed Ben Absalem Selaway, Secretary of State, &c.

SIR: I have received the letter you wrote me, in answer to that I had the honor of addressing His Imperial Majesty from Tetuan. In that letter you acquainted me it was His Majesty's pleasure I should remain in this place, and exercise the functions of my office as heretofore, as that the necessary orders had been given for that effect to the Governor Alcayde Abdarhaman Hasash. Very much desirous of seeing perfect harmony subsist between this empire and the United States of America, and, at all times, ready to contribute thereto, as far as is in my power, I did not hesitate at again hoisting their flag on my residence in Tangier, in testimony of the return of peace, and notified to his excellency the President His Majesty's friendly dispositions in this particular.

I also gave the necessary information on the subject to the commanding officer of the American ships of war stationed in their seas, and granted passports for His Majesty's frigate Mirboha and schooner Miribha, that they might put to sea, and navigate in safety.

I beg you will have the goodness to represent these matters to His Imperial Majesty, with an assurance from me, that he will always experience from the Government of the United States and their agents an equal readiness to correspond with every disposition His Majesty may be pleased to show for maintaining an uninterrupted peace between the two nations. At the same time, speaking with that sincerity [which] ought to guide the representatives of nations, I cannot help expressing to you with what surprise and concern I observe the further communication you make me by order of His Imperial Majesty, stating his expectation of annual embassies, accompanied with

presents from the United States of America. You are pleased to say it was so stipulated with the late Sidi Mahomet Ben Ottoman.

I beg you will tell me where, and by whom, such engagement was made, for I am a perfect stranger to it.

What I know of the matter is, that, in the year 1795, when I had the honor of being sent by the Government of the United States to His Imperial Majesty Muley Solyman at Rhabat, for the purpose of congratulating him on his happy accession to the throne of his ancestors, and for obtaining a recognition of the treaty made at Morocco, between His Majesty's father, Sidi Mahomet Ben Abdallah, and the United States of America, His Majesty was pleased to ratify that treaty, without any addition or alteration, in fulfilment of his father's engagement, made in the name of the Almighty, that it should continue in full force for fifty years from the first day of Rhamaden, in the year 1300, on which it was signed.

His Majesty's letter on that occasion to the President of the United States, bearing date the 2d of Fafar, 1310, was delivered by me to Sidi Mahomet Ben Ottoman, and declared that His Majesty was at peace, tranquillity, and friendship with America, in the same manner as his father (who is with God) was, to which the Government of the United States have ever faithfully corresponded.

By that treaty there is no stipulation whatever for embassies being sent, or presents made, by either the one Government or the other, as you will see by the copy of it in Arabic, I delivered to Sidi Mohamet Ben Ottoman, on the 12th July, 1795, at Rhabat. I have seen it my duty to transmit to the Government, I have the honor to represent in this country, three several copies of your letter on this important subject, by different conveyances, to guard against miscarriage; and I wait to receive such orders as his excellency the President shall see fit to give me on this occasion.

I have lately received information that two seamen, part of the crew of the American ship stranded three years ago near Cape Nun, have escaped from the Arabs, and are now with the Governor of Tawdaunt. I have to request you will have the goodness to transmit me a letter to that gentleman directing him to allow these unfortunate people to proceed to Mogadore, in order that my agent there, Mr. Peter Guyer, may send them to their own country. Alcayde Hasash having signified to me His Majesty's wish to be provided with some more American rice, I have given the necessary directions to the consul at Gibraltar to send me a supply, as soon as he can get any of a quality proper for His Majesty's use.

It will at all times afford me particular pleasure to obey such commands from His Majesty.

I avail of this opportunity of renewing my assurances of respect, and beg you will be persuaded I am, &c.

Extract of a letter from Consul Simpson to Consul Gavino, dated

"TANGIER, 27*th September*, 1802.

"I am happy to tell you that some matters in discussion with this country have already been so far explained, and misconceptions on the part of this Government done away, as leaves me no room to apprehend longer a necessity of having recourse to America for instructions, as every matter is in the fairest train of perfect accommodation, and I hope the gun carriages will come just in time to settle every thing, at least for some years, until they think of something else to ask for."

7th CONGRESS.] No. 176. [2d SESSION.

SPAIN.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 22 AND 30, 1802.

DECEMBER 22, 1802.

Gentlemen of the House of Representatives:

I now transmit a report from the Secretary of State, with the information requested in your resolution of the 17th instant.

In making this communication, I deem it proper to observe that I was led by the regard due to the rights and interests of the United States, and to the just sensibility of the portion of our fellow-citizens more immediately affected by the irregular proceeding at New Orleans, to lose not a moment in causing every step to be taken which the occasion claimed from me; being equally aware of the obligation to maintain, in all cases, the rights of the nation, and to employ, for that purpose, those just and honorable means which belong to the character of the United States.

TH: JEFFERSON.

Report of the Secretary of State to the President of the United States.

DEPARTMENT OF STATE, *December* 21, 1801.

The Secretary of State, to whom the resolution of the House of Representatives of the United States of the 17th instant was referred by the President, has the honor to enclose to him the letters and communications annexed, from the Governor of the Mississippi territory, the Governor of Kentucky, and from William E. Hulings, formerly appointed vice consul of the United States at New Orleans. In addition to this information on the subject of the resolution, it is stated, from other sources, that, on the 29th of October, American vessels from sea remained under the prohibition to land their cargoes; and that the American produce carried down the Mississippi could be landed only on paying a duty of six per cent.; with an intimation that this was a temporary permission. Whether, in these violations of treaty, the officer of Spain at New Orleans has proceeded with or without orders from his Government, cannot as yet be decided by direct and positive testimony; but it ought not to be omitted in the statement here made, that other circumstances concur with the good faith and friendship otherwise observed by His Catholic Majesty, in favoring a belief that no such orders have been given.

JAMES MADISON.

NEW ORLEANS, *October* 18, 1802.

SIR:

I have the honor to enclose you an extract from a decree this day published by the Intendant of the province of Louisiana, by which you will see that the Americans are no longer permitted to deposit their merchandise in this city. No information of any other place being appropriated for an American deposit is yet given; nor have we any

reason to hope that the Government has such place in view. The season for the cotton from the Natchez, and other produce from the settlements higher up, to come down, approaches. The difficulties and risks of property that will fall on the citizens of the United States, if deprived of their deposit, are incalculable; their boats being so frail, and so subject to be sunk by storms, that they cannot be converted into floating stores, to wait the arrival of sea vessels to carry away their cargoes.

The port is also this day shut against all foreign commerce, which can only be carried on by Spanish subjects, in Spanish bottoms. I am, sir, with the greatest respect,

WM. E. HULINGS.

The Hon. JAMES MADISON, *Secretary of State.*

Extract from a publication made October 16, 1802, *by Juan Ventura Morales, Intendant of the Province of Louisiana, &c.*

N. B. The preceding part of the publication relates only to the ratification of peace, and the shutting of the port against foreign trade.

[TRANSLATION.]

"As long as it was necessary to tolerate the commerce of neutrals which is now abolished, it would have been prejudicial to the province, had the Intendant, in compliance with his duty, prevented the deposit in this city, of the property of the Americans, granted to them by the twenty-second article of the treaty of friendship, limits, and navigation, of the 27th October, 1795, during the limited term of three years.

"With the publication of the ratification of the treaty of Amiens, and the re-establishment of the communication between the English and Spanish subjects, that inconvenience has ceased. Considering that the twenty-second article of the said treaty takes from me the power of continuing the toleration which necessity required; since, after the fulfilment of the said term, this ministry can no longer consent to it without an express order of the King: therefore, and without prejudice to the exportation of what has been admitted in proper time, I order, that from this date, the privilege which the Americans had of importing and depositing their merchandise and effects in this capital, shall be interdicted: and, that the foregoing may be publicly known, and that nobody may allege ignorance, I order it to be published in the usual places, copies to be posted up in the public *sitioes;* and that the necessary notice be given of it to the officers of finance, the administrator of rents, and otherwise, as may be necessary.

"The present being given under my hand, and countersigned by the underwritten notary of finance *pro tempore*, in the office of Intendancy of New Orleans, October 16, 1802.

"JUAN VENTURA MORALES.

"By order of the Intendant: "PEDRO PEDESCLAUX."

Faithfully translated from the Spanish language, JACOB WAGNER,
Chief Clerk Department of State.

SIR: Near NATCHEZ, *October* 29, 1802.

I have the honor to enclose you a letter which I last evening received from Mr. Wm. E. Hulings, together with a translation of an extract from a publication made by Juan Ventura Morales, Intendant of the province of Louisiana, &c. dated October 16th, 1802. These despatches announce that the port of New Orleans is shut against foreign commerce, and also the American deposit.

Not understanding from the Intendant's proclamation, whether or not another place on the banks of the Mississippi had been assigned by His Catholic Majesty, (in conformity to our treaty with Spain,) for "*an equivalent establishment*," I have, by letter, (a copy of which is enclosed,) requested information *upon this point*, from the Governor General of the province of Louisiana: when his answer is received it shall be forwarded to you.

This late act of the Spanish Government at Orleans has excited considerable agitation at Natchez and its vicinity. It has inflicted a severe wound on the agricultural and commercial interests of this territory, and will prove no less injurious to all the Western country.

There being at present an interruption in the post between this territory and Tennessee, and supposing it of importance that the Government should be early apprised of the late event at Orleans, I have forwarded this letter by express to Nashville, where it will be deposited in the mail.

I am, sir, with sentiments of esteem and respect, your humble servant,

WILLIAM C. C. CLAIBORNE.

The Hon. the SECRETARY OF STATE *of the United States.*

SIR: NEW ORLEANS, *October* 18, 1802.

I have to announce to you that this day the port is shut against foreign commerce, and not against foreign commerce only, but against the *American deposit* in this city. In the decree posted up in the public places, no mention is made of any other place appointed for a deposit. You will use this information as you may think proper.

I am, with great respect, your most obedient humble servant,

WILLIAM E. HULINGS.

WM. C. C. CLAIBORNE, *Governor Mississippi Territory.*

SIR: NATCHEZ, *October* 28, 1802.

I was this day informed that, in a proclamation issued on the 16th instant by the Intendant of the province of Louisiana, it was announced, "That the citizens of the United States should no longer be permitted to deposit their merchandises and effects in the port of New Orleans."

Information of an event so immediately interesting to the citizens of the United States led me to peruse attentively "the treaty of friendship, limits, and navigation, between the United States of America and the King of Spain," and, upon adverting to the twenty-second article, I found it expressly declared, that "His Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandises and effects in the port of New Orleans, and to export them from thence, without paying any other duty than a fair price for the hire of the stores; and His Majesty promises either to continue this permission, if he finds, during that time, that it is not prejudicial to the interest of Spain, or, if he should not agree to continue it then, he will assign to them, on another part of the banks of the Mississippi, an equivalent establishment." I have here quoted the words of the treaty, and find them too explicit to require comment, or to admit of a doubtful construction.

If, therefore, His Catholic Majesty has discontinued his permission to the citizens of the United States to deposit their merchandises and effects at the port of New Orleans, will your excellency be good enough to inform me whether any, and what, other place on the banks of the Mississippi has been assigned (in conformity to the treaty) for "an equivalent establishment." The subject of this inquiry is so interesting to the commerce of the United States and to the welfare of her citizens, that I must request your excellency to favor me with an *early answer.*

Accept assurances of my great respect and high consideration.

W. C. C. CLAIBORNE.

His Excellency MANUEL DE SALVADO,
Governor General of the province of Louisiana.

The Governor of Kentucky to the President of the United States.

STATE OF KENTUCKY, FRANKFORT, *November* 30, 1802.

SIR: Two days ago, I received the enclosed letters from Dr. James Speed, and Meeker and Co., from New Orleans, together with a copy of a proclamation issued by Juan Ventura Morales, Intendant of the Spanish Government of Louisiana, and which I do myself the honor to enclose, for your information. The citizens of this State are very much alarmed and agitated, as this measure of the Spanish Government will, (if not altered) at one blow, cut up the present and future prosperity of their best interests by the roots. To you, sir, they naturally turn their eyes, and on your attention to this important subject their best hopes are fixed. Permit me to request you will give me information on this business as soon as you can say, with certainty, what we may rely on; and let my solicitude on this occasion be my apology for this request.

With sentiments of respect, &c.

JAMES GARRARD.

DECEMBER 30, 1802.

Gentlemen of the House of Representatives:

In addition to the information accompanying my message of the 22d instant, I now transmit the copy of a letter on the same subject, recently received.

TH: JEFFERSON.

WASHINGTON, *December* 30, 1802.

SIR:

Although an informal communication to the public of the substance of the enclosed letter may be proper for quieting the public mind, yet I refer to the consideration of the House of Representatives, whether a publication of it in form might not give dissatisfaction to the writer, and tend to discourage the freedom and confidence of communications between the agents of the two Governments.

Accept assurances of my high consideration and respect.

TH: JEFFERSON.

The SPEAKER *of the House of Representatives.*

HOUSE OF REPRESENTATIVES OF U. S., *January* 7, 1803.

Resolved, That this House receive, with great sensibility, the information of a disposition in certain officers of the Spanish Government at New Orleans to obstruct the navigation of the river Mississippi, as secured to the United States by the most solemn stipulations:

That, adhering to that humane and wise policy which ought ever to characterize a free people, and by which the United States have always professed to be governed; willing, at the same time, to ascribe this breach of compact to the unauthorized misconduct of certain individuals, rather than to a want of good faith on the part of His Catholic Majesty; and, relying, with perfect confidence, on the vigilance and wisdom of the Executive, they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States: holding it to be their duty, at the same time, to express their unalterable determination to maintain the boundaries, and the rights of navigation and commerce through the river Mississippi, as established by existing treaties.

7th CONGRESS.] No. 177. [2d SESSION.

IMPRESSED AMERICAN SEAMEN.

COMMUNICATED TO CONGRESS, DECEMBER 24, 1802.

DEPARTMENT OF STATE, *December* 22, 1802.

SIR:

In pursuance of the "Act to revive and continue in force certain parts of the 'Act for the relief and protection of American seamen,' and to amend the same," I have the honor to lay before the Senate abstracts of the returns made to me by the collectors of the customs within the United States, of registered* and of impressed American seamen; to which is added a report, exhibiting an abstract of communications received from agents of the United States, for the relief and protection of their seamen.

With high respect, I have the honor to be, sir, your obedient humble servant,

JAMES MADISON.

The Honorable the PRESIDENT *of the Senate.*

Abstract of the communications from the agents employed for the relief and protection of American seamen.

DAVID LENOX, Esq., agent in Great Britain.

Abstract of applications made by David Lenox, for the discharge of seamen, representing themselves to be citizens of the United States of America, and detained on board His Britannic Majesty's fleets, from the 1st day of October, 1801, to the 1st day of May, 1802.

Cases unanswered per last abstract,	51	
Applications since,	133	
Applications renewed,	24	
		208
Discharged,	31	
Ordered to be discharged, and are supposed to be so,	54	
		85

* For the abstract of registered seamen, see Commerce and Navigation, No. 64.

Detained, having no documents to prove their citizenship,	69
Entered, and have received the bounty,	10
Detained as British subjects,	5
Not on board ships represented,	13
Not answering description in certificate,	1
Made their escape,	7
On board ships on foreign stations,	1
Dead, (Samuel Huff,)	1
Invalided,	1
On board the Utile, (supposed to have foundered,) Robert Hewitt, and Ed. C. Parker,	2
Cases unanswered,	7
	208

D. LENOX, *Agent of the United States of America, residing in Great Britain, for the relief and protection of American seamen.*

Extract of a letter from David Lenox, Esq., agent, &c. &c., to the Secretary of State, dated

"MARCH 10th, 1802.

"I have the honor to acknowledge the receipt of your letter of the 1st of January, in answer to mine of the 12th of October last, requesting the President's permission to return to America. I had, with you, anticipated the discharge of all seamen claiming protection as American citizens, on peace taking place, although not possessed of certificates in the usual form, under the idea that, as men would not be wanted for the navy, this Government would prefer discharging those who might be supposed most dissatisfied with the service; but in this I have been disappointed, as you will perceive by the correspondence which I have had with the Admiralty on the subject, copies of which I do myself the honor to send you enclosed. The impressment of our seamen ceased immediately on the preliminary treaty, but applications continue to be made from men on board ships arriving from foreign stations, and, since my last return to the 1st instant, they amount to ninety-five."

BLANDFORD STREET, 17*th October*, 1801.

SIR:

Peace being established between Great Britain and France, I am extremely anxious to close my official business as soon as possible; and, for this purpose, it appears to me that the most eligible mode will be, to furnish a list of all seamen who have claimed protection as American citizens since my arrival in this country, and are detained on the ground of their having no documents to prove their citizenship. Should no objection arise on the part of this Government, I shall proceed to furnish such list on receiving the decision of the Lords Commissioners of the Admiralty. I beg leave to state that Americans are frequently discharged without any evidence of the wages due to them, which not only subjects them to great inconvenience, but is productive of considerable expense to the United States of America. As I conceive that this is not justified by the general practice in the navy, I have to request that orders may be given, that when men are discharged, they may be furnished with some document stating the sum that may be due to them

With great respect, I am, sir, your obedient servant,

D. LENOX.

EVAN NEPEAN, Esq. *Admiralty Office.*

ADMIRALTY OFFICE, 20*th October*, 1801.

SIR:

Having laid before my Lords Commissioners of the Admiralty your letter of the 17th inst. proposing, for the reasons therein mentioned, to furnish a list of all seamen who have claimed protections as citizens of America, since your arrival in this country, and are detained on board His Majesty's ships on the ground of their having no documents to prove their citizenship, I have their lordships' commands to acquaint you that they can have no objection to your delivering the list above mentioned, and that they will, in all future discharges of American seamen, direct the commanders of the ships in which they served, to certify the time of service of each man, and the amount of charges which are to be deducted from the wages due to him.

I am, sir, your most humble servant,

EVAN NEPEAN.

DAVID LENOX, Esq.

BLANDFORD STREET, 23*d October*, 1801.

SIR:

I do myself the honor to send you enclosed a list of five hundred and fifty-eight seamen, representing themselves to be citizens of the United States of America, and detained on board His Britannic Majesty's fleets, for whose discharge I made application at the dates annexed to their names, and to which answers were returned stating that, having no documents to prove their citizenship, the Lords Commissioners of the Admiralty could not consent to their discharge. You will readily perceive, sir, that my object in furnishing this list is with a view to the discharge of these men, to which I flatter myself their lordships will not object; and my hopes arise from the idea that, as peace has taken place, men are not now wanted for the navy. I will freely confess that I believe many of them are British subjects; but I presume that all of them were impressed from American vessels, and by far the greater proportion are American citizens, who, from various causes, have been deprived of their certificates of protection, and who, from their peculiar situation, have been unable to obtain proofs from America. Under this impression, I hope their lordships will grant my request, rather than keep in the navy a number of men who will always be dissatisfied with their situation. Should I be so fortunate as to succeed in this application, I shall close my official business in a way perfectly to my satisfaction, and shall not deem it necessary to remain here much longer; but, at any rate, I shall soon return to America, having already requested permission from the American Government for that purpose.

I am, sir, your most obedient servant,

D. LENOX.

EVAN NEPEAN, Esq. *Admiralty Office.*

ADMIRALTY OFFICE, 26*th October*, 1801.

SIR:

I have received and communicated to my Lords Commissioners of the Admiralty, your letter to Mr. Nepean of the 23d inst. enclosing a list of five hundred and fifty-eight seamen, representing themselves to be citizens of the United States of America, detained on board His Majesty's ships, whose discharge has been refused, in consequence of their having no documents to prove their citizenship, and requesting, on the ground of their services being no longer wanted, that they may, notwithstanding, be discharged; and I have their lordships' commands to acquaint you that, as the several cases of these men were duly inquired into at the periods of your making applica-

tion for them, when no sufficient reasons appeared to induce their lordships to believe that they were other than British subjects, (all who could furnish proof to the contrary having been discharged from time to time, as the reports were received,) and, as the admission of the principle that a man declaring himself to belong to a foreign State should, upon that assertion merely, and without direct or very strong circumstantial proof, be suffered to leave the service, would be productive of the most dangerous consequences to His Majesty's navy, or that of any other Power, they cannot comply with your request for the discharge of the men specified in the said list, nor admit even the presumption of their being American citizens, although they shall be disposed at all times to pay the most candid attention to such fair claims and well authenticated documents as may hereafter be brought forward in their behalf.

It is with much pleasure that, in further obedience to their lordships' commands, I express to you the sense they entertain of the able and satisfactory manner in which the business of your Department has been uniformly conducted.

I am your most obedient humble servant,

WILLIAM MARSDEN.

DAVID LENOX, Esq.

Extract of a letter from D. Lenox, Esq., agent, &c. to the Secretary of State, dated

"LONDON, *May* 20, 1802.

"My letter of the 10th of March would advise you that I was preparing to return to the United States, and that I expected to embark some time in this month. I conceived that the best mode of closing my official business was to fix a day to pass to my successor the detail of it, as some time would necessarily be required for answers to be returned from the Admiralty. I accordingly delivered to Mr. Ewing, on the 1st instant, a list of five hundred and ninety-seven seamen, where answers have been returned to me, stating that, having no documents to prove their citizenship, the Lords Commissioners of the Admiralty could not consent to their discharge. My object in furnishing this list was to prevent a repetition of applications to the Admiralty, which would not only have proved fruitless, but been attended with considerable trouble and embarrassment to Mr. Ewing. I have, however, little doubt but that most of those men have already been discharged. By the abstract which I have now the honor to send you enclosed, you will perceive that only seven cases of seamen remain unanswered, and those I am promised as soon as circumstances will admit; but if they should not be received before I embark, I shall deliver a list of them to Mr. Ewing."

HENRY CRAIG, Esq., agent of the United States at Martinique.

No communications have been received from him since last report to Congress.

WILLIAM SAVAGE, Esq., agent of the United States at Jamaica.

Since the last report to Congress, Mr. Savage has transmitted lists of persons calling themselves Americans, to the number of sixty-eight.

Account of Impressed Seamen agreeable to the protests of the Captains, from the 1st of October to the 31st December, 1801.

Date of protest.	Denomination and name of American vessel.	Name of captain.	Where from.	Where impressed.	Name of impressed seamen.	Protections.	Name of ship of war detaining impressed seamen.	Captain's name.	To what nation belonging.
1801.									
October 1,	Ship Columbus,	P. Fosdick, -	London, -	At sea,	Nathaniel Heard, - -	1	Impeteux, ship of the line,	Edward Pellew, -	British.
" 19,	Brig Hunter,	Thomas Liddle,	Amsterdam,	At sea,	Thomas Hopkins, - -	1	Squirrel, frigate, -	- - -	Do.
" 12,	Ship Sansom,	Robert Adamson,	London, -	Nore,	Thomas Innis and George Cummings,	2	Solebay, frigate, -	S. Poyntz, -	Do.
" 27,	Ship Actress,	M. Lynch, -	Jamaica, -	Kingston,	James Reed, - - -	-	Unknown, - -	Unknown, -	Do.
November 7,	Ship Lovina,	A. Stephenson, -	Waterford,	At sea,	Robert Hewitt, - - -	-	Serpent, sloop of war, -	Roberts, - -	Do.
" 13,	Ship Mary,	A. Crockett, -	Cork, -	Cork,	Johannes Enebom, - -	-	Hussar, frigate, - -	Taylor, - -	Do.
" 24,	Schooner Polly,	Francis Hart, -	St. Domingo,	At sea,	William Johnson, - -	-	Proserpine, frigate, -	- - -	Do.
December 4,	Brig Friendship,	J. Merrils, -	Gonaives, -	At sea,	Jos. Hullet, George Innis, - -	2	Aubuscade, ship of war, -	John Colvill, -	Do.
					Samuel Callitine, John Conner, -	2			
					Richard Werwald, Gideon Winzer,	1			
					And James Nillson, - -	1			
" 17,	Schooner Truxton,	S. Herbert, -	N. Providence,	At sea,	Isaac Morgan, David Delama, Jos. Wade, Robt. Dawson, Jos. Livingston, John Mercer, and James Brown,	-	Ranger, privateer, -	Barnet, - -	Do.
" 18,	Ship Brothers, -	J. Packwood, -	London, -	Off Dover,	William Thomas, - - -	-	Fly, cutter, - -	Unknown, -	Do.

COLLECTOR'S OFFICE, NEW YORK, *January* 8, 1802.

DAVID GELSTON, *Collector.*

7th CONGRESS.] No. 178. [2d SESSION.

FRANCE AND SPAIN.

COMMUNICATED TO THE SENATE, JANUARY 11, 1803.

JANUARY 11, 1803.

Gentlemen of the Senate:

The cession of the Spanish province of Louisiana to France, and perhaps of the Floridas, and the late suspension of our right of deposit at New Orleans, are events of primary interest to the United States. On both occasions, such measures were promptly taken, as were thought most likely amicably to remove the present, and to prevent future causes of inquietude. The objects of these measures were to obtain the territory on the left bank of the Mississippi and eastward of that, if practicable, on conditions to which the proper authorities of our country would agree; or, at least, to prevent any changes which might lessen the secure exercise of our rights. While my confidence in our minister plenipotentiary at Paris is entire and undiminished, I still think that these objects might be promoted by joining with him a person sent from hence directly, carrying with him the feelings and sentiments of the nation, excited on the late occurrence, impressed by full communications of all the views we entertain on this interesting subject, and thus prepared to meet and to improve, to a useful result, the counter-propositions of the other contracting party, whatsoever form their interests may give to them, and to secure to us the ultimate accomplishment of our object.

I therefore nominate Robert R. Livingston to be minister plenipotentiary, and James Monroe to be minister extraordinary and plenipotentiary, with full powers to both, jointly, or to either, on the death of the other, to enter into a treaty or convention with the First Consul of France, for the purpose of enlarging, and more effectually securing, our rights and interests in the river Mississippi, and in the territories eastward thereof.

But as the possession of these provinces is still in Spain, and the course of events may retard or prevent the cession to France being carried into effect, to secure our object, it will be expedient to address equal powers to the Government of Spain also, to be used only in the event of its being necessary.

I therefore nominate Charles Pinckney to be minister plenipotentiary, and James Monroe, of Virginia, to be minister extraordinary and plenipotentiary, with full powers to both, jointly, or to either, on the death of the other, to enter into a treaty or convention with His Catholic Majesty, for the purpose of enlarging and more effectually securing our rights and interests in the river Mississippi, and in the territories eastward thereof.

TH: JEFFERSON.

7th CONGRESS.] No. 179. [2d SESSION.

SPAIN.

COMMUNICATED TO THE SENATE, JANUARY 11, 1803.

JANUARY 11, 1803.

Gentlemen of the Senate:

The spoliations and irregularities committed on our commerce during the late war, by subjects of Spain, or by others deemed within her responsibility, having called for attention, instructions were accordingly given to our minister at Madrid to urge our right to just indemnifications, and to propose a convention for adjusting them. The Spanish Government listened to our proposition with an honorable readiness, and agreed to a convention, which I now submit for your advice and consent. It does not go to the satisfaction of all our claims; but the express reservation of our right to press the validity of the residue has been made the ground of further instructions to our minister, on the subject of an additional article, which it is to be hoped will not be without effect.

TH: JEFFERSON.

A Convention between His Catholic Majesty and the United States of America, for the indemnification of those who have sustained losses, damages, or injuries, in consequence of the excesses of individuals of either nation, during the late war, contrary to the existing treaty, or the laws of nations.

Deseando Su Magestad Catolica y el gobierno de los Estados Unidos de America ajustar amistosamente las demandas que han ocasionado los excesos cometidos durante la ultima guerra por individuos de una y otra nacion, contra el derecho de gentes ó el tradado existente entre los dos paises; ha dado Su Magestad Catolica plenos poderes á est efecto á Don Pedro Cevallos, se consejero de estado, gentilhombre de camara con exercicio, primer secretario de estado y del despacho universal, superintendente general de correos y postas de Espana é Indias; y el gobierno de los Estados Unidos de America á Don Carlos Pinckney, ciudadano de dichos Estados, y su ministro plenipotenciario cerca de Su Magestad Catolica, quienes han convenido en lo siguiente:

1°. Se formará una junta compuesta de cinco vocales de los quales, dos serán nombrados por Su Magestad Catolica, otros dos por el gobierno de los Estados Unidos, y el quinto de comun consentimiento; y en el caso de no poderse convenir en el sugeto para quinto vocal, nombrará uno cada parte dexando la eleccion entre los dos a la suerte, y se procederá en la misma forma en adelante al nombramiento ulterior de los sugetos que reemplazaren á los que actualmente lo son en los casos de muerte, enfermedad ó precisa ausencia.

His Catholic Majesty and the Government of the United States of America, wishing amicably to adjust the claims which have arisen from excesses committed during the late war, by individuals of either nation, contrary to the laws of nations, or the treaty existing between the two countries: His Catholic Majesty has given, for this purpose, full powers to his excellency Don Pedro Cevallos, counsellor of state, gentleman of the bed-chamber in employment, first secretary of state and universal despatch, and superintendant general of the posts and post offices in Spain and the Indies; and the Government of the United States of America to Charles Pinckney, a citizen of the said States, and their minister plenipotentiary near His Catholic Majesty; who have agreed as follows:

1. A board of commissioners shall be formed, composed of five commissioners, two of whom shall be appointed by His Catholic Majesty, two others by the Government of the United States, and the fifth by common consent; and in case they should not be able to agree on a person for the fifth commissioner, each party shall name one, and leave the decision to lot: and hereafter, in case of the death, sickness, or necessary absence, of any of those already appointed, they shall proceed, in the same manner, to the appointment of persons to replace them.

2°. Hecho asi el nombramiento prestará cada uno de los vocales el juramento de examinar, discutir, y sentenciar las demandas sobre que juzgaren con arreglo al derecho de gentes y tratado existente, y con la imparcialidad que dicta la justicia.

3°. Residerán los vocales y celebrerán las juntas en Madrid, en donde en el perfixo termino de diez y ocho meses, contados desde el dia en que se junten, admitirán todas las demandas que á consequencia de esta convencion hicieren tanto los vasallos de Su Magestad Catolica como los cuidadanos de los Estados Unidos de America, que tuviren derecho á reclamar perdidas, danos y perjuicios, en consequencia de los excesos cometidos pór Espanoles y ciudadanos de dichos estados durante la ultima guerra contra el derecho gentes y tratado existente.

4°. Se autoriza por dichas partes contratantes á los vocales para oir y examinar baxo la sancion del juramento qualezquiera puntos concernientos á las referidas demandas y á reciber como digno de fé todo testimonio de cuya autenticidad no puede dudarse con fundamento.

5°. Bastara el acuerdo de tres vocales para que sus sentencias tengan fuerza de irrevocables y sin apelacion tanto por lo que respecta á la justicia de las demandas, como por lo que hace á las cantidades que se adjudicaren por indemnizacion á los demandantes; pues se obligan las partes contratantes á satisfacerlas en especie, sin rebaxa, en las epocas y parages senalados, y baxo las condiciones que se expresaren en las sentencias de la junta.

6°. No haviendo sido posible ahora á dichos plenipotenciarios convenirse en el modo de que la referida junta arbitrase las reclamaciones originadas en consequencia de los excesos de los corsarios, agentes, consules, ó tribunales extrangeros, en los respectivos territorios, que fueren imputables á los dos gobiernos: se han convenido expresamente en que cada gobierno se reserve, como por esta convencion se hace, para si, sus vasallos y cuidadanos respectivamente, todos los derechos que ahora les asistan, y en que promuevan en adelante sus reclamaciones en el tiempo que les acomodare.

7°. La presente convencion no tendrá ningun valor ni efecto hasta que se haya ratificado por las partes contratantes, y se cangearan las ratificaciones lo mas pronto que sea posible.

En fé de lo qual, nosotros los infrascriptos plenipotenciarios, hemos firmado esta convencion y hemos puesto nuestros sellos respectivos.

Hecho en Madrid, a 11 de Agosto, de 1802.

PEDRO CEVALLOS. [L. S.]
CHARLES PINCKNEY. [L. S.]

2. The appointment of the commissioners being thus made, each one of them shall take an oath to examine, discuss, and decide, on the claims, which they are to judge, according to the laws of nations and the existing treaty, and with the impartiality justice may dictate.

3. The commissioners shall meet and hold their sessions in Madrid, where, within the term of eighteen months, (to be reckoned from the day on which they may assemble,) they shall receive all claims which, in consequence of this convention, may be made, as well by the subjects of His Catholic Majesty, as by the citizens of the United States of America, who may have a right to demand compensation for the losses, damages, or injuries, sustained by them, in consequence of the excesses committed by Spanish subjects or American citizens.

4. The commissioners are authorized, by the said contracting parties, to hear and examine, on oath, every question relative to the said demands, and to receive, as worthy of credit, all testimony, the authenticity of which cannot reasonably be doubted.

5. From the decisions of the commissioners there shall be no appeal; and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of the claims, as to the amount of the indemnification which may be adjudged to the claimants; the said contracting parties obliging themselves to satisfy the said awards in specie, without deduction, at the times and places pointed out, and under the conditions which may be expressed by the Board of Commissioners.

6. It not having been possible for the said plenipotentiaries to agree upon a mode by which the above mentioned Board of Commissioners should arbitrate the claims originating from the excesses of foreign cruisers, agents, consuls, or tribunals, in their respective territories, which might be imputable to their two Governments, they have expressly agreed that each Government shall reserve (as it does by this convention) to itself, its subjects, or citizens, respectively, all the rights which they now have, and under which they may hereafter bring forward their claims at such times as may be most convenient to them.

7. The present convention shall have no force or effect until it be ratified by the contracting parties, and the ratification shall be exchanged as soon as possible.

In faith whereof, we, the underwritten plenipotentiaries, have signed this convention, and have affixed thereto our respective seals.

Done at Madrid, this 11th day of August, 1802.

PEDRO CEVALLOS. [L S.]
CHARLES PINCKNEY. [L. S.]

Extract of a letter from the Secretary of State to Charles Pinckney, Esquire, dated

"JUNE 9, 1801.

"The documents and letters belonging to the legation, which you will receive from Colonel Humphreys, will put you in possession of the several subjects remaining unfinished in his hands. These you will pursue into their proper result. You will find that he has been instructed to urge particularly on the Spanish Government redress for such of our citizens as have suffered from captures made by privateers unlawfully cruising out of Spanish ports, and from wrongful condemnations, both by Spanish tribunals, and by decisions of French consuls, within Spanish jurisdiction. In all these cases, it will be your duty to carry on the proper measures in train for obtaining justice. Colonel Humphreys, you will find, thinks that the Spanish Government means to turn us over for redress to the French republic, in all cases where the prizes have been under French commissions, or been condemned by French consuls. You will be at no loss to combat such an idea, by proper arguments drawn from sources in your possession, or within your reach, and by suitable appeals to the principles and motives which ought to direct the conduct of a wise and just Government, more especially towards a nation entertaining the sentiments and observing the conduct which have been experienced by Spain from the United States.

"The spoliations committed on our trade, for which Spain is held responsible, are known to be already of very great amount, and it is to be apprehended that they may not have yet ceased. The documents and information to be obtained from Colonel Humphreys and the consul at Madrid will assist you essentially in forming an idea of the value and extent of them. Hitherto redress has been sought, sometimes in tribunals of justice, sometimes by applications to the Government, and sometimes in both of these modes. Experience has sufficiently shown that neither the one nor the other, nor both, can be relied on for obtaining full justice to our injured citizens. Some other effort, therefore, is due to the sufferers, and, let me add, to the dignity of the United States, which must always feel the insults offered to the rights of individual citizens. The only pacific effort that seems to remain is, that of proposing a joint tribunal, with full powers to investigate and decide all claims for indemnification, which may be presented to it within a reasonable time. The treaty of ——— with Spain, as well as that of 1794 with Great Britain, will furnish at once the motives and a model for such an institution. In general, it must be the most equitable and satisfactory provision for adjusting controversies of such a kind between independent nations, and it may be urged, more particularly, that there is no less reason for extending it to cases subsequent to the Spanish treaty, than there was for applying it to cases of antecedent date. You will be sensible of the very great importance of this subject, both as to the great interest which it involves, and the manner in which a just provision for it is to be pursued. The President commits it to your hands, with expectations which it will require all your zeal, your patriotism, and your delicate management to fulfil."

SIR: DEPARTMENT OF STATE, WASHINGTON, *October* 25, 1801.

In the instructions accompanying your commission, it was not forgotten that the trespasses of Spain on our commerce had laid the foundation for strong complaints and reclamations on the part of the United States; and it

was accordingly made your duty to press them in a proper manner on the Spanish Government. As this violation of our neutral rights prevailed most during the misunderstanding between the United States and the French republic, and was generally masked under, or confounded with, the commission and flag of the latter, it was hoped that, with the termination of that misunderstanding, would have terminated also the abuses which Spain had permitted her subjects to connect with it. By the documents hereto annexed, consisting of a letter from the President of the Insurance Company of North America, a memorial from the chamber of commerce of Philadelphia, a letter from Thomas Fitzsimmons, Esquire, and several private letters from the captains and supercargoes of the captured vessels, you will find that, instead of fulfilling this reasonable hope, the predatory cruisers from the port of Algeziras have assumed a recent activity peculiarly alarming to our merchants. American property, to a very heavy amount, has already been a prey to the Spanish gun-boats issuing from that asylum, and it is justly apprehended, from the extent of our commerce flowing through the same channel, that a still greater portion of it will be exposed to the same fate. This apprehension is the greater, as the general disarming of our merchantmen, produced by the reconciliation with France, removes the check heretofore given to the predatory boats by the means of resisting their enterprises.

The pretext for the seizure of our vessels, seems at present to be, that Gibraltar has been proclaimed in a state of blockade, and that the vessels are bound to that port. Should the proceeding be avowed by the Spanish Government, and defended on that ground, you will be able to reply—

1st. That the proclamation was made as far back as the 15th February, 1800, and has not since been renewed: that it was immediately protested against by the American and other neutral ministers at Madrid, as not warranted by the real state of Gibraltar, and that no violations of neutral commerce having followed the proclamation, it was reasonably concluded to have been rather a menace against the enemies of Spain, than a measure to be carried into execution against her friends.

2d. That the state of Gibraltar is not and never can be admitted by the United States to be that of a real blockade. In this doctrine they are supported by the law of nations as laid down in the most approved commentators, by every treaty which has undertaken to define a blockade, particularly * those of latest date among the maritime nations of Europe, and by the sanction of Spain herself, as a party to the armed neutrality in the year 1781. The spirit of articles fifteen and sixteen of the treaty between the United States and Spain, may also be appealed to, as favoring a liberal construction of the rights of the parties in such cases. In fact, the idea of an investment, a siege or a blockade, as collected from the authorities referred to, necessarily results from the force of those terms; and though it has been sometimes grossly violated or evaded by powerful nations in pursuit of favorite objects, it has invariably kept its place in the code of public law, and cannot be shown to have been expressly renounced in a single stipulation between particular nations.

3d. That the situation of the naval force at Algeziras, in relation to Gibraltar, has not the shadow of likeness to a blockade, as truly and legally defined. This force can neither be said to invest, besiege, or blockade the garrison, nor to guard the entrance into the port. On the contrary, the gunboats infesting our commerce have their station in another harbor, separated from that of Gibraltar by a considerable bay; and are so far from beleaguering their enemy at that place and rendering the entrance into it dangerous to others, that they are, and ever since the proclamation of a blockade have been, for the most part, kept at a distance by a superior naval force, which makes it dangerous to themselves to approach the spot.

4th. That the principle on which the blockade of Gibraltar is asserted, is the more inadmissible, as it may be extended to every other place, in passing to which, vessels must sail within the view and reach of the armed boats belonging to Algeziras. If because a neutral vessel bound to Gibraltar can be annoyed and put in danger by waylaying cruisers, which neither occupy the entrance into the harbor, nor dare approach it, and by reason of that danger is liable to capture, every part of the Mediterranean coasts and islands, to which neutral vessels must pass through the same danger, may, with equal reason, be proclaimed in a state of blockade, and the neutral vessels bound thereto made equally liable to capture. Or if the armed vessels from Algeziras alone should be insufficient to create this danger in passing into the Mediterranean, other Spanish vessels co-operating from other stations, might produce the effect, and thereby, not only blockade any particular port, or the ports of any particular nation, but blockade at once a whole sea surrounded by many nations. Like blockades might be proclaimed by any particular nation ennabled by its naval superiority to distribute its ships at the mouth of the same, or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow, and ought to unite against it every nation, Spain among the rest, which has an interest in the rights of the sea. Of this Spain herself appears to have been sensible in the year 1780, when she yielded to Russia ample satisfaction for seizures of her vessels made under the pretext of a general blockade of the Mediterranean, and followed it with her accession to the definition of a blockade contained in the armed neutrality.

5th. That the United States have the stronger ground for remonstrating against the annoyance of their vessels, on their way to Gibraltar; inasmuch as, with very few exceptions, their object is not to trade there for the accommodation of the garrison, but merely to seek advice or convoy for their own accommodation, in the ulterior objects of their voyage. In disturbing their course to Gibraltar, therefore, no real detriment results to the enemy of Spain, whilst a heavy one is committed on her friends. To this consideration, it may be added that the real object of a blockade is to subject the enemy to privations, which may co-operate with external force in compelling them to surrender; an object which cannot be alleged in a case where it is well known that Great Britain can, and does at all times, by her command of the sea, secure to the garrison of Gibraltar every supply which it wants.

6th. It is observable, that the blockade of Gibraltar is rested by the proclamation on two considerations: one, that it is necessary to prevent illicit traffic, by means of neutral vessels, between Spanish subjects and the garrison there; the other, that it is a just reprisal on Great Britain, for the proceedings of her naval armaments against Cadiz and St. Lucar. The first can surely have no weight with neutrals, but on a supposition never to be allowed, that the resort to Gibraltar, under actual circumstances, is an indulgence from Spain, not a right of their own; the other consideration, without examining the analogy between the cases referred to and that of Gibraltar, is equally without weight with the United States, against whom no right can accrue to Spain, from its complaints against Great Britain, unless it could be shown that the United States were in an unlawful collision with the latter, a charge which they well know that Spain is too just and too candid to insinuate. It cannot even be said that the United States have acquiesced in the depredations committed by Great Britain, under whatever pretext, on their lawful commerce. Had this, indeed, been the case, the acquiescence ought to be regarded as a sacrifice made by prudence to a love of peace, of which all nations furnish occasional examples; and as involving a question between the United States and Great Britain, of which no other nation could take advantage against the former. But it may be truly affirmed, that no such acquiescence has taken place. The United States have sought redress for injuries from Great Britain as well as from other nations. They have sought it by the means which appeared to themselves, the only rightful judges, to be best suited to their object; and it is equally certain that redress has, in some measure, been obtained, and that the pursuit of complete redress is by no means abandoned.

7th. Were it admitted that the circumstances of Gibraltar, in February, 1800, the date of the Spanish proclamation, amounted to a real blockade, and that the proclamation was, therefore, obligatory on neutrals; and were it also admitted that the present circumstances of that place amount to a real blockade, (neither of which can be admitted;) still the conduct of the Algeziras cruisers is altogether illegal and unwarrantable. It is illegal and unwarrantable, because the force of the proclamation must have expired whenever the blockade was actually raised, as must have been unquestionably the case, since the date of the proclamation, particularly and notoriously, when the port of Algeziras itself was lately entered and attacked by a British fleet; and because, on a renewal of the blockade, either a new proclamation ought to have been issued, or the vessels making for Gibraltar ought to have been premonished of their danger, and permitted to change their course as they might think proper. Among the abuses committed under pretext of war, none seem to have been carried to greater extravagance, or to threaten greater mischief to neutral commerce, than the attempts to substitute fictitious blockades by proclamation, for real

* See late treaties between Russia and Sweden, and between Russia and Great Britain.

blockades, formed according to the law of nations; and, consequently, none against which it is more necessary for neutral nations to remonstrate effectually, before the innovations acquire maturity and authority, from repetitions on one side, and silent acquiescence on the other.

In these observations, you will find a sufficient guide to the representations which it may be proper for you to make to the Spanish Government, in case justice should not have been yielded by it to the interpositions which will no doubt have been previously tried by Colonel Humphreys or yourself, or by both. Letters from the former, of the 21st and 29th of August show, that several cases of seizure had been made known to him, and that he had it in view to carry them before the Spanish Government. Considering the amicable disposition manifested, in general, by that Government towards the United States, and the mutual interest it has in maintaining perfect harmony with them, the President indulges the strongest hopes that the earliest opportunity will have been seized for repairing the wrongs which have been committed, and for preventing a repetition of them. Should this hope prove fallacious, it will be your duty to press these objects, by fair and frank representations, aided by the communications now made to you, and by an appeal to the express instructions from the President included in them; mingling always with your requisitions assurances of the cordial sentiments cherished by the United States towards Spain, and their entire confidence in her disposition to evince that justice and respect for our rights, which is not less congenial with her own high character than it is necessary for our satisfaction.

I have the honor to be, with the highest respect and esteem, sir, your most obedient servant.

CHARLES PINCKNEY, Esq. *Minister Plenipotentiary, &c. Madrid.*

Extract of a letter from the Secretary of State to Charles Pinckney, Esq. dated

"FEBRUARY 5, 1802.

"Though you have been referred to the twenty-first article of the Spanish treaty, as a model for the provision you are instructed to urge the Government of Spain to accede to, for indemnifying our commercial citizens, whose claims have originated since, it is found to be incommensurate, in some respects, with the relief expected by them. The words are, "In order to terminate all differences, on account of the losses sustained by the citizens of the United States, in consequence of their vessels and cargoes having been taken [apresado] by the subjects of His Catholic Majesty, during the late war between France and Spain," &c. Thus, the twenty-first article is limited to captures, but some of our citizens have complained of injuries received from the officers of Spain, in attaching their property, for supposed breaches of its fiscal regulations; and examples are not wanting of unjust and ruinous prosecutions against our citizens upon criminal allegations. Two examples are, at least, recollected of the latter description. It might possibly be questioned, whether a seizure in port, on suspicion of enemy's property, as in the case of Captain Eldridge's brigantine Sally, would be fairly embraced within the terms of that article. Complaints have also been made of the tender laws, whereby our citizens have been paid in a depreciated medium for specie contracts. Some of these cases are marked with arbitrary circumstances, derived from the direct interposition of the Government, or its agents; others have arisen in the colonies, and, though conducted under judicial forms, have issued in the ruin of innocent individuals, who have been borne down by the weight of official influence opposed to them.

It is, perhaps, difficult to define, by a general article, which shall appear unexceptionable, the principle under which relief, in some of these cases, is expected; and, on the other hand, to attempt a detail, would hazard the attainment of what might not, under a general description, be combated. If, indeed, the latter mode should be preferred, much of the benefit to be derived from the agreement would depend upon the intelligence and character of the referees. Should a majority of them feel an undue attachment to Spanish interest, or to the artificial maxims of law, some of our claims founded in substantial justice might fail.

The following is supposed to be a form of words, which would be preferable to the twenty-first article of the treaty:

"In order to terminate all differences on account of losses sustained, since the —— day of April, 1796, (the day on which the ratifications were exchanged) by merchants and others, citizens of the United States, trading to the Spanish dominions, from the unjust seizure or detention of their persons, vessels, and effects, or otherwise, under color of authority from His Catholic Majesty, it is agreed," &c.; to which may be annexed any clearly defined exceptions, which it may appear reasonable to make at the instance of the Spanish Government.

Another expedient may be resorted to, should that Government oppose a general provision. After securing a reference to commissioners mutually chosen, of as many of the cardinal subjects of claims as may be found practicable, the remainder may be submitted to two or three of the officers of the Spanish Government, to be named in the agreement for their award; which shall not be final, unless the claimant signify his assent in a given time; and if he dissents, the claim to remain open. In this way was settled a considerable number of our smaller claims on Great Britain, for illegal captures; the Kings' advocate general and doctor of the civil law making the awards, which were generally satisfactory, and, it is believed, always accepted."

DEPARTMENT OF STATE, *October* 25, 1802.

SIR:

I have received your two letters of July 1st and 6th, enclosing your draught of a convention, with the objection and alteration brought forward by the Spanish minister.

It is regretted that any difficulty should have occurred in bringing to an equitable and amicable settlement claims of our citizens, which are not likely to receive so fair a decision in any mode as through a joint Board of Commissioners. From the disposition, or rather assent, manifested at first by the Spanish Government, a more favorable, as well as more speedy, issue to your negotiation was expected; and it is still hoped that modifications may have been, or will be devised, that will make the contested article satisfactory to Spain, without being unjust to the United States.

The true object is to give to the Board a power that will reach every description of cases. According to information received, from time to time, it appears that losses have been sustained by citizens of the United States: First, on the high seas: Secondly, within the territorial jurisdiction of Spain herself: Thirdly, within the jurisdiction of her colonies: that they have proceeded, first, from Spanish subjects; secondly, from others within Spanish jurisdiction; that they have been contrary either, first, to the treaty of 1795; or, secondly, to the law of nations; or, thirdly, to substantial justice. It is desirable, therefore, that a stipulated provision, for reparing these injuries, should be so expressed as to be commensurate with this view of the cases; or, if this extent cannot be explicitly given to the provision, that it should be as little narrowed as possible.

The objection made to giving the Board cognizance of the wrongs committed by aliens, within the jurisdiction, and, consequently, within the temporary allegiance of the King of Spain, is clearly open to the reply you made to it. The authority which every sovereign has over the conduct of aliens within his territorial jurisdiction, makes him responsible to others for their conduct, as much, and for the same reason, as he is responsible for the conduct of permanent citizens or subjects. This is a doctrine too well established, both by reason and by public law, to be questioned. The United States have pursued it in practice as well as in discussion; and may, therefore, with the more energy claim the benefit of it. The remark of the Spanish minister, that the stipulation on this subject in our treaty of 1794, with Great Britain, implies that, without such a stipulation, the law of nations would not have imposed on the United States the responsibility assumed, admits of a double answer. The United States acquiesced in the doctrine before the treaty was made: and the stipulation in the treaty, like numerous stipulations in other treaties, was not meant to supersede the rule of public law, but to acknowledge and explain it.

It is not denied that there are certain exceptions to the authority over those within a temporary, which do not apply to the authority over those within a permanent allegiance; and so far, there may be exceptions to the responsibility of the sovereign also. But none of these exceptions belong to the cases in question. In the equipment of privateers, and the condemnation of prizes, in Spanish ports, the King of Spain had the same authority to restrain aliens as he had to restrain his own subjects from illegal acts towards other nations. Having this authority, his duty to other nations required him to exert it; and, failing in this duty, he made himself answerable to those injured by the failure.

This reasoning admits of no reply, unless it be that the Spanish sovereignty was under some foreign duress within its own territories: and, being not a free agent, it ceased to be a responsible one. This plea, though little consistent with the respect due from Spain to her own dignity, seems to have been resorted to. But before such a plea can be admitted at all, it ought to be shown that the force, or danger which destroyed the free agency, really existed, and that all reasonable means were employed to prevent or remedy the evil resulting to nations in amity with Spain.

The losses sustained by Americans, from aliens, and for which Spain is held answerable, have proceeded, first, from condemnations within her jurisdiction; secondly, from equipments within her jurisdiction, known to be against the American trade; thirdly, from equipments ostensibly made against the enemies of Spain, but turned against the United States; fourthly, from captures only within the limits of Spanish jurisdiction.

With respect to the first two cases, it is clear that the Spanish Government had not only the right but the power to interpose effectually, and is, consequently, bound to repair the consequences of her omission. With respect to the fourth case, the violation of her territory, might be less under her control, where the prizes were not carried into her ports; still, however, with the right accruing to her against the aggressors, accrues, at the same time, the right against her to the sufferers. With respect to the third case, there may be room for equitable considerations in favor of Spain. Perhaps these distinctions, in the several cases, may lead to an admission of the clearest and strongest of them to the same footing with similar ones, where Spanish subjects were the wrong doers; reserving to the others the benefit of the moral principle of responsibility contended for by the Spanish minister. Should the Spanish Government, however, persist in requiring, in all cases where aliens were the wrong doers, a preliminary decision by the Board, how far special circumstances absolve Spain from the usual responsibility, it becomes a question whether it may not be better to refer this preliminary decision to the Board, than to leave out of the treaty a provision for so important a class of cases, and trust to further negotiations for justice. The reflections of the President, on this subject, have led him to conclude it the better course, on the whole, that the treaty should provide for these cases, even in such a form as that proposed by the Spanish minister, than that they be left to the delays and uncertainties of further negotiation; in which it is not likely that Spain will be more flexible than she is at present, and which must, on that supposition, end, at best, in a return to arbitration on the point in controversy. You will be guided by this idea, therefore, in the arrangements which may be finally made.

The President thinks, at the same time, that whilst you admit so vague a rule as that of the morality of actions into questions where Spain claims it as an advantage, you may very reasonably urge an extension of it to other cases where it would be favorable to the United States, by obliging Spain to repair wrongs, not only against treaty and the law of nations, but against mere equity and moral obligation.

The application of this comprehensive principle of redress would be particularly favorable to claims founded on proceedings in the Spanish colonies. In a variety of cases it would give relief where neither the treaty nor the law of nations would, in strictness, prescribe it. In whatever turn the negotiation may take, it will be proper for you to keep this branch of claims in view; and to include them, if possible, within the terms of the proposed convention. I do not find that my letter of February 5, on this subject, had reached you, which I am surprised at: but you will have been reminded of the importance of these claims, by the information given you by the parties interested, as well as that furnished, from time to time, by this Department. It is probable you will soon receive an extensive application from merchants in Boston and Philadelphia, who have complaints against the colonial subjects and Governments of Spain. I have recommended to them to discriminate the cases in such a manner as to show the precise principle on which they severally turn, that it may regulate the interpretation proper for you to use with the Spanish Government. They propose to send an agent to Madrid, and to solicit the indulgence of sending attorneys or agents into the colonies to pursue their just claims there. This appears to be so reasonable, that it may be expected from the justice and fairness of the Spanish Government; and the application for it will accordingly claim your patronage, as far as that mode of redress may not be rendered unnecessary by conventional arrangements.

This letter is written on a supposition that the convention may be still depending. Should it have been closed, and without comprehending all the provisions wished for, the President relies on your further efforts to complete the work, either by a supplemental article, or by a distinct compact.

With sentiments of great respect, I am, dear sir, your most obedient.

CHARLES PINCKNEY, Esq.,
Minister Plenipotentiary of the United States at Madrid.

Extract from Mr. Pinckney's general representation to the Minister of State of His Catholic Majesty, dated

"MADRID, *March* 24, 1802.

"It is with much pleasure, when the undersigned arrived at this court, for the purpose of making such representations as the interest of his country required, he has found all Europe in peace. He sincerely hopes it may continue, and that its blessings will soon repair the evils of a war almost unexampled in its extent and consequences. He is aware that, during such a period, it was impossible for the best Government to prevent the commanders of private ships of war committing frequently acts contrary to the laws of nations, and not authorized by their Sovereign's orders.

"In all countries, particularly in one so extensive as that of Spain, unprincipled men will not only infringe the laws of nations, but frequently the most honorable and liberal instructions. We are sure that, as it is the true interest, so will it always be the policy, of Spain to maintain equitable and honorable opinions on the subject of neutral commerce; and that it is with much displeasure she has heard of the violations of treaties and of the laws of nations by her subjects and officers, and of the injuries they have occasioned to innocent American merchants and others.

"As peace is now happily restored, and no excuse remains for further spoliations; and, as it ought always to be the desire of Governments so friendly, and united by interests the most important, not to leave room for recollecting circumstances, which, however disagreeable, were perhaps inevitable, but to adopt all the measures most probable to impress a strong conviction of the justice and friendship of the two countries; the undersigned has the honor to request of His Majesty to consent to the proposition already made by his predecessor, Mr. Humphreys, for the naming of a commissioner, who may be authorized by His Catholic Majesty to meet another on the part of the American Government; and that both be empowered to draw lots for a third; and that the three be finally authorized to decide on all claims now depending, which have all of them been presented to your excellency, under their different descriptions, by his predecessor, and to which descriptions he requests to refer, as they are in your excellency's possession.

"The undersigned wishes to renew this proposition for the naming of commissioners, as, in all the suits of the important and delicate nature of the violations of territory by the French, which our Government contends are decided contrary to the laws of nations and our treaty with Spain, and, likewise, in those that proceed from the supposed blockade of Gibraltar, we are certain that the King cannot object to the decision of men, chosen by each Government, of the most eminent characters for knowledge and honor, or in situations of life to place them out of the reach or danger of being influenced by improper motives. With respect to the blockade of Gibraltar, he is particularly charged by his Government to represent:—

"1st. That the proclamation for the blockade of Gibraltar was made on the 15th of February, 1800, and has not been renewed since; that the American minister, and all the other neutral ministers in Madrid, immediately protested against it, as not warranted by the existing state of Gibraltar; and, as no violations ensued of neutral property, in consequence of the proclamation, it was naturally concluded to have been rather intended as a menace against the enemies of Spain, than as a measure that was to be executed against her friends.

"2d. That the State of Gibraltar never was, nor never could have been, admitted as a true blockade. In this doctrine, the United States are supported by the laws of nations, as explained by the best authors or writers; by all the treaties that have undertaken to define a blockade, and particularly by the late treaties between Russia and Sweden and Russia and Great Britain; by the most recent code of the maritime and commercial nations of Europe; and by the sanction of Spain herself, as one of the armed neutrality, in the year 1781.

"The spirit of the articles fifteen and sixteen of the treaty of Spain with the United States, is likewise fully and expressly in our favor. In short, the opinion we have formed of the blockade of Gibraltar being not a true one, necessarily results from the strength of the terms used in the definition of a blockade; and, though these have been sometimes broken or avoided by powerful nations, to obtain favorite objects, it has incessantly preserved and held its place in the code of the public law, and it cannot be shown to have been renounced in a single stipulation among particular nations.

"3d. That the situation and condition of the naval force in Algeziras, with regard to Gibraltar, had not the shadow of resemblance to a blockade as truly and legally defined. It cannot be said that this force blockaded the garrison, or guarded the entrance of the port; on the contrary, the armed boats had their stations in another port, separated from that of Gibraltar by a bay, and, being so far from doing an injury to the enemy in Gibraltar, that they generally made them keep at such a distance from that fortress, by an armed force so superior, as to render it dangerous for them to appear.

"4th. That the principle, on which the blockade of Gibraltar is supported, is less admissible, as it can be made to extend to every other port to which vessels are obliged to approach. *If, because* a neutral vessel in going into Gibraltar can be attacked or put in danger by privateers that are secretly waiting for them, but which, on account of their weakness, cannot occupy the entrance into the harbor, such neutrals are, notwithstanding, to be liable to be taken; every port of the Mediterranean, and the islands where vessels are obliged to go, can be said, with the same truth, to be in a state of blockade, and the vessels that go there liable to be taken; or, if the armed boats there are not sufficient of themselves to cause this danger at the going into the Mediterranean, other Spanish armed vessels of other ports co-operating, may produce the same effect, and, therefore, not only blockade some particular port, but blockade a whole sea, surrounded by many nations. These dangerous consequences ought to unite, in future, all nations against this principle, and particularly Spain, who has the highest interests in the rights of the sea. Of this Spain appears to have been sensible in the year 1781, when she gave Russia full satisfaction for the captures of her vessels made in the Mediterranean, under the pretext of a general blockade of this sea, and followed it with her consent to the definition of a blockade as contained in the armed neutrality.

"5th. That the United States have the greatest interest in remonstrating against the capture of their vessels bound to Gibraltar, because, with few exceptions, their object was not to trade with the garrison, but only to ask advice or convoy for the ulterior objects of their voyages; so that, to hinder their voyages, is not to injure the enemies of Spain, but distress her friends. To this consideration it may be added, that the true object of a blockade is the subjecting the enemy to privations that may, co-operating with external force, oblige them to surrender: an object that cannot be said to exist with respect to Gibraltar, because it is well known that Great Britain can, at all times, supply, and actually did supply, the garrison with all it wanted.

"6th. It is to be observed that the blockade of Gibraltar is founded, by the proclamation, on two considerations: one, that it is necessary to prevent as well an illegal commerce by neutral vessels as by Spanish subjects and the garrison there; the other, that it is a retaliation on Great Britain for her manner of proceeding with her naval armaments against Cadiz and St. Lucar.

"The first can never be considered as admissible by the neutrals, except under the supposition, that going into Gibraltar, under the existing circumstances, is an indulgence of Spain, and not a right of the neutrals. The other, without examining the analogy between the cases stated and that of Gibraltar, is equally without foundation or weight with the United States: against them no right can accrue to Spain for her complaints against Great Britain, unless it can be shown that the United States were in an unlawful collusion with Great Britain; a charge they well know Spain is too just and candid to make. No one can say, and they are certain that Spain will never suppose, that the United States will submit to the depredations made on their lawful commerce by any Power, or on any account whatever. The United States have demanded satisfaction from Great Britain, and other nations, and they have sought it by those honorable means which have always distinguished their love of peace and justice; and it is with great pleasure they see, in the last acts of Great Britain, of which the undersigned received official intelligence from their minister in London, that he had signed a treaty in the last month of January, by which Great Britain agrees to proceed honorably, to settle by arbitration all our demands of losses and prizes.

"The United States see likewise in the councils of France the same disposition; and are certain that their good friend the King, who has always been so distinguished for the justice and honor of his Government, will show the same disposition to the innocent merchants and mariners of the United States.

"The undersigned requests permission to add on this subject, that if it was admitted only for one moment that the circumstances of Gibraltar in February, 1800, would amount to a blockade, (and this is totally inadmissible;) yet certainly the conduct of the armed boats and vessels of Algeziras is illegal and unwarrantable, because the force of a blockade ought to have been over when the blockade was raised, which certainly was the case when the British fleet lately entered and attacked the port of Algeziras; and because, on renewing of the blockade, a new proclamation ought to have been published, and the vessels that wished to go to Gibraltar ought also to have been advised of their danger, and permitted to alter their course, as they thought fit.

"Among the abuses committed under the pretext of war, none appear to have been carried to greater extravagance, or threaten greater danger to neutral commerce, than the attempt to substitute pretended or fictitious blockades for true ones, formed according to the law of nations, and consequently none against which it is more necessary for the neutral nations to remonstrate effectually before these innovations may acquire the maturity and authority that repetitions on one side, and silent acquiescence on the other, never fail to give them.

"The great benefits that must result to active and enterprizing nations, depending entirely on their industry, agriculture, and a free commerce for unambitious public and private happiness, cannot be unknown to the enlightened mind of your excellency. It is particularly the interest of all nations to have their commerce free, and the rights of neutrality well secured: it will make them tranquil and content, and instead of viewing war as the best means of obtaining power and opulence, they will soon be convinced that the arts of peace are not only always the most legitimate, but at the same time the most certain as well as honorable.

"To no nation can the rights of neutrality be more valuable than to Spain. She is once more in peace, and the time may yet arrive when the United States being unfortunately involved in war with other nations, and Spain in peace, the latter may receive the same just and honorable attention to her neutral rights, which the United States now so earnestly solicit for her citizens."

Mr. Pinckney to the Secretary of State of the United States.

MADRID, *July* 1, 1802.

In my last I enclosed you all the correspondence I had then had with Mr. Cevallos, the first Secretary of State here, on the several subjects committed to me. At that time I had considered the subject of our claims for spoliations, as agreed to be submitted to arbitration by commissioners, upon those general principles which would

include every description; and, so supposing, I draughted the enclosed convention, agreeing to insert two instead of one commissioner, as the Spanish Government wished it; to which draught no objection being made, (except as to the place of their sitting,) for the reasons given in my last I consented that Madrid should be inserted; had two fair copies of it made out, and prepared for signing, and transmitted them to the Secretary. To my surprise, however, instead of naming a time when I should call to sign the convention, as I had requested, I received from him the enclosed letter, marked No. 1., requesting an explanation of my meaning of the words "*y otros en sus dominios*," previously to the signing. Immediately upon the receipt of this letter, I furnished him with the explanation he desired, (enclosed, and marked No. 2) and requested a conference with him. He appointed the Wednesday following, at the palace in Aranjuez, at which day I attended him, and entered fully into an explanation of the nature of our claims, as well for spoliations made by the subjects of Spain, as by the subjects or citizens of other Powers who had been permitted to arm and equip their privateers in Spanish ports, and condemn and sell the vessels they had taken under the authority of French consulates exercising the powers of Courts of Admiralty; that this permission to arm and equip, and to condemn and sell had, for reasons I stated to him, rendered the Spanish Government responsible to our citizens for all the losses accruing thereby to innocent and legal traders. That precisely the same thing had occurred at the commencement of the war between England and France, in some of the American ports; that our Government, as soon as they were informed of it, had interfered and prevented it, and agreed to pay for such as had been previously taken and brought in and condemned; and that, having done so themselves, they had a right to expect it from others, particularly from a Government whose justice and honor they had always held in the highest respect. He replied, that certainly it was very honorable and generous in the American Government to do this; but he did not conceive they were bound to do it by the laws of nations, or agreeably to the dictates of justice; that His Majesty had fully considered the subject, and was ready to submit all the captures, detentions, or other acts committed by Spanish subjects to arbitration, but that he could not consent to do so, with respect to the captures by French privateers; and that he was ready to sign a convention with the exclusion of the words *y otros en sus dominios.*

I answered, I was extremely sorry to find His Majesty had thus determined, because our Government held a very different opinion on the subject of the captures and condemnations by the French privateers equipped in Spanish ports; and where opposite and different opinions of such importance were held by nations having equally a right to think and judge for themselves, I saw no amicable mode of determining the dispute but by arbitration; that, as my powers did not extend to the surrendering of our claims for the capture made by the French, and he said His Majesty was determined not to include them, I wished to know if His Majesty would consent to a convention for the appointment of commissioners to arbitrate the Spanish spoliations, and insert an article expressly reserving to the American Government the right to demand and negotiate hereafter, on the subject of the French spoliations. He said he would mention it to His Majesty and send me his answer: upon my return, however, to my house, I thought it advisable to make another attempt to procure the admission of such words as might enable the commissioner to arbitrate all our claims, and I wrote him the letter, a copy of which is enclosed, (No. 3,*) and thus this affair stood at the end of the conference.

From the same to the same, dated

"JULY 8, 1802.

"I have just received a visit from one of the foreign *encargados de negotios* here; and, from his conversation with me, I find that the Swedes and Danes, and many other nations, have numerous claims on this Government, similar to our own, for captures by the French equipped in Spanish ports, and vessels condemned therein, and that they are merely waiting to see the issue of our negotiations. This I told you before was one of the causes which increased the difficulty of our negotiation for this class of our claims, but I did not know before that the claims of other nations were to the extent I now find they are. The moment I make any arrangement with the Government here, the others will produce their claims. Mr. Cevallos knows this, and it is one of the reasons which makes the adjustment of the French spoliations a question of such magnitude, that Spain, with all her resources, would find it very difficult to meet them, for the greatest part of the claims of other nations are for violations of the Spanish territory by the French privateers equipped in Spanish ports. I sent yesterday to Mr. Cevallos the draught of another convention for his signature, and a request to him to know his ultimate determination.

"This is the third I have sent him."

Extract of a letter from Charles Pinckney, Esq., Minister Plenipotentiary of the United States at Madrid, to the Secretary of State, dated

"JULY 6, 1802.

"In my last I aequainted you with the state of our negotiations respecting the claims of our citizens up to that time. I have now the honor to enclose you Mr. Cevallos' letter, of the 26th ultimo, marked No. 1, in reply to mine of the same month. In consequence of this, I draughted the letter No. 2, and requested another conference with him on that subject; he appointed yesterday, and I attended him. I begun the conference by apologizing for troubling him so soon after his return to Madrid, but that, as our affairs were important and pressing, and I had the opportunity of a gentleman returning to America, I wished very much to transmit to my Government the ultimate determination of His Majesty on the subject of our claims; that, as he had agreed, so far as his own subjects were concerned, to refer them to arbitration, I wished, if in my power, to endeavor to convince his excellency that the honor and justice of Spain required that our claims for French spoliations should also be included; that, in the latter part of his letter, he had agreed to include the words "de otros," [of others] which was all we wished, but had clogged them with an explanation totally unusual and inadmissible. This was the insertion of the words, "Segun los principios que constituyen la moralidad de las acciones y su responsibilidad," [according to the principles which constitute the morality of actions and responsibility on her part;] that I had no objection to insert the words "segun los principios que constituyen su responsibilidad," [according to the principles which constitute a responsibility on her part,] but that those of "la moralidad de las acciones" [the morality of actions] would lead to discussions and explanations, which would embarrass and probably defeat the whole arbitration; that we all knew what the words the laws of nations, and the stipulations of our treaty, and the principles which made Spain responsible for the acts of others, meant; but that the morality of actions was a field so extensive, and the meaning so difficult to define, when applied to these cases, that I could wish his excellency would leave the whole business to the commissioners to determine, upon the principles of justice and equity, the laws of nations, and the stipulation of our treaty; that it would be easily in my power to convince him that, upon these stipulations and principles, Spain was liable for those captures by the French, which had been made by privateers equipped and manned in Spanish ports, and for those American vessels and cargoes which had been brought in and sold in the same. I then went into a train of reasoning, to show that, "as strangers can do nothing in a country against a sovereign's will," that, therefore, the equipping and manning these privateers, bringing in and selling the prizes, to the amount of more than one hundred sail, was not a thing to be done in a moment, or concealed from the eye or knowledge of the Government; that, being thus known, it was fair to conclude it was permitted and countenanced, and that, being so, if unlawful, Spain was bound to compensate; that the arming and equipping vessels in the ports of Spain, to cruise against the United States, with which Spain was at peace, was certainly a violation of the territorial sovereignty of Spain; and that, if she had not prevented it, when it was in her power to do so, but winked at it to the injury of the United States, she is bound to repair; that, by the law of nations, it is not permitted to a stranger, nor can any foreign Power or person levy men within the territory of an independent Government, without its consent; that he who does it may be rightfully and severely punished; that, as

* Not received.

Spain had the right to refuse the permission to arm vessels, and raise men to man them, within their ports and territories, they were bound, by the laws of nations, to exercise that right, and prohibit such armaments and enlistments, and the condemnation and sale of our vessels; and that, not having done so, she was liable to compensate and make reparation. I then stated the reasoning of Vattel and Wolf on this subject, and those excellent ones of the President, when Secretary of State, in his letters to Mr. Genet and Mr. Morris: I also informed him that I had written a letter, in answer to his of the 26th ultimo, and had therein mentioned the only explanation I thought myself authorized to enter into with respect to the French spoliations; that I would read it to his excellency, and hoped he would still consent to sign the convention in the manner it was drawn and sent to him. After reading the letter to him, he replied, he was sorry I considered the words "la moralidad de las acciones" [the morality of actions] so inadmissible; that, however certain he was that Spain was not bound by the laws of nations to make reparation in these cases, yet to show she was willing to submit *the whole* of her conduct to arbitration, he would consent to sign the convention with the insertion of these words; that he did not suppose, without them, the whole business would be properly before the Board; that, when thus called upon to pay, or to risk the being liable to pay large sums, by not one shilling of which the Spanish Government had ever been benefited, Spain had the right to the insertion of such clauses as would authorize the full investigation of her *then situation*, conduct, and motives, as it would only be upon a thorough examination of the whole, that the commissioners would be enabled to judge whether, according to justice, equity, and the faith of treaties, or, what he considered ought to be as fairly before the Board as any of them, the principles which constitute the morality of actions, or her responsibility, she ought to be really responsible for the acts of foreigners in her dominions, under the circumstances of these cases; that he had fully considered the subject, and could only sign that part of the convention with the insertion of these words. Finding him not to be brought to a change of his opinion, I told him the claims were so important, and my instructions so clear and positive, that I did not conceive myself authorized to depart from the proposition I had made, or to insert words unusual and difficult to define, and which might tend to embarrass and defeat the arbitration; that I preferred closing with him on the ground of the Spanish spoliations, inserting a clause, reserving to us a right to reclaim and demand for the French, in the same manner as if this convention had not have been made, and referring the whole business, as it now stands respecting the French spoliations, to my Government, for their decision; that, if they viewed it in the same light I did, they would probably direct some other mode to be proposed for adjusting these claims, or, at any rate, instruct me what was further to be done; that, for the present, I would draught and send him another convention, confined to the Spanish spoliations, which is now doing, and will be transmitted to him as soon as finished.

"My own opinion is, that Mr. Cevallos has heard of the Senate's striking out that article of the convention with France which respected our claims for spoliations, and that he thinks it hard Spain should be obliged to pay for violations of her territorial sovereignty, which it might not have been prudent for her, or was not, perhaps, then in her power to prevent, and for claims arising from acts committed within her dominions by the French, which, if they had been committed in their own, would have been relinquished. He never mentioned this to me, nor did I think it prudent to do so to him, because it was possible he might not be fully possessed of the facts; and, being extraneous to our discussions, I took care to avoid it."

Extract of a letter from Charles Pinckney, Esq. Minister Plenipotentiary of the United States at Madrid, to the Secretary of State, dated

"AUGUST 15, 1802.

"Mr. Codman going to the United States, I avail myself of so safe an opportunity to write you. My last, by Mr. Gibson, will inform you of the difficulties I have met with in my endeavors to persuade the Spanish Government to consent to an arbitration which should include all our claims, as well for Spanish as French spoliations.

"Notwithstanding all my efforts, you will find that Mr. Cevallos, the first Secretary of State, and appointed as the plenipotentiary on this occasion, has continually refused the insertion of any clause worded as I felt authorized to agree to, which would include the arbitration of the prizes made under French commissions, or condemned by French consuls. For these he thinks we ought to go to the French Government; in his letter to me, while I was with the court at Aranjuez, of the 26th June, he has repeated, in writing, what he frequently told me in conversations. A copy of this I sent by Mr. Gibson, and a duplicate accompanies this; in one of my former, I detailed to you the arguments I had used with Mr. Cevallos to induce him to consent to the insertion of a clause including the French captures; but all that I could, after many efforts, bring him to consent to, was the arbitration of the excesses committed by foreign vessels within *the respective territories of Spain and the United States*; to this I told him I would consent, if he would add, after the words "corsarios estrangeros" the following: "o agentes, consules, o tribunales," [or agents, consuls, or tribunals.] You will find by his letter of the 7th instant he expressly refused this addition, and as the excesses committed within their respective territories by privateers would include but a few cases, and exclude the most numerous and important classes, I informed him I was not authorized to consent to any convention which might, in the remotest degree, weaken or abridge the right of the United States and their citizens to urge these claims as they should hereafter think proper; that the honor and character of our country were deeply involved in the event, it being as much their duty to feel the insults offered to the rights of their citizens, as it was to assert and defend them; that, on this question, I had made the only offer in my power; that, if he continued to decline it on the ground that Spain was not liable, under the laws of nations, or the treaty, to make reparation, that I would communicate his answer to our Government, and it would remain for them to determine what was best to be done; that, as His Majesty had said he would consent to a convention for the purpose of arbitrating all the excesses committed during the late war by the citizens, and subjects of the United States and Spain; that, knowing the friendly disposition of my Government towards Spain, and their confidence in the justice and honor of the King ultimately to arrange and adjust their claims upon honorable and equitable principles, I would consent to a convention, which should be so worded as to include the arbitration of every claim arising from the excesses of the subjects or citizens of either party, contrary to the laws of nations or the existing treaty; and which should, also, by a clause to be therein inserted, reserve to the United States and to Spain all the rights they now have to claim reparation for the excesses committed within their respective territories, by the corsairs, agents, consuls, or tribunals of foreign Powers. This convention we signed on the 11th inst. and I have delivered it to Mr. Codman of Massachusetts to give you.

"My reasons for signing it were as follows, and I trust they will meet the approbation of the President and Senate: that, upon examining the returns in the consular office here, I find the number of vessels taken or detained by Spaniards, up to the 7th October last, with their cargoes, were one hundred and one, to which are to be added twelve taken jointly by the French and Spaniards, and twelve cargoes seized or embargoed by Spain, making, in the whole, one hundred and twenty-five sail of vessels and cargoes. A few of them have been acquitted; but on all of them will arise claims for damages. To these considerable claims for captures are to be added all our other claims arising from the excesses of individuals contrary to the law of nations or the treaty, which I am informed are to an amazing amount, particularly from South America. On the latter subject, it was impossible for me to obtain exact accounts; but from every information I have received, and particularly from a gentleman who brought me a letter from you, and who has lately been in that country, I learn that the claims which our citizens have are so great as to amount to a sum of not less than five millions of dollars, and he believes probably eight millions; most of which he thinks, from a knowledge of their particular circumstances, may be arbitrated under this convention, the wording of which, I showed him in confidence, in order that I might determine how far it was sufficiently general to include every case, within his knowledge, which might be said to be contrary to the laws of nations and the existing treaty. These, added to the one hundred and twenty-five sail of vessels and their cargoes, and all the other claims arising in the Spanish, European, and West India dominions, amount, in the whole, to so considerable a sum, that finding Spain inclined to agree to the immediate arbitration of them, I did not feel myself authorized to withhold from such of our citizens as were interested the only mode of repairing their losses which at this time is practicable. I was urged to this from a conviction that it is not our wish to go to war, and that there can be little doubt of Spain hereafter

agreeing to an arbitration of the French spoliations. At present, out of the whole number of vessels captured by the French, seventy-one only have been condemned, and it will require very able and minute investigation to decide how many of these have been legally or otherwise condemned; so that it is not unlikely, when the true amount is ascertained for which the citizens of the United States may have a right to compensation, the claims arising from French spoliations will be far short of our claims for compensation on account of the excesses of Spanish subjects; if this should prove to be the case. Spain, after having agreed to arbitrate the larger sum, will not hesitate to add the other rather than proceed to extremities.

"I shall continue to urge her to consent to some agreement to this effect, authorizing the commissioners to be named to arbitrate the French spoliations at the same time; and should I not be able to effect it before I can hear from you, I will thank you for your instructions, or any plan or modification you may think proper. It appears to me to be wise in us to prevent, as much as possible, the accumulation of our claims against Spain, for the more she is in arrear, or the more extensive our claims are against her, the more unwilling and unable will she be to adjust them. Take, however, from the present aggregate all our claims for Spanish spoliations and excesses, and the residue will be such as she can meet without difficulty; at least, with much less difficulty than a war with the United States."

Extract of a letter from Charles Pinckney, Esq. Minister Plenipotentiary of the United States in Madrid, to the Secretary of State, dated

"AUGUST 30, 1802.

"By Mr. Gibson and Mr. Codman, you will receive full accounts of every thing up to this time. I still entertain hopes of being able to bring this court to agree to an arbitration by the same commissioners of the French spoliations; it will be with great reluctance, but I still think it will be the case. They complain of it as one of the hardest cases that can possibly occur; that their situation was well known; just emerging from a war with France, in which they were pressed to the last extremities; obliged to suffer the French Government and consuls to do as they pleased in their ports, for fear of renewing the war, by refusing and irritating them; to be thus mortified by these violations of their territorial sovereignty by a power they could not resist, and to be obliged, after all, to pay for those prizes, not one shilling of which ever went into the pockets of the King or his subjects, appears to them to be, as they have often said, one of the hardest cases that could occur. Mr. Cevallos or the Government here do not confess this to be the motive; their pride would not suffer them to avow it; they say the laws of nations or the treaty do not oblige them; but the true reason, I believe, I have stated above. You will do me the favor to let me hear from you on it as soon as possible. In the interim, I will go on here endeavoring to arrange it as well as I can.

Upon investigating all the claims you have forwarded me, and particularly Mr. Higginson's, I find they will all come under the convention; indeed, from a review of many other cases, which were supposed to go entirely under the head of French spoliations, there can be little doubt that many of them also may be arbitrated by the commissioners; in every case where it can be proved that it was in any manner owing to the illegal interference of the Spanish Government, or officers acting under its authority, that the French were enabled to bring in or condemn the prize, or that they interfered, there can be no doubt of the authority of the commissioners to arbitrate them. If we can get the fifth commissioner, it will enable us very conscientiously and honorably to include a great number of the cases now considered as French spoliations.

7th CONGRESS.] **No. 180.** [2d SESSION.

DENMARK.

COMMUNICATED TO CONGRESS, FEBRUARY 24, 1803.

FEBRUARY 23, 1803.

Gentlemen of the Senate and of the House of Representatives:

I lay before you a report of the Secretary of State, on the case of the Danish brigantine Hendrick, taken by a French privateer in 1799, retaken by an armed vessel of the United States, carried into a British island, and there adjudged to be neutral; but, under allowance of such salvage and costs as absorbed nearly the whole amount of sales of the vessel and cargo. Indemnification for these losses, occasioned by our officers, is now claimed by the sufferers, supported by the representations of their Government. I have no doubt the Legislature will give to the subject that just attention and consideration which it is useful, as well as honorable, to practise in our transactions with other nations, and particularly with one which has observed towards us the most friendly treatment and regard.

TH: JEFFERSON.

The Secretary of State has the honor to report to the President of the United States, upon the note of the minister of His Danish Majesty, dated on the 9th instant, as follows:

That it appears that the Danish brigantine Hendrick, Captain Peter Scheelt, sailing from Hamburg, loaded with an assorted cargo, and bound to Cape François, was captured, on the 3d of October, 1799, by a French privateer, and, on the 8th of the same month, she was recaptured by an American public armed vessel, called the Pickering, and carried to the British island of St. Christopher, where she arrived on the 10th.

That, from an authenticated transcript of the proceedings in the case of the said vessel, had before the court of Vice Admiralty at the said island, it appears that the said court took cognizance of the case, and awarded one-half of the gross amount of the sales of the brig and her cargo to be paid to the recaptors, and the other half, after deducting costs and expenses, to be restored to the owners. That this rate of salvage appears to have been adopted from the laws of the United States, as then applicable to recaptures of American property, and of such as belonged to belligerent Powers in amity with the United States; but it is believed that these laws had, according to decisions of our own courts, no reference to recaptures of neutral property. That, admitting, what has received the sanction of some recent authorities, that, in certain peculiar cases of danger, of a neutral being condemned by a belligerent, the recaptors are entitled to a proportionate salvage, there is much reason to believe this is not such a case, as the vessel was bound from a neutral to a French port, the whole of the property being neutral, and, according to the assurance of Mr. Lindemann, the Governor of the Danish West India islands, most of the Danish vessels carried into Guadaloupe, for a year before this capture, were released, and some of them with damages. That the courts of the United States have, in cases much more strongly marked by circumstances indicating a danger of the neutral being condemned, allowed much smaller rates of salvage.

That the laws of the United States required vessels captured under their authority to be brought within their jurisdiction; and it is conceived that it was the duty of the American officers, in this case, to repel the attempt of the foreign judicatory to take cognizance, much less ought they to have directly submitted their recapture to its decision, which, as it could not be revised or rectified, in case of error, by the tribunals of their own country, might tend to involve it in claims on its responsibility from others.

That, according to the representation of the agent for the owners of the Danish vessel, of the sum of forty-four thousand five hundred dollars, the value of the vessel, freight, and cargo, there remained, after satisfying the decree for salvage and expenses, no more than eight thousand three hundred and seventy-four dollars and forty-one cents.

That, as the policy and interest of the United States lead them, in a special manner, to respect and promote the rights and facilities of neutral commerce; as the sentence in this case was permitted, if not procured, by officers of the United States, to be made in a foreign and therefore improper tribunal; as there remains no doubt but that a court of the United States pronouncing thereon would either have rejected the claim for salvage altogether, or reduced it to the most moderate scale; as the declared basis of the sentence, viz: the law of the United States, was inapplicable to the case; and as it is understood that a remedy is now unattainable, in the ordinary judicial course, it is the opinion of the Secretary of State that, under all the circumstances, the case ought to be referred to the just provisions of Congress thereon.

All which is respectfully submitted:

JAMES MADISON.

DEPARTMENT OF STATE, *February* 22, 1803.

SAINT CHRISTOPHER, } *In the Court of Vice-Admiralty.* }

I, William Henry Male, deputy register of the acts and deeds of His Majesty's courts of Vice Admiralty, of the said island, do hereby certify, to all to whom these presents shall or may concern, that the several pages hereunto annexed, being in number seven, do contain a true copy of all the proceedings, vouchers, papers, and exhibits, (except the monition, which appears to have been duly issued, but has since been mislaid,) filed in the cause of the brig Hendrick, Peter Scheelt, master, her tackle, apparel, and furniture, and the goods, wares, and merchandises laden on board thereof, taken by the United States' brig of war Pickering, Benjamin Hillier, Esq. commander, and libelled on the said cause as lawful prize; and that the same have been carefully examined, with the originals, by me.

In testimony whereof, I, the said William Henry Male, deputy register, as aforesaid, have hereunto set my hand, and the worshipful John Garnett, Esq. judge surrogate of the said court, hath also affixed the seal of the same court, at Basseterre, in the said island of Saint Christopher, this fifteenth day of September, in the year of our Lord one thousand eight hundred.

W. H. MALE, *Deputy Register.*

JOHN GARNETT. [L. S.]

SAINT CHRISTOPHER, } *In Admiralty.* } *The United States' frigate John Adams*, vs. *The Brig Hendrick.*

The deposition of Peter Scheelt, the master, taken in preparatory.

To the first.—He saith that he was born in the island of Ferman; that he has resided, for the last seven years, at Altona; that he is a subject to the King of Denmark; that he is a burgher of Altona.

To the second.—That he was on board the brig at the time she was taken.

To the third.—That he was taken, on the 3d instant, by a French privateer schooner, in latitude twenty and twenty-seven, and longitude sixty degrees west from London; that he sailed under Danish colors; that they assigned no reason for taking him; that he was recaptured, on the 8th day of the present month, by the United States' frigate ——, ——, commander, and brought into the port of Basseterre, in the island of Saint Christopher's.

To the fourth.—That deponent is master of the brig; that John Humphreys appointed him to the command; that possession was given to deponent in Portsmouth, by the person who had the charge of, by order of Mr. Humphries.

To the fifth.—That the brig is fifty commerce lastr burthen; that there were twelve men belonging to the brig, including the supercargo; that the most part were Danes, the rest Hamburgers; that deponent shipped them in Altona.

To the sixth.—That deponent has an adventure of one hogshead of porter, three casks of gin, some hams, smoked tongues, and one chest of dry goods; that some of the crew have some small adventure of cheese and gin; that he has known the vessel since March last; that he first saw her in Portsmouth, and was built in the Brazils.

To the seventh.—That the brig is called the Hendrick; that she has been so called since October last; that she was formerly called the Cormal, of St. Joseph; that there is a sea-letter on board; that deponent carried the brig from Portsmouth to Altona, where he took in a cargo for St. Domingo, before he was taken; that his voyage began at Hamburg, and was to end there.

To the eighth.—That his cargo consists of provisions and dry goods; that the same was put on board in the month of June and July last.

To the ninth.—That John Humphries is the owner of the brig; that deponent knows him to be the owner, as he saw him take the oaths to that purpose in the custom-house; that deponent does not know what countryman he is; that he resides in Altona, and is a Danish subject.

To the tenth.—That there is a bill of sale amongst his papers for the brig.

To the eleventh.—That the cargo was all put on board in Hamburg.

To the twelfth.—That there are eight respective laders of the cargo, three of whom the deponent is acquainted with; that they are Hamburgers; the other laders the deponent does not know, nor does he know where they were born, but believes they are Hamburgers; that the goods were to be delivered at St. Domingo to the supercargo, on account of the laders; that he does not know if the supercargo has any interest in the goods; that he can take upon himself to swear that he believes, at the time of putting the cargo on board, and at this time, and if the cargo be restored and unladen at its destined port, it did, doth, and will belong to the shippers, and none others.

To the thirteenth.—That he signed one set of bills of lading, containing four bills of lading; that one is amongst his papers, one in the possession of the supercargo.

To the fourteenth.—That there are no bills of lading, invoices, or papers, in Great Britain, relating to his vessel or cargo.

SAINT CHRISTOPHER, } *In Admiralty.* } *On the matter of the brig Hendrick, Peter Scheelt, master, her tackle, apparel, and furniture, and the goods, wares, and merchandises laden on board, retaken by the United States frigate ——.*

Peter Scheelt, master of the said brig Hendrick, by Henry Carney, his lawful proctor, comes into this honorable court, and claims the said brig, her tackle, apparel, and furniture, for and on behalf of John Humphries, of the city of Altona, the true and lawful owner thereof. And the said Scheelt also further claims the goods, wares, and merchandises, laden on board at the time of her capture, for and on behalf of Bd. ——, Schwarts and Roques, Henkel and Eimbeke, Rucker and West——, Rucker and Wortman, Wilhelm Pelzer and Ferdinand Pelzer, Johann Schucmacker, Benecke and Co., and Johann Gotthard ——, the true and lawful owners of the same; and prays that the said vessel and her cargo might be restored, upon paying the usual *salvage.*

HENRY CARNEY, *Claimant's proctor.*

Peter Scheelt, the claimant above named, being sworn on the Holy Evangelists of Almighty God, saith, that the aforenamed John Humphries is the true and lawful owner of the said brig, her tackle, apparel, and furniture, and that the said Messrs. Bd. Hootnage, Schwarts and Roques, Henckel and Eimbeke, Rucker and Westphalen, Rucker and Wortman, Wilhelm Pelzer and Ferdinand Pelzer, Johann Schucmacker, Benecke and Co., and Johann Gotthard Martens, are the true and sole owners of the said cargo laden on board at the time of her capture. And this deponent further saith, that the said owner of the said vessel is a subject of the King of Denmark, and residing within his territories, and that the owners of the said cargo are subjects to the imperial city of Hamburg.

PETER SCHEELT.

Sworn before me, this 11th October, 1799.

JOHN GARNETT.

Filed 11th October, 1799.—W. H. Male, *Dep. Registrar.*

Saint Christopher, *In Admiralty.* } *On the matter of the Danish brig Hendrick, Peter Scheelt, master, captured by the United States' brigantine sloop of war the Pickering, Benjamin Hillier, Esq. commander.*

Benjamin Hillier, captain and commander of the United States' sloop of war the Pickering, by William Anthony Mardenbrough, his proctor, comes into this honorable court, and demands restoration of the said brig Hendrick and cargo, claimed by the said Peter Scheelt as the property of sundry persons particularly named in the claim or allegations filed in the above cause, as subjects of the King of Denmark and of the city of Hamburg, and in amity with the United States of America, upon payment of salvage, and that the said brig Hendrick and cargo may be delivered to him, the said Benjamin Hillier, and the officers and crew of the said brigantine sloop of war the Pickering, or to the American consul and agent in their behalf, as the captors thereof; or that, in case the said Peter Scheelt should substantiate his claim upon the said libel, and prove that the said brig Hendrick and cargo were owned by neutral subjects, that the salvage, under the regulations of the navy of the United States, may be awarded to him, the said Benjamin Hillier, his officers and crew, as also all his costs, damages, and expenses, in either case incurred.

W. A. MARDENBROUGH,
Proctor for the captors.

Filed the 11th October, 1799.—W. H. Male, *Dep. Registrar.*

On the —— day of October, 1799.

The Brig Hendrick, *Peter Scheelt, Master.* } *Thomas Tingey, Esq. captain of the American States' ship Ganges, against the said brig, and her tackle, apparel, and furniture, and the goods, wares, and merchandises laden therein, lately seized and taken by the said Thomas Tingey, and brought into the port of Basseterre, in the island of Saint Christopher.*

On which day, Tuckett, the lawful proctor of the said Thomas Tingey, Esq., by all lawful ways and means, and to all effects of law, alleged, pleaded, and articulately propounded as follows: that is to say—

1st. That, on or before the 1st day of August, 1799, hostilities at sea existed between the United States of America and the present Government and people inhabiting the territories of France; and this was, and is, true, public, and notorious, &c

2d. That, on or before the —— day of ——, the said Thomas Tingey, his officers and crew, with the said United States' ship Ganges, did take, upon the high seas, the said brig Hendrick from the French, and brought her into the road of Basseterre, in this island, within the jurisdiction of this honorable court; and this was, and is, true, public, and notorious: and the party proponent doth allege and propound every thing in this, and the foregoing, and subsequent articles contained jointly and severally.

3d. That the said brig Hendrick, and the goods, wares, and merchandises laden therein, were, at the aforesaid seizure thereof, a ship and goods of and belonging to France, to the subjects of France, or to others inhabiting within the territories of France, and, as such, or otherwise, liable to confiscation, or to the payment of a ratable salvage; if found to belong to the subjects of a neutral Power, and being taken and seized, as aforesaid, ought to be condemned as good and lawful prize to the captors, or a ratable salvage should be adjudged for the recapture of the same, if the same shall be proved to have been the property of neutral subjects; and that it ought to be further pronounced that the said Thomas Tingey is the sole captor or recaptor thereof, and, as such, with his officers and crew, entitled to the entire benefit thereof; and the party proponent doth allege and propound as before.

Lastly. That all and singular the premises were, and are, true, public, and notorious, and thereof there was, and is, a public voice, fame, and report; of which legal proof being made, the party proponent prays justice and right to be done and effectually administered in the premises, by you, the honorable John Garnett, Esq., Surrogate of the Court of Vice Admiralty in St. Christopher; and that the said brig, her tackle, apparel, and furniture, and all and singular the goods, wares, and merchandises seized and taken therein, as aforesaid, be pronounced to belong to the subjects of France, or others inhabiting within the territories of France, and, as such, liable to condemnation, and to be adjudged to be lawful prize to the party proponent, or that the same be pronounced to be restored to the neutral owners thereof, if it shall be proven that the same were taken from them by the French, upon paying to the party proponent, and to his officers and crew, a just salvage for the same.

THOMAS TUCKETT, *Advocate for libellant.*

Filed —— October, 1799.—W. H. Male, *Dep. Registrar.*

Saint Christopher:

At a court of Vice Admiralty held in and for the said island, at the Court House, in the town of Basseterre, on the 10th day of October, 1799: Present, the worshipful John Garnett, Esq. Judge Surrogate.

Peter Scheelt, master of the brig Hendrick, of Altona, in Denmark, in behalf of the owners, underwriters, and others concerned in the said brig and cargo, libellants, against the said brig Hendrick and cargo, and against Benjamin Hillier, commander, and the officers and crew of the United States' brig of war Pickering, the recaptors of the said brig and cargo.

Proclamation being made, and the court called and seated, and Mr. Mardenbrough, advocate and proctor for the said Benjamin Hillier, and the officers and crew of the said brig Pickering, who claimed the said brig Hendrick, as the captors or recaptors thereof, dispensing with the return of the motion which had duly issued after the attachment had been made, but assenting, on the part of the captors or recaptors, to the trial of the cause now coming on, the libel or allegations was thereupon opened by Mr. Tuckett, King's counsel, and advocate for the libellants; whereupon, the following evidence was produced and read, viz: the deposition of the said Peter Scheelt, the certificate of the American agent and consul to the papers on board the said brig Hendrick, and also to the laws and regulations of the American navy, produced by order of this court, and the section of the said act or regulations referred to in the said certificate, together with other documents taken from the said papers, proving the property to be neutral; and, after hearing Mr. Tuckett, fully and at large, on the part and behalf of the libellants, the substance of the

claim to the brig and cargo, on the part of the captors, as their prize, was then opened by Mr. Mardenbrough, and the same, with the certificate of the agent and consul thereto annexed, being read, and Mr. Mardenbrough fully and at large heard on the part and behalf of the said captors, and Mr. Tuckett heard in reply; and it appearing to the court, by the said deposition, claim, and documents, that the said brig Hendrick and her cargo belonged to persons residing in Altona, in Denmark, and in Hamburg, neutrals, and in amity with the United States of America, and had been taken as prize by a French privateer, and had remained in possession of the French captors for the space of eight days and upwards; it was adjudged, ordered, and decreed, by his worship the Judge, who pronounced the following sentence: That the said brig Hendrick, her tackle, apparel, and furniture, and the goods, wares, and merchandises laden and taken therein, were retaken from the enemy, after having been in possession eight days and upwards; and that, according to the regulations of the American navy, with respect to the salvage on recapture of neutral vessels, the said brig Hendrick be restored unto the said libellants, together with her tackle, apparel, and furniture, and the goods, wares, and merchandises laden on board thereof, for the real and true owners thereof; and that the said recaptors, their agent or agents, be forthwith paid by the claimant, or his sureties, the one-half part of the gross appraised value of the said brig Hendrick, her tackle, apparel, and furniture, and the goods, wares, and merchandises laden and taken therein as salvage; and that the costs and incidental expenses, to be taxed and allowed by the court, be paid out of the remaining part of such gross appraised value by the claimants and their sureties; and that, upon non-payment thereof, the said brig Hendrick, her tackle, apparel, and furniture, and the goods, wares, and merchandises laden on board thereof, be sold under the joint inspection of the agents for the libellants and recaptors; and one full half, without deductions, be paid to the said recaptors; and the other full half, after deducting such costs and incidental expenses, to be paid to the said libellant, for the real and true owners of the said brig Hendrick and cargo, respectively. All which is hereby adjudged, ordered, and decreed accordingly.

By the Court:

W. H. MALE, *Deputy Registrar.*

No. 181.

GREAT BRITAIN.

[The following papers, relating to the subjects in negotiation with Great Britain previous to the appointment of James Monroe, as American Minister, in 1803, are inserted for the purpose of exhibiting the relations then existing with that Power. They relate to COMMERCE, SEIZURES, BLOCKADES, IMPRESSMENTS, and MARYLAND BANK STOCK.]

COMMERCIAL RESTRICTIONS, BLOCKADES, AND IMPRESSMENTS.

J. Marshall, Secretary of State, to Mr. King, Minister Plenipotentiary to Great Britain.

DEPARTMENT OF STATE, WASHINGTON, *September* 20, 1800.

SIR:

It is the hope and expectation of the President, that your negotiation with Lord Grenville concerning contraband of war, and the impressment of our seamen, which had progressed considerably, and been broken off, in consequence, as is here understood, of the differences between the two nations respecting the construction of the sixth article of the treaty of amity, commerce, and navigation, has been or will now be renewed.

Should it have been intended to proceed *pari passu* with these subjects, yet our instructions respecting the claims of British creditors on the United States having, as we hope, enabled you to place that business in a train for adjustment, we are sanguine in our expectations concerning the other objects of the negotiation.

Should you be unable to obtain, what is most desired, because most just, explanatory articles, placing the original treaty on its true ground, or even to settle this difference on the terms stated in my No. 2, terms of the liberality of which I am more and more convinced, yet we perceive no reason growing out of this misunderstanding, which should obstruct the progress of an agreement on subjects the present practice on which so seriously threatens the peace of the two nations.

The seventh article of the treaty of amity, commerce, and navigation, corresponds with the sixth, and proceedings under both have been suspended. It is not my purpose to show that these two measures, viewed together, are injurious to the United States, because we do not complain, for the present, of the suspension which has taken place of the proceedings of the Board lately sitting in London. But certainly as the one measure completely balances the other, this misunderstanding can furnish to the British Government no plausible pretext for taking other steps unfriendly in themselves, or for refusing to take such as justice and friendship indispensably require.

We trust, then, that, whatever may be the fate of the propositions respectively made concerning the differences under the sixth and seventh articles of our late treaty, the negotiations relative to contraband and impressments will now progress, without interruption, to a happy conclusion.

Should this hope be disappointed, the practice of depredating on our commerce, and impressing our seamen, demands and must receive the most serious attention of the United States.

The unfeigned solicitude of this Government to preserve peace with all, and to obtain justice by friendly representations to the party committing injuries, rather than by a resort to other means, induces it now to wish that any misjudgment respecting its views and intentions, which may have been formed in the British cabinet, and which may have promoted dispositions unfavorable to that perfect harmony which it is the interest of both nations to cherish, may be completely corrected. For this the President has great and just reliance on you. If impressions of any sort have been made, impairing that conciliatory temper which enables one nation to view with candor the proceedings of another, the President hopes that your perfect knowledge of the principles which influence the Government you represent, will enable you to meet and to remove them.

That such impressions have been made by connecting two measures entirely independent of each other, is greatly suspected.

The secession of the American commissioners from the Board lately sitting at Philadelphia, and the recommencement of negotiations with France, may have been united together as parts of one system, and been considered as evidencing a temper less friendly to Great Britain than had heretofore guided our councils.

You have been assured that the suspension of further proceedings on the claims of British creditors against the United States is attributable exclusively to the wild, extensive, and unreasonable construction put by the commissioners of that nation on the article they were appointed to execute—a construction which, as we think, at once prostrated the words and spirit of the article, and overleaped all those bounds within which, by common consent, their powers were limited. You know too well the integrity of this Government, to doubt the sincerity with which this opinion is avowed; and you possess too perfectly the reasoning on which it had been formed, to feel any difficulty in supporting it. In fact, we believe that the points of difference need only be considered, to produce in every intelligent mind the conviction that the American Government is, at least, sincere in the opinion it has maintained.

Being entirely persuaded of the vast injury and injustice which would result from executing the sixth article, according to the strange system devised by a majority of the commissioners, a sense of duty and national honor, as

well as a wish to preserve a solid and lasting peace between the two countries, rendered indispensable the step which has been taken. Had the United States been at open and declared war with France, without a prospect of speedy pacification, the same causes must have induced the same measure.

The suspension, then, of the commission at Philadelphia was not influenced by the probability of negotiating with France, nor have these two measures any tendency to explain each other.

It is equally true that neither of them proceeds from a temper in the United States hostile to, or even indifferent about a good understanding with the British Government.

The one has been shown to be a necessary measure of defence against what was believed to be an unauthorized attack on the interests of the United States, which, it was conceived, the British Government would not have sanctioned. The other is a necessary consequence of the well digested political system which this Government adopted early in the present war, and has uniformly sought to maintain.

The United States do not hold themselves in any degree responsible to France or to Britain for their negotiations with the one or the other of these Powers; but they are ready to make amicable and reasonable explanations with either.

In this spirit their political system may be viewed.

It has been the object of the American Government, from the commencement of the present war, to preserve between the belligerent Powers an exact neutrality. Separated far from Europe, we mean not to mingle in their quarrels. This determination was early declared, and has never been changed. In pursuance of it, we have avoided, and we shall continue to avoid, any political connexions which might engage us further than is compatible with the neutrality we profess, and we have sought, by a conduct just and friendly to all, to be permitted to maintain a position which, without offence to any, we had a right to take.

The aggressions, sometimes of one and sometimes of another belligerent Power, have forced us to contemplate and prepare for war as a probable event. We have repelled, and we will continue to repel, injuries, not doubtful in their nature, and hostilities, not to be misunderstood. But this is a situation of necessity, not of choice. It is one in which we are placed, not by our own acts, but by the acts of others, and which we change so soon as the conduct of others will permit us to change it.

The regularly accumulating injuries sustained from France had, in 1798, progressed to such a point as to leave to the United States no reasonable ground of doubt that war was to be expected, and that force, and force only, could be relied on for the maintenance of our rights as a sovereign and independent nation. Force, therefore, was resorted to; but, in the very act of resorting to it, our preference for peace was manifest, and it was apparent that we should return to our natural situation so soon as the wrongs which forced us from it should cease, and security against their repetition be offered. A reasonable hope that this state of things may be attained, has been furnished by the recent conduct and overtures of the French Government. America meets these overtures, and, in doing so, only adheres to her pacific sytsem.

To impress more forcibly on the British cabinet the principles on which this Government acts, it may not, perhaps, be improper to point their attention to our conduct during the most critical periods of the present war.

In 1793, when the combination against France was most formidable, when, if ever, it was dangerous to acknowledge her new Government, and to preserve with it the relations of amity which, in a different state of things, had been formed with the nation, the American Government openly declared its determination to adhere to that state of impartial neutrality which it has ever since sought to maintain; nor did the clouds which, for a time, lowered over the fortunes of the republic, in any degree shake this resolution.

When victory had changed sides, and France, in turn, threatened those who did not arrange themselves under her banners, America, pursuing with undeviating step the same steady course, negotiated with His Britannic Majesty a treaty of amity, commerce, and navigation, nor could either threats or artifices prevent its ratification.

At no period of the war has France occupied such elevated ground, as at the very point of time when America armed to resist her: triumphant and victorious every where, she had dictated a peace to her enemies on the continent, and had refused one to Britain.

In the reverse of her fortune, when defeated both in Italy and on the Rhine, in danger of losing Holland, before the victory of Massena had changed the face of the last campaign, and before Russia had receded from the coalition against her, the present negotiation was resolved on. During its pendency, the state of the war has changed, but the conduct of the United States sustains no alteration. Our terms remain the same: we still pursue peace. We still embrace it, if it can be obtained without violating our national honor or our national faith; but we will reject, without hesitation, all propositions which may compromit the one or the other.

I have thought it not entirely useless to note thus briefly the relative situation of the belligerent Powers at the several eras when important measures have been adopted by the American Government, because the review will mark unequivocally the character of that Government, and shows how steadily it pursues its system, without regarding the dangers, from the one side or the other, to which the pursuit may be exposed.

The present negotiation with France is a part of this system, and ought, therefore, to excite in Great Britain no feelings unfriendly to the United States.

Perhaps an apprehension that an erroneous estimate may have been made in the British cabinet of the views and intentions of this Government, may be unfounded. If so, it will, of course, be unnecessary to attack prejudices which do not exist. If, however, such prejudices do exist, you will, by a plain and candid representation, endeavor to remove them.

The way being thus smoothed for the reception of our complaints, the peace and interest of the nation require that they should be temperately but very seriously enforced.

These complaints are occasioned by the conduct of the British Government, through its agents, towards our commerce and seamen.

The depredations on our commerce have, of late, been so considerable, as even to give some countenance to the opinion that orders have been received to capture every American vessel bound to an enemy's port. It cannot be difficult for you to conjecture the effect of such a system.

In your correspondence with my predecessor, I perceive that these subjects have been repeatedly taken up, and that, in your several representations to the ministers of His Britannic Majesty, you have done ample justice to your country.

I am directed by the President to express to you his wish that, unless this business be in a train for satisfactory adjustment, you once more call the very serious attention of the British Government to the irritating and injurious vexations we sustain, and make one more solemn appeal to the justice, the honor, and the real interest of the nation.

Our complaints respecting the depredations on our commerce may be classed under the following heads:

1. The construction given to the article of our treaty relative to contraband of war.
2. The extent given to the rule concerning blockaded ports.
3. The unjust decisions of their courts of Vice Admiralty, and the impunity which attends captures totally vexatious and without probable cause of seizure.

We will consider:

1. The interpretation given to the eighteenth article of our treaty. Under the expression "and generally whatever may serve distinctly for the equipment of vessels," which closes the enumeration of prohibited articles, our merchant vessels have been seized and condemned, because a part of their cargoes consisted of such articles as may, by possibility, serve for the equipment of vessels, although they are not generally so applied, but are most commonly used for the purposes of husbandry; such are ticklenburgs, osnaburgs, and small nails, which, in the court of Vice Admiralty, have been adjudged contraband of war.

This vexatious construction is believed to be as unjustifiable as it is unfriendly.

As the law of nations on this subject can only establish general principles, particular treaties supply this defect by defining precisely between the parties the relative rights of each as a belligerent or neutral Power.

Thus the law of nations is clearly understood to declare that articles exclusively used in war are contraband, and that all articles not used in war are the objects of lawful commerce. But articles of promiscuous use, proper either for peace or war, may be, it has been contended, contraband or not, according to circumstances.

Admitting this opinion to be correct, it would seem to be a reasonable construction of the law, that the character of the articles thus doubtful in themselves should be determined by those circumstances which may ascertain the use to which they are to be applied. If the circumstance, and the cargo and its destination, show unequivocally that its application must be to military purposes, materials fit for both peace and war may assume the character of contraband; but if those circumstances afford solid ground for the opinion that the suspected materials are designed only for the ordinary purposes of the nation, then there can be no just motive for interrupting a commerce which ought to be pronounced lawful.

This principle would seem to mark the boundaries of the conflicting rights of neutral and belligerent Powers. For neutrals have a right to carry on their usual commerce, and belligerents have a right to prevent them from supplying the enemy with instruments of war.

But, in the application of the principle, considerable difficulty exists. The two nations judge differently on the circumstances attending each case; and, to prevent the quarrels which may grow out of this difference of judgment, a precise list of contraband is usually agreed on between them.

If, however, there be in the enumeration an ambiguous expression, it ought to be expounded with a reference to those general principles intended to have been rendered definite by the particular agreement, and the inquiry ought always to be made, whether the article was really designed for a prohibited object, or was transported for the ordinary purposes of commerce.

In the catalogue of contraband, agreed on between the United States and Great Britain, there is one description which leaves to construction what specific articles it may comprehend. It is in the following words: "and generally whatever may serve *directly* to the equipment of vessels."

In construing this expression, the British courts of Admiralty appear to consider it as including whatever might by any possibility be applied to the equipment of vessels. Although the article be in itself unfit and improper for that use, and therefore be not in common so applied, yet, if it might, by possibility, from a want of other proper materials, admit of such application, the courts adjudge, although such other materials be not wanting at the port of destination, that it is contraband of war.

This construction we deem alike unfriendly and unjust. We conceive that the expression which has been cited, comprehends only such articles as in themselves are proper for, and in their ordinary use are applied to, the equipment of vessels.

Under the British constitution, no operation is referred to the word "*directly*." Expunge it from the sentence, and, according to them, the sense will remain the same. But plain reason, and the soundest and most universally admitted rules of construction, forbid us to interpret by garbling a compact. The word "*directly*" is an important word, which forms a necessary and essential part of the description, and must have been inserted for the purpose of having its due weight in ascertaining the sense of the article. We can discover no effect which is allowed to it, unless it be admitted to limit the description to materials which, in their ordinary and common application, are in considerable quantities proper for, and "serve directly to the equipment of vessels." To exclude it, or to construe it as if it was excluded, is to substitute another agreement for that of the parties.

We do not admit the expression we are considering to be in itself doubtful. But if it was so, rules of construction, prescribed by reason, and adopted by consent, seem to us to reject the interpretation of the British courts.

As this contract is formed between a belligerent and a neutral nation, it must have been designed to secure the rights of each, and consequently to protect the commerce which neutrals may lawfully carry on, as well as to authorize the seizure of articles which they may not lawfully carry to the enemy. But, under the interpretation complained of, not only articles of doubtful use, with respect to the equipment of vessels, but such as are not proper for that purpose, if proper only in very small quantities, and which therefore are not in common so applied, are, because they may by mere possibility admit of that application, classed with articles prohibited, on the principle that they are for the purposes of war.

This construction ought to be rejected, because it would swell the list of contraband to an extent which the laws and usages of nations do not authorize: it would prohibit, as being for the equipment of vessels, articles plainly not destined for that purpose, but fitted and necessary for the ordinary occupations of men in peace; and it would consequently presuppose a surrender, on the part of the United States, of rights in themselves unquestionable, and the exercise of which is essential to themselves, and not injurious to Britain in the prosecution of the war in which she is engaged.

A construction so absurd and so odious ought to be rejected.

In addition to the injury of condemning as contraband goods which cannot properly be so denominated, seizures and confiscations have been made in cases where the condemnation, even if contraband, could not have been justified.

Articles of that description are only by the treaty declared to be just objects of confiscation, whenever they are attempted to be carried to an enemy.

We conceive it certain that vessels bound to New Orleans, and laden with cargoes proper for the ordinary use of the citizens of the United States who inhabit the Mississippi and its waters, cannot, merely on account of the port to which they are bound, be justly said to carry those cargoes to an enemy.

By our treaty with Spain, New Orleans is made for the present a place of deposit for the merchandise and effects of our citizens. Merchandise designed for the consumption of those citizens who reside on the Mississippi or its waters, and which is to be transported up that river, will, in the present State of its commerce, be almost universally shipped for New Orleans: this port being, by stipulation and of necessity, common to the subjects of Spain, and to the citizens of the United States, the destination of the cargo can be no evidence of its being designed for an enemy, and therefore liable to confiscation when composed of articles that might be used in war. In justice, other testimony to this point ought always to be received.

But the destination to New Orleans ought rather to exempt from confiscation articles of ordinary use, but which may also serve to the equipment of vessels. It is well known not to be a port usually resorted to for that object. The Spaniards do not there build or equip vessels, nor has it ever been a deposit for naval stores. When, then, a vessel bound for New Orleans, containing a cargo proper for the ordinary use of those citizens of the United States who are supplied through that port, and evidently designed for them, shall be captured, such cargo is not a just object of confiscation, although a part of it should also be deemed proper for the equipment of vessels, because it is not attempted to be carried to an enemy.

BLOCKADES. 2dly. The right to confiscate vessels bound to a blockaded port, has been unreasonably extended to cases not coming within the rule heretofore adopted.

On principle, it might well be questioned whether this rule can be applied to a place not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction that its extension to towns invested by sea, only, is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle, a departure which has received some sanction from practice, that we mean to complain. It is, that ports not effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein have been seized, and on that account confiscated.

This is a vexation proceeding directly from the Government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it, with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port of the belligerent Powers may at all times be declared in that state, and the commerce of neutrals be thereby subjected to universal capture. But, if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and, of consequence, the mischief to neutral commerce cannot be very extensive. It is, therefore, of the last importance to neutrals that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British minister, who replies that an occasional absence of a fleet from a blockaded port ought not to change the state of the place.

Whatever force this observation may be entitled to, where that occasional absence has been produced by accident, as a storm, which for a moment blows off a fleet and forces it from its station, which station it immediately resumes, I am persuaded, that where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle requiring an effective blockade, which is, that the mischief can only be co-extensive with the naval force of the belligerent, requires that, during such temporary absence, the commerce to the neutrals to the place should be free.

The next object of complaint is, 3dly—The unjust decisions of their courts of Admiralty, and the impunity which attends captures, totally vexatious, and without any probable cause.

It is not to be expected that all commanders of national ships, much less the commanders of privateers, should be men of correct conduct and habits. The temptation which a rich neutral commerce offers to unprincipled avarice, at all times powerful, becomes irresistible, unless strong and efficient restraints be imposed by the Government which employs it. It is the duty of the Government to impose such restraints. Foreign friendly nations, who do not exercise against such cruisers their means of self-protection, have a right to expect and to demand it. The failure to impose them exposes the belligerent Government to the just reproach of causing the injuries it tolerates.

The most effectual restraint is an upright judiciary, which will decide impartially between the parties, and uniformly condemn the captor in costs and damages where the seizure has been made without probable cause. If this practice be not honestly and rigidly observed, there will exist no restraint on the captors. Their greediness of gain will be checked by no fear of loss, and indiscriminate captures will consequently be made. If the vessel be adjudged a good prize, of which before an unjust judge there is, in all cases, considerable probability, the profit is theirs; if the vessel be acquitted, the loss falls entirely on the captured. The numerous depredations consequent on such a state of things is inevitable. The loss to the neutral merchant is immense. His voyage becomes not only unprofitable but injurious to him.

This is the state of things in the British possessions in America, &c.

It is only by infusing a spirit of justice and respect for law into the courts of Vice Admiralty, that their excessive and irritating vexations can be restrained.

This is the state of things in the British possessions in America. Their courts of Vice Admiralty, whatever may be the case, seldom acquit, and, when they do, costs and damages for detention are never awarded.

We know well that judges are appointed, whose duty it is to award costs and damages for detention instead of confiscation, in cases of vexatious seizure; but we know, too, the tenure by which they hold their offices, and the source from which they derive their profits, and we know their practice. We can only attribute this practice to their Government, for it has been notorious, has been of long continuance, and has never been checked. It is not to be supposed that judges circumstanced as are those of the courts of Vice Admiralty, would dare to pursue openly and invariably this vicious system, if it was known to be offensive to their Government.

The existence of an appellate court does not remove the evil. The distance of that event, the expenses and delays attendant on an appeal, the loss inseparable from a first condemnation, though it be afterwards reversed, render it a very inadequate remedy even in cases of unjust condemnation, and absolutely forbid any resort to it on a mere question of costs.

It is only by infusing a spirit of justice and respect for law into the courts of Vice Admiralty, that their excessive and irritating vexations can be restrained, and the imputations to which they subject the British Government wiped away.

This spirit can only be infused by uniformly discountenancing and punishing those who tarnish alike the seat of justice, and the honor of their country, by converting themselves from judges into the mere instruments of plunder.

Until some such reform be made, the practices complained of will continue, and must be considered by foreign nations as authorized by and proceeding from the Government which permits them.

The impressment of our seamen is an injury of very serious magnitude, which deeply affects the feelings and the honor of the nation.

This valuable class of men is composed of natives and foreigners, who engage voluntarily in our service.

No right has been asserted to impress the natives of America. Yet they are impressed, they are dragged on board British ships of war with the evidence of citizenship in their hands, and forced by violence there to serve until conclusive testimonials of their birth can be obtained. These must most generally be sought for on this side of the Atlantic. In the mean time, acknowledged violence is practised on a free citizen of the United States, by compelling him to engage and to continue in foreign service. Although the Lords of the Admiralty uniformly direct their discharge on the production of this testimony, yet many must perish unrelieved, and all are detained a considerable time in lawless and injurious confinement.

It is the duty as well as the right of a friendly nation, to require that measures be taken by the British Government to prevent the continued repetition of such violence by its agents. This can only be done by punishing and frowning on those who perpetrate it. The mere release of the injured, after a long course of service and of suffering, is no compensation for the past, and no security for the future. It is impossible not to believe that the decisive interference of the Government in this respect would prevent a practice, the continuance of which must inevitably produce discord between two nations which ought to be the friends of each other.

Those seamen who, born in a foreign country, have been adopted by this, were either the subjects of Britain or some other Power.

The right to impress those who were British subjects has been asserted; and the right to impress those of every other nation has not been disclaimed. Neither the one practice nor the other can be justified.

With the naturalization of foreigners, no other nation can interfere, further than the rights of that other are affected. The rights of Britain are certainly not affected by the naturalization of other than British subjects. Consequently, those persons, who, according to our laws, are citizens, must be so considered by Britain, and by every other Power not having a conflicting claim to the person.

The United States therefore require positively that their seamen who are not British subjects, whether born in America or elsewhere, shall be exempt from impressments.

The case of British subjects, whether naturalized or not, is more questionable; but the right even to impress them is denied. The practice of the British Government itself may certainly, in a controversy with that Government, be relied on. The privileges it claims and exercises ought to be ceded to others. To deny this, would be to deny the equality of nations, and to make it a question of power and not of right.

If the practice of the British Government may be quoted, that practice is to maintain and defend in their sea service all those of any nation who have voluntarily engaged in it, or who, according to their laws, have become British subjects.

Alien seamen, not British subjects, engaged in our merchant service, ought to be equally exempt with citizens from impressments: we have a right to engage them, and have a right to, and interest in, their persons, to the extent of the service contracted to be performed. Britain has no pretext of right to their persons or to their service. To tear them, then, from our possession, is at the same time an insult and an injury. It is an act of violence for which there exists no palliative.

We know well that the difficulty of distinguishing between native Americans and British subjects, has been used, with respect to natives, as an apology for the injuries complained of. It is not pretended that this apology can be extended to the case of foreigners; and, even with respect to natives, we doubt the existence of the difficulty alleged. We know well that, among that class of people who are seamen, we can readily distinguish between a native American and a person raised to manhood in Great Britain or Ireland; and we do not perceive any reason why the capacity of making this distinction should not be possessed in the same degree by one nation as by the other.

If, therefore, no regulation can be formed, which shall effectually secure all seamen on board American merchantmen, we have a right to expect from the justice of the British Government, from its regard for the friendship of

the United States, and its own honor, that it will manifest the sincerity of its wishes to repress this offence, by punishing those who commit it.

We hope, however, that an agreement may be entered into, satisfactory and beneficial to both parties. The article which appears to have been transmitted by my predecessor, while it satisfies this country, will probably restore to the naval service of Britain a greater number of seamen than will be lost by it. Should we even be mistaken in this calculation, yet the difference cannot be put in competition with the mischief which may result from the irritation justly excited by this practice throughout the United States. The extent and the justice of the resentments it produces, may be estimated in Britain, by inquiring what impression would be made on them by similar conduct on the part of this Government.

Should we impress from the merchant service of Britain not only Americans but foreigners, and even British subjects, how long would such a course of injury, unredressed, be permitted to pass unrevenged? How long would the Government be content with unsuccessful remonstrance and unavailing memorials? I believe, sir, that only the most prompt correction of compensation for the above abuse would be admitted as satisfaction in such a case.

If the principles of this Government forbid it to retaliate by impressments, there is yet another mode which might be resorted to. We might authorize our ships of war, though not to impress, yet to recruit sailors on board British merchantmen. Such are the inducements to enter into our naval service, that we believe even this practice would very seriously affect the navigation of Britain. How, sir, would it be received by the British nation?

Is it not more advisable to desist from, and to take effectual measures to prevent an acknowledged wrong, than, by perseverance in that wrong, to excite against themselves the well founded resentments of America, and force our Government into measures which may possibly terminate in an open rupture?

As we are unacquainted with the present actual state of things in Europe, and the President has the most entire confidence in you, it is not his wish to enjoin on you a representation to the ministers of His Britannic Majesty in the terms of this letter. It is only intended to convey to you the feelings and sentiments of the Government and people of America, and to instruct you from the President himself to call the very serious attention of the British Government, in such terms of respect and earnestness as to yourself shall seem advisable, to the weighty subjects of complaint which have been stated.

With great and sincere respect and esteem, I am, sir, &c. &c.

J. MARSHALL.

Extract of a letter from Mr. King to the Secretary of State, dated

LONDON, *April* 12, 1801.

DEAR SIR:

I lose no time in sending you the annexed copies of a letter which I lately wrote to Lord Hawkesbury, and of his answer respecting the seizure of our vessels carrying from the United States to the Spanish colonies articles of the growth and manufacture of Spain.

Although I had seen in the American newspapers repeated accounts of these depredations upon our trade, the decree of the Vice Admiralty Court of Nassau, in the case of the Leopard, Ropes, master, was the first document which I met with, that possessed sufficient precision to enable me to make it the grounds of a remonstrance.

Mr. King to Lord Hawkesbury.

GREAT CUMBERLAND PLACE, *March* 13, 1801.

MY LORD:

The decree of the Vice Admiralty Court of Nassau, a copy of which is annexed,* condemning the cargo of an American vessel going from the United States to a port in the Spanish colonies, upon the ground that the articles of innocent merchandise comprising the same, though *bona fide* neutral property, were of the growth of Spain, having been sanctioned, and the principle extended, by the prize courts of the other British islands, and particularly by the court of Jamaica, has been deemed sufficient authority to the commanders of the ships of war and privateers cruising in those seas, to fall upon, and capture, all American vessels bound to an enemy's colony, and having on board any article of the growth or manufacture of a nation at war with Great Britain.

These captures, which are vindicated by what is termed the belligerent's right to distress his enemy, by interrupting the supplies which his habits or convenience may require, have produced the strongest and most serious complaints among the American merchants, who have seen, with indignation, a reason assigned for the capture and confiscation of their property, which is totally disregarded in the open trade carried on between the British and Spanish colonies by British and Spanish subjects, in the very articles the supply of which, by neutral merchants, is unjustly interrupted.

The law of nations, acknowledged in the treaty of amity, commerce, and navigation between the United States and Great Britain, allows the goods of an enemy to be lawful prize, and pronounces those of a friend to be free.

While the United States take no measures to abridge the rights of Great Britain as a belligerent, they are bound to resist with firmness every attempt to extend them, at the expense of the equally incontestable rights of nations which find their interest and duty in living in peace with the rest of the world.

So long as the ancient law of nations is observed, which protects the innocent merchandise of neutrals while it abandons to the belligerent the goods of his enemy, a plain rule exists, and may be appealed to, to decide the rights of peace and war; the belligerent has no better authority to curtail the rights of the neutral, than the neutral has to do the like in regard to the rights of the belligerent; and it is only by an adhérence to the ancient code, and the rejection of modern glosses, that fixed and precise rules can be found, defining the rights, and regulating the duties, of independent States.

This subject is of such importance, and the essential interests of the United States, whose policy is that of peace, are so deeply affected by the doctrines which during the present war have been set up in order to enlarge the rights of the belligerents at the expense of those of the neutrals, that I shall, without loss of time, submit to your lordship's consideration such further reflections respecting the same, as its great importance appears to demand.

In the mean time, as the decisions referred to cannot, from the unavoidable delay which attends the prosecution of appeals, be speedily reversed; and as the effect of those decrees will continue to be the unjust and ruinous interruption of the American commerce in the West India seas; it is my duty to require that precise instructions shall, without delay, be despatched to the proper officers in the West Indies and Nova Scotia, to correct the abuses which have arisen out of these illegal decrees, and put an end to the depredations which are wasting the lawful commerce of a peaceable and friendly nation.

With great consideration, I have the honor to be your lordship's most obedient and most humble servant,

RUFUS KING.

* In the case of the American brigantine Leopard, Ropes, master, laden in part with Malaga wines. The cargo, so far as it consisted of wines, though regularly imported into the United States, was condemned by Judge Kensall, 20th October, 1800; "the same being productions of the Spanish territory in Europe, and bound to the transatlantic parts of that empire."

Lord Hawkesbury to Mr. King.

DOWNING STREET, *April* 11, 1801.

SIR:

I have the honor to acknowledge the receipt of your letter of the 13th of last month, and to inform you that, in consequence of the representation contained in it, a letter has been written, by His Majesty's command, by his grace the Duke of Portland, to the Lords Commissioners of the Admiralty; a copy of which letter I herewith enclose to you, for the information of the Government of the United States.

I have the honor to be, with great truth, sir, your most obedient, humble servant,

HAWKESBURY.

The Duke of Portland to the Lords Commissioners of the Admiralty.

WHITEHALL, *March* 30, 1801.

MY LORDS:

I transmit to your lordships herewith a copy of a decree of the Vice Admiralty Court of Nassau, condemning the cargo of an American vessel going from the United States to a port in the Spanish colonies; and the said decree having been referred to the consideration of the King's Advocate General, your lordships will perceive, from his report, an extract of which I enclose, that it is his opinion that the sentence of the Vice Admiralty Court is erroneous, and founded in a misapprehension or misapplication of the principles laid down in the decision of the High Court of Admiralty referred to, without attending to the limitations therein contained.

In order, therefore, to put a stop to the inconveniences arising from these erroneous sentences of the Vice Admiralty Courts, I have the honor to signify to your lordships the King's pleasure that a communication of the doctrine laid down in the said report should be immediately made by your lordships to the several judges presiding in them, setting forth what is held to be the law upon the subject by the superior tribunals, for their future guidance and direction. I am, &c.

PORTLAND.

Extract of the Advocate General's report, dated

MARCH 16, 1801.

I have the honor to report that the sentence of the Vice Admiralty Court appears to me to be erroneous, and to be founded in a misapprehension or misapplication of the principles laid down in the decision of the Court of Admiralty referred to, without attending to the limitations therein contained.

The general principle respecting the colonial trade has, in the course of the present war, been, to a certain degree, relaxed, in consideration of the present state of commerce. It is now distinctly understood, and it has been repeatedly so decided by the High Court of Admiralty and the court of appeal, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence, even to the mother country of such colony; and in like manner the produce and manufactures of the mother country may, in this circuitous mode, legally find their way to the colonies. The *direct* trade, however, between the mother country and its colonies has not, I apprehend, been recognised as legal, either by His Majesty's Government or by his tribunals.

What is a *direct* trade, or what amounts to an *intermediate* importation into the neutral country, may sometimes be a question of some difficulty; a general definition of either, applicable to all cases, cannot well be laid down. The question must depend upon the particular circumstances of each case. Perhaps the mere touching in the neutral country to take fresh clearances, may properly be considered as a fraudulent evasion, and as, in effect, the *direct* trade; but the High Court of Admiralty has expressly decided (and I see no reason to expect that the court of appeal will vary the rule) that landing the goods and paying the duties in the neutral country breaks the continuity of the voyage, and is such an importation as legalizes the trade; although the goods be reshipped in the same vessel, and on account of the same neutral proprietor, and be forwarded for sale to the mother country or the colony.

Mr. King to the Secretary of State, dated

LONDON, *April* 21, 1801.

SIR:

Although the negotiation respecting the debts is not yet concluded, and I am unable to give you any positive assurance how, or even when it will be, I have thought it proper that I should avail myself of the opportunity of Mr. Sitgreaves's return, to send you a copy of my correspondence upon this subject, as well as of that which relates to some other points that are still under consideration. I am inclined to believe that we should before now have come to a satisfactory conclusion upon the subject of the debts, had the old ministry remained in office: their successors profess sentiments respecting our concerns, with which we can find little fault; and, though they have not given me any official assurance concerning the adjustment of the several points now before them, I might, did not experience teach me that foreign circumstances have their influence in deciding the business of this as well as of other cabinets, infer, with some degree of confidence, from their language, that our affairs will ultimately be settled upon reasonable principles.

You will, I think, perceive, from the tenor of the correspondence, that I have not been insensible, on the one hand, to the great disadvantage of the delay which has already taken place, nor, on the other, to the risk to which a reasonable settlement of our affairs may be exposed by any such material changes as would be likely to alter what appears to be the present views of this Government.

Lord Hawkesbury has more than once informed me that he would attend to our concerns the first moment after he had extricated himself from the very pressing and critical state of their foreign and domestic affairs: and the under Secretary, Mr. Hammond, who is almost the only person who has any acquaintance with our affairs, has lately told me that he wished the question of the debts to be settled upon the terms I had offered, and which are mentioned in my No. 6, and, if asked, that he should so express himself to his superior.

Mr. Addington, as well while Speaker of the House of Commons, as since his late appointment, has uniformly expressed himself to me, as well as others, in a favorable manner, not only in respect to the propriety and justice of the conduct of America during the present war, but of the importance of our friendship to Great Britain, and the policy of removing whatever stood in the way of its continuance: and, in a conference upon this subject, which I lately asked of him, he told me that he would act upon those principles which he had often avowed to me in respect to America, and as soon as they could get rid of the weight of urgent business which at present bears upon them, and which he said would be in a short time, the questions respecting America should be taken up and decided.

Lord St. Vincent, too, whose opinion concerning the impressment of our seamen I had reason to believe would be of great authority either for or against the proposed article, upon that subject has explicitly told me that he thought the article a reasonable one; adding, at the same time, that the general subject, both to England and America, was full of difficulties, which were becoming more and more important as America advanced in commerce.

You must not, however, from all this, infer that our business will be settled immediately, or in a way which a wise policy requires that it should be. I think, however, that a decision cannot be much longer deferred; and I certainly do give such a degree of credit to the temper which has of late shown itself, and the language that is held respecting America, that I am disposed rather to hope for than to despair of such a settlement.

The committee of the creditors, if consulted, as they probably will be, upon the terms, will be clamorous against them. But the Government may, notwithstanding, be sufficiently wise and firm to decide this subject upon princi-

ples not only more just, as they regard its merits, than those which the committee would recommend, but with views sufficiently comprehensive to render their decisions subservient to the promotion of good will and harmony with their best, and, in all respects, their most important customers.

It will not, I hope, be thought improper that I take this opportunity to express to you how much I have been obliged to Mr. Sitgreaves for the assistance which he has given to me upon the subject of the debts, and my full persuasion, had the negotiation taken the turn which it was expected it would have done, that his information and talents would have enabled us completely to have established the justice of the explanatory article which we demanded, and which had become necessary to protect us from the injurious effects of the erroneous construction of the treaty which had been attempted at Philadelphia.

I shall keep this letter open, in order that I may send you a copy of Lord Hawkesbury's answer to my last letter, should it arrive before Mr. Sitgreaves's departure.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to Lord Hawkesbury.

GREAT CUMBERLAND PLACE, *March* 10, 1801.

MY LORD:

I have thought it would be saving your lordship both time and trouble, in respect to the several points which have been for some time in discussion with your predecessor, if they were presented in a connected form, and accompanied by such references and observations as should in a concise manner expose the motives in favor of their adoption.

The enclosed paper, marked A, contains these points, in the shape of distinct propositions, to which the requisite form may be given, should they be adopted as additional articles to our treaty of amity and commerce.

My correspondence with Lord Grenville and Mr. Anstey, relative to the first proposition, has been so full that it does not seem necessary to add any thing further upon that head.

The second proposition was fully examined and settled in the summer of 1799; and its formal adoption was deferred until an agreement could be made respecting the subject of the first: my correspondence with Lord Grenville, and between his lordship and the Lords Commissioners of the Admiralty, contain what passed on that occasion. In the enclosed papers, marked B, C, and D, I have suggested the considerations which we have to offer in favor of the third, fourth, and fifth articles.

I am aware that other questions of importance continue to engage the attention of His Majesty's ministers; but our affairs having so long, and almost habitually, given way to others which have been thought more urgent, I cannot refrain from observing, what indeed the tenor of my instructions, as well as my observation of the irritation and difficulty proceeding from their unsettled state, requires me to do, that a further delay in bringing them to a decision, from whatever cause it may arise, and in spite of any representation which I could make, will unavoidably tend to impair that mutual good will and confidence which is the best security against any measure that, in its operation, might weaken the harmony and good understanding between our respective countries.

With the highest consideration and respect, &c.

RUFUS KING.

[Enclosures.]

A.

Articles to be added to the treaty of amity and commerce.

ART. 1. The sixth article of the treaty of amity and commerce to be suppressed, and the United States to engage to pay a sum of money in lieu of what might be awarded under it.

ART. 2. Nails, iron in bars, osnaburgs, ticklenburgs, Russia sheeting, and other cloths made of hemp or flax, and not chiefly and generally used for the sails of ships, to be deemed innocent merchandise, and not included within the provisions of the eighteenth article of the treaty of amity and commerce.

ART. 3. No American vessel, bound to New Orleans, or returning from thence to any port of the United States, to be stopped or detained under pretence that any part of her cargo is contraband of war.

ART. 4. Neither party to impress upon the high seas seamen out of the vessels of the other.

ART. 5. His British Majesty to relinquish all claim to the Maryland Bank stock, and immediate measures to be taken to transfer the same to the American minister for the use of that State.

B.

NEW ORLEANS.

The inhabitants of the United States, settled upon the western side of the Appalachian mountains, exceed half a million; and, from the excellency of the climate, and the fertility of the soil, the number is daily increasing. The exchanges of their productions for the various supplies which they receive from the commercial towns of the United States upon the Atlantic ocean, are carried on through the Mississippi. No trading town having been yet established upon the eastern bank of this river, within the limits of the United States; to obviate the inconvenience arising from this circumstance, Spain consented, in her late treaty, that New Orleans should become the depository of the American merchandise and productions arriving as well from the ocean as from the interior country: and it is at this place that the Americans meet, and that the flour, tobacco, and similar productions, of those living upon the banks of the Ohio, and of other waters falling into the Mississippi, are exchanged for such other articles as they stand in need of, and which are sent from New York, Philadelphia, and other commercial cities.

Among these supplies are nails, spikes, and iron, in different forms and stages of manufacture, coarse linen, light duck, and small cordage, used for the construction of houses as well as the building and equipment of the vessels employed in transporting upon the lakes and rivers the productions and supplies of the inhabitants. The trade between New Orleans and the commercial towns of the United States has of late been frequently and injuriously interrupted, under pretence that it supplied the enemy with articles deemed contraband of war: the peculiar circumstances of New Orleans, situated in the middle of the river Mississippi, which is the boundary between the United States and Spain, and in fact an American as well as a Spanish port, have been disregarded in the courts of Vice Admiralty; and although it is notorious that it is in no sense an arsenal port, as neither ships of war nor privateers are equipped there, the law has been applied with uncommon rigor in every instance in which articles, that, by a forced construction, could be treated as contraband, have been found on board American vessels carrying the same not to the enemy, or to a place where armed ships were built or repaired, but to their fellow-citizens, who want them for necessary and innocent purposes, and who can obtain them in no other manner.

While the United States acquiesce with cheerfulness in the rights of the belligerent Powers, they are not insensible to those of peaceable nations, and are bound to pay particular attention to such as affect the welfare of their own people. So long as they continue scrupulously to fulfil the duties of neutrality, and to discourage every act of partiality, as they have done, they feel assured that they shall not call upon the justice of Great Britain in vain to accede to such regulations as, without affecting injuriously her own rights, are necessary to secure the enjoyment of those of a Power with which she lives in amity.

It is not thought necessary to give greater extension to these reflections; the object aimed to be secured is the unquestionable right of the people of the United States to an uninterrupted commercial intercourse with each other, whether the same is carried on by the ocean which washes their shores, or by the interior communications of the country: and, to avoid, in future, the interruptions of this right, it is proposed that it be stipulated, "that no Ame-

rican ship or vessel passing or repassing between any port of the United States, and the Island of New Orleans, situated in the river Mississippi, should be stopped or detained, upon the pretence that any part of her cargo is contraband of war."

MARCH 9, 1801.

C.

IMPRESSMENT OF SEAMEN.

In addition to the occasions of complaint, common to all the neutral Powers, against the interruptions to which their commerce is subjected by the irregular conduct of the cruising ships and privateers of the belligerents, the United States have one peculiar to themselves, arising from the practice of impressing seamen to man the British navy.

It may be confidently asserted that the United States take no measures to engage in their service the seamen of other countries: that their ships are navigated, in as great a proportion as those of any other nation, by their own people; and that peculiar pains have been taken to discriminate American from British seamen, in order to avoid, if possible, the inconveniences and misunderstanding of the interfering claims of the two countries.

The subject having been very fully explained in a letter to Lord Grenville of the 7th of October, 1799, requires no further development on the present occasion. It is hoped that measures will be devised, upon the return of peace, which, by securing to both parties, as far as practicable, the services of their respective seamen, shall moreover protect them from the inconveniences and injury to which each may be exposed by the continuance and extension of the practice of impressing seamen out of the vessels of the other. A limited and temporary regulation is necessary for the safety of the American navigation, which of late, and especially in the American seas, has been exposed to the greatest risks, by the loss of seamen taken out of American ships by the ships of war of Great Britain.

Admitting that each, within its territorial limits and jurisdiction, may detain its own seamen found in the service of the other, in order that they may be employed in its own, it by no means follows that this can be done upon the open seas, where the jurisdiction of all nations is equal.

The belligerent right to examine, in time of war, neutral ships sailing upon the ocean, gives no countenance to the practice of stopping them for the purpose of searching for and seizing such of their crews as may be claimed as subjects of the belligerent nation.

If this practice be justifiable, it is as much so in peace as in war; and, as it may be resorted to by one nation as well as another, the consequence of its becoming general would be the universal interruption, in peace as well as war, of the beneficial intercourse and commerce of nations. The advantages to Great Britain derived from this practice are inconsiderable, could they be justified; while the injury to the United States is not only destructive of the security of friendly property, but sometimes a violation of the laws of humanity. Instances have recently occurred in which every able seaman has been taken out of an American ship met by a British cruiser in the American seas, and replaced by boys and invalids, leaving not only the ship and cargo, but the lives of the people, exposed to the perils of the ocean.

To restrain this abuse in future, and until more comprehensive and precise regulations can be devised to secure the respective rights of the two countries, it is proposed that it be agreed "that neither party shall upon the high seas impress or take any seaman, or other persons, out of the vessels of the other."

MARCH 9, 1801.

D.

MARYLAND BANK STOCK.

Several years before the American war, the colony of Maryland, by a tax collected from its inhabitants, raised a sum of money, which was remitted to three London merchants of the name of Hanbury, Grove, and Russell, to be invested in bank stock. The object of the investment was the creation of an annuity applicable to certain public purposes in the colony. This stock, the dividends having been invested in new capital, must amount at this time to about one hundred thousand pounds.

In the course of the American war, the real estates of British subjects were confiscated by the State of Maryland, and property belonging to both Hanbury and Russell was included in the confiscation. On the return of peace, Maryland called upon the trustees, Hanbury, Grove, and Russell, to account. Grove lost nothing in Maryland, and did not object to account. Hanbury consented to account, in consequence of an agreement made with the agent of Maryland, by which his loss is to be compensated as soon as the stock is transferred to the State. Russell refused to account, and set up a claim to indemnify himself out of the stock for his property confiscated in Maryland, taking care, notwithstanding, to prefer his claim, with those of the American loyalists, for compensation from the British Government. At this stage of the business, the agent of Maryland filed a bill in Chancery against the trustees, to oblige them to account. Grove was indifferent which side prevailed; Hanbury united with the agent of Maryland, as his compensation depended upon the transfer being made to the State; Russell still opposed, and preferred his claim for compensation out of the stock which was ordered to be transferred to the Accountant General of the Court of Chancery, in whose name it now stands. The suit has been upwards of fifteen years depending. After hearing one or two arguments, the Chancellor informally gave an opinion that the stock had belonged to the colony of Maryland, a corporation created by the Crown; that this corporation had been dissolved, and that the property in question had accrued to the King; that the suit before him was brought by an independent State, over which he had no jurisdiction, and, for this reason, that he must dismiss the bill; suggesting, at the same time, that he would suspend doing so, as perhaps His Majesty might signify his pleasure that the stock should be transferred to the State of Maryland. As soon as this opinion was pronounced, Russell communicated it to the commissioners charged with the claims of the American loyalists, who thereupon granted their certificate of the amount of Russell's loss, which was immediately presented and paid at the Treasury. This payment put an end to the only impediment, on the part of the trustees, to the transfer of the stock.

Lord Baltimore and some others, having no connexion with this trust, but alleging that their property had been confiscated in America, preferred claims for indemnity out of this fund. If their losses arose from the confiscation of real estates, which the United States were not bound to restore, Great Britain not only consented to compensate them, but in fact has done so, and in the most liberal manner: if they proceeded from the confiscation of debts, the treaty of peace, as well as that of amity and commerce, provides for their recovery, notwithstanding such confiscation; and, in either case, the claimants have no demand upon the stock in question.

The Legislature of Maryland, not feeling the force of the fiction by which the property in question is supposed to have accrued to the Crown, in consequence of the dissolution of the colonial corporation, (a dissolution to which the King gave his consent in the treaty of peace which is understood to have secured to the State all the property belonging to the colony,) is annually engaged in an inquiry respecting this property, the delays and impediments in the recovery of which excite and disseminate dissatisfaction, and every year do more and more injury to that harmony and good will which it is so much to be desired may long subsist between the two countries.

It is understood that the King has always been willing to relinquish all claim to this property; and the Lord Chancellor, from time to time, has given assurances that measures should be devised to effect its transfer. To bring this business to a close, it is proposed to add an article to the treaty of amity, &c., by which it shall be stipulated "that His Majesty consents to release all claims that he may have to the stock in question, and that immediate measures shall be taken to transfer the same to the American minister, for the use of the State of Maryland."

MARCH 9, 1801.

APPENDIX.

CORRESPONDENCE RESPECTING CONTRABAND OF WAR.

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE, *March* 25, 1799.

MY LORD:

With a view to greater precision, it might be advantageous to recast the whole of the eighteenth article of the treaty of amity, commerce, and navigation; but this would require more time and attention than could, perhaps, at this moment be spared from other and more urgent engagements, or than would consist with the speedy attainment of the particular object of the conference that I lately had with your lordship on this subject.

Referring, therefore, to some future period the general subject, I submit to your lordship's consideration the proposal that I am ordered to make in respect to a more exact definition of the articles of naval stores, which, according to the intention of the parties, and the law of nations, ought to be esteemed as contraband of war.

Our treaty, after enumerating certain articles, as arms and implements, serving for the purpose of war, adds, "and also timber for ship building, tar, or rosin, copper in sheets, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels, unwrought iron and fir plank only excepted."

It is in consequence of the great comprehension of the last clause of this paragraph, that the ships of the United States trading to the Dutch and Spanish colonies are subjected to great loss and damage, by seizure and detention, for having on board either iron nails of various sizes, which serve directly and chiefly for the construction of houses and other buildings in the said colonies, and for the making of sugar casks, boxes, and other packages, or osnaburgs, an inferior sort of thin, coarse linen, and used chiefly for negro clothing. Nails of this description are of a size that cannot supply the place of spikes which serve directly for ship building; and osnaburgs are wholly unfit for the sails of vessels even of the lowest tonnage that frequent the ocean. Notwithstanding this difference between sail-cloth and osnaburgs, and between spikes and house nails, as well as between their respective uses, the one is confounded with the other by the British cruisers in the West Indian seas.

In order to avoid the interruption and loss arising from this error, we propose, by way of an additional article, to agree upon the enumeration of those articles which alone shall be deemed to serve directly for the equipment of vessels, or upon an enumeration of such as shall not be so considered; or, if it shall be preferred, to exchange declarations, to be followed by correspondent instructions to your ships of war, cruisers, and Courts of Admiralty, excepting the articles above mentioned from the catalogue of articles deemed to be contraband of war.

In any of these modes, the object at which we aim may be attained: the choice is submitted to your lordship, in the persuasion that the end is one that must receive your lordship's approbation.

With perfect consideration, &c.

R. K.

Lord Grenville to Mr. King.

DOWNING STREET, *April* 22, 1799.

Lord Grenville presents his compliments to Mr. King, and has the honor to send him enclosed a specification of the nails which it is understood may be excepted, without inconvenience, from the provisions of the eighteenth article of the treaty of amity, commerce, and navigation, between His Majesty and the United States.

Specification.

Nails, clasp headed,	Of sizes for house building.
Ditto, fine,	
Spikes,	
Brads, batten,	
Ditto, flooring,	
Nails, flat headed,	Of sizes for sugar casks and boxes.
Ditto, trunk,	

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE, *April* 30, 1799.

Mr. King presents his compliments to Lord Grenville, and has the honor to acknowledge the receipt of his lordship's note of the 22d instant, enclosing a specification of such nails as are understood not to be included in the catalogue of articles deemed contraband of war. Mr. King is not certain that the proposed specification includes the different sorts of nails used for house building in Great Britain, as the rose-headed nail, and perhaps others, are omitted; and he is the more apprehensive that any description by mere names will be insufficient, as different names are given to nails of the same sizes in the United States and in England; the American names being generally taken from the uses to which the nail is applied, or from the price per hundred or per thousand. Other names, differing from those of England and the United States, may be given to the same nails in the British colonies, and the article intended to be explanatory may itself require explanation.

To avoid this want of precision, Mr. King takes the liberty to suggest, instead of the enumeration, or a specification, as has been proposed, that it should be agreed that all iron nails under the size of spikes or deck-nails should be excepted from, and not included within, the provisions of the eighteenth article of the treaty of amity, commerce, and navigation, between the United States and Great Britain.

Lord Grenville to Mr. King.

DOWNING STREET, *May* 27, 1799.

Lord Grenville presents his compliments to Mr. King, and has the honor to transmit to him the copy of a letter from Mr. Nepean to Mr. Hammond, conveying the opinion of the commissioners of His Majesty's navy, as to the description of nails which they conceive may be excepted from the provisions of the eighteenth article of the treaty of amity, commerce, and navigation, between His Majesty and the United States.

Evan Nepean to George Hammond.

ADMIRALTY OFFICE, *May* 24, 1799.

SIR:

My Lords Commissioners of the Admiralty having referred to the Navy Board your letter to me, of the 6th instant, respecting such sort of nails as are understood not to be considered as amongst the articles deemed contraband of war, and they having reported it to be their opinion that nails under four inches in length, without any other description, may be excepted from the provisions of the eighteenth article of the treaty of amity, I have their lordships' commands to acquaint you therewith, for the information of Lord Grenville; and am, &c.

E. N.

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE, *June* 5, 1799.

MY LORD:

I have had the honor to receive your lordship's note, of the 27th ultimo, enclosing a copy of Mr. Nepean's letter to Mr. Hammond, respecting the description of nails not included in the provisions of the eighteenth article of our treaty of amity, commerce, and navigation. The description appears to me to be satisfactory; and nothing now remains to attain the object of my note of the 25th of March, but to agree in a like satisfactory description of such cloth as, upon the allegation of its being sail-cloth, is erroneously supposed to be contraband of war, and so included within the provisions of the above mentioned article.

On this head, I take the liberty to propose to your lordship that it shall be agreed "that osnaburgs, ticklenburgs, Russia sheeting, and all other cloth made of hemp or flax, and not generally and chiefly made use of for the sails of ships, shall be excepted from the provisions of the aforesaid article of our treaty."

It seems hardly necessary to remark that the comprehensive provisions of the treaty in question, in respect to articles deemed contraband of war, secure all the material or important rights and interests of the belligerent; and that it cannot be desirable to enlarge the construction of these provisions, so as to embarrass the neutral in a trade little or not at all capable of being any way prejudicial to the belligerent. With the most perfect reliance upon your lordship's liberality and moderation on this as on other and more important occasions,

I have the honor, &c.

R. K.

Same to same.

GREAT CUMBERLAND PLACE, *August* 1, 1799.

MY LORD:

The number of complaints that I continue to receive of the interruption of the American trade in the West Indian seas by His Majesty's cruisers, occasioned by a mistaken interpretation of our treaty in respect to the articles of contraband, will be my apology for recalling your lordship's attention to my former representations upon this subject.

As I understand the import of our past correspondence, the explanations concerning nails and sail-cloth are settled, and nothing remains but to agree that "iron in square or flat bars" is not contraband of war—a proposition so plain and reasonable that I flatter myself no difference of opinion respecting it can exist between us. A short article to this effect, and including the other two points, would at once put an end to the greatest portion of the complaints that have so frequently occurred in the course of the last ten months.

With very great respect, &c.

R. K.

Mr. King to Mr. Hammond.

GREAT CUMBERLAND PLACE, *September* 14, 1799.

Mr. King presents his compliments to Mr. Hammond, and, according to his request, takes the liberty to send him enclosed the draught of the proposed additional article to the treaty of amity, commerce, and navigation, between the United States and Great Britain, which Mr. King is more and more anxious, on account of the continued interruptions of the American trade, should be concluded with the least possible delay.

Explanatory article to be added to the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America.

Whereas, by the twenty-eighth article of the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, signed at London, on the 19th day of November, 1794, it was agreed that the contracting parties, from time to time, would readily treat of and concerning such further articles as might be proposed; and that such articles, after having been duly ratified, should be added to, and make a part of, that treaty: And whereas doubts have existed whether, according to the just interpretation of the eighteenth article of the said treaty, the goods and merchandise hereinafter mentioned might not be considered as included within its provisions, and treated as contraband of war: And as it is expedient that the doubts aforesaid should without delay be removed, the undersigned, being respectively named by His Britannic Majesty and the United States of America their plenipotentiaries for the purpose of treating of and concluding such articles as may be proper to be added to the said treaty, in pursuance of the above mentioned stipulation, and having communicated to each other their respective full powers, have agreed and concluded, and do hereby declare, that iron in flat or square bars, iron nails of less than four inches in length, osnaburgs, ticklenburgs, Russia sheeting, and all other cloth made of hemp or flax, and not generally and chiefly used for the sails of ships, are excepted from, and not included within, the provisions of the said eighteenth article, and that none of the said goods and merchandise shall be considered or treated as contraband of war.

This explanatory article, when the same shall have been ratified by His Britannic Majesty, and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be added to, and make a part of, the treaty of amity, commerce, and navigation, between His Britannic Majesty and the United States of America, signed at London, on the 19th day of November, 1794, and shall be permanently binding upon His Majesty and the United States, and upon their respective subjects and citizens.

In witness whereof, we, the said undersigned, plenipotentiaries of His Britannic Majesty and the United States of America, have signed this present article, and have caused to be affixed thereto the seal of our arms. Done at London, this —— day of ——, 1799.

Mr. King to Lord Grenville.

GREAT CUMBERLAND PLACE, *November* 18, 1799.

MY LORD:

I have heretofore represented to your lordship the frequent interruption received by our navigation in the American seas, under the pretext that bar-iron, nails, Russia sheeting, and some other articles of innocent merchandise, might be considered and treated as contraband of war. The conferences that I have had with your lordship upon this subject gave me reason to expect that these embarrassments, so detrimental to us and so little beneficial to others, would in future be checked by an explanatory article to our treaty that should distinctly exclude these articles from the catalogue of contraband.

But these interruptions, instead of ceasing, as we hoped would have been the case, have of late been increased and extended: for not only the private armed ships in those seas, but the squadron under Sir H. Parker, have together fallen upon our navigation, and a large portion of our ships engaged in the trade between the United States and the Spanish colonies have been seized, and their cargoes condemned, as we are informed, upon the extraordinary and erroneous pretence that Spain had interdicted the trade of foreigners with her colonies; and this at the same time that numerous adventures to the Spanish colonies, composed, in some instances, of the very cargoes taken from the Americans, were undertaken by and on account of British subjects residing in the islands to which the American ships were sent for adjudication.

We are ignorant whether orders have been given that can, in any degree, countenance these ruinous depredations, or whether they proceed from less excusable motives on the part of the captors. It is our inclination to believe that no such orders have been given; but the effect is nearly the same on either hypothesis, as the great loss by the disadvantageous sale of our cargoes, under the decrees of the provincial courts of admiralty, joined to the time and expense requisite to bring to an issue our claims before the court of appeals, produce a result that, in a plurality of cases, makes it a measure of prudence to abandon our property, instead of pursuing the remedy that is held forth to us.

It is my duty to complain to your lordship of the injury that, under color of His Majesty's authority, is thus committed upon the citizens of a country that has given, and continues to give, unequivocal proofs of a sincere desire to live in friendship with Great Britain; and, in doing so, I am anxious to press upon your lordship's consideration the uneasiness and dissatisfaction so unfavorable to the intercourse and harmony between our respective countries, that must, and especially at the present moment of commercial embarrassment, proceed from losses so unexpected and considerable.

Your lordship will, I persuade myself, order this complaint to be investigated without delay: and so unjustifiable has been the conduct of the captors, that I flatter myself that not only a prompt and adequate remedy will be afforded to the sufferers, but, moreover, that such precise instructions will be given as shall secure us against the like injuries hereafter.

With the most perfect consideration, &c.

R. K.

Mr. King to the Secretary of State, dated

LONDON, *June* 1, 1801.

DEAR SIR:

Annexed I send you the copy of a letter which I have just received from Lord Hawkesbury, on the subject of the depredations upon our trade in the West Indies. As there can be no objection to its publication, you will perhaps think it advisable to have the letter and its enclosures printed in our newspapers, by which means it will reach the West Indies, and be seen by those whose abuses it seems intended to restrain.

Two days ago, by Lord Hawkesbury's request, I waited upon him in Downing street, when he informed me, that, having understood that we were about to send a small squadron of frigates into the Mediterranean for the protection of our trade against the Barbary Powers, he had received the King's commands to state to me, for the information of the President, that His Majesty had given orders that the ports of Gibraltar, Minorca, and Malta should be open to our ships of war, and that they should, moreover, be supplied from His Majesty's magazines in those ports with whatever their necessities might, from time to time, require. I, of course, made my acknowledgments for this friendly communication, and added, that I would immediately transmit it to you, for the President's information.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

Lord Hawkesbury to Mr. King.

DOWNING STREET, *May* 30, 1801.

SIR:

I have the honor to transmit to you, for your information, the copy of a letter (with its enclosures) from Mr. King to Mr. Hammond, in answer to a representation which I had directed to be made to the Duke of Portland, on the subject of the capture of American vessels trading to the Spanish colonies in the West Indies; and I trust that you will consider this communication as furnishing an additional proof of the disposition of His Majesty's Government to repress any practices on the part of His Majesty's subjects which may tend to molest or impede the legal commerce of the citizens of the United States.

I have the honor to be, with great consideration, sir, your most obedient humble servant,

HAWKESBURY.

Mr. John King to Mr. Hammond.

WHITEHALL, *May* 27, 1801.

SIR:

Having laid before the Duke of Portland your letter of the 18th instant, with its enclosures, relative to the capture of American vessels trading to the Spanish colonies in the West Indies, His Grace lost no time in referring them to the consideration of His Majesty's Advocate General; and I am now directed to transmit to you, for Lord Hawkesbury's information, a copy of his report thereupon, together with a copy of a letter which the Duke has written upon the subject to the Lords Commissioners of the Admiralty.

I am, &c. J. KING.

Letter from the Duke of Portland to the Lords Commissioners of the Admiralty.

WHITEHALL, *May* 27, 1801.

MY LORDS:

I transmit to your lordships, herewith, for your information, an extract of a letter from Mr. Thornton, His Majesty's Chargé d'Affaires in America, to Lord Grenville, with copies of its enclosures, relative to the capture of American vessels trading to the Spanish ports, together with a copy of the report of His Majesty's Advocate General, to whom, by the King's command, the papers in question have been referred.

I have, at the same time, the honor to signify to your lordships His Majesty's pleasure that you should direct the Judges of our Colonial Vice Admiralty Courts to follow and be guided in their decisions in cases relating to the trade carried on between a neutral and belligerent nation, by the rules and principles established in the High Court of Admiralty, and laid down in the enclosed report of His Majesty's Advocate General. And the better to enforce a uniform and strict adherence to those principles, I am further to signify to you the King's commands that directions should be given to withdraw letters of marque and reprisal in cases where the owners thereof shall appear wilfully and knowingly to have captured and brought in for adjudication, contrary to His Majesty's existing instructions, vessels trading between a neutral country and the enemy's colonies.

I have the honor to be, &c.

PORTLAND.

Report of the King's Advocate.

LINCOLN'S INN FIELDS, *May* 23, 1801.

MY LORD DUKE:

I am honored with your Grace's letter of the 19th instant, transmitting to me several papers which have been communicated to your Grace by Lord Hawkesbury, from His Majesty's Chargé d'Affaires in America, with a direction to take them into consideration, and to report to your Grace, for His Majesty's information, my opin-

ion, whether, in consequence of what is contained in the extract of Mr. Thornton's letter to Lord Grenville, especially that part of it which states "a principle to have been lately adopted in the Courts of Vice Admiralty at Jamaica and Providence, that no commerce would be permitted between a belligerent and neutral nation, in the vessels of the latter, but such as had been authorized previously to the commencement of hostilities," it would be advisable to make any or what communications to the Vice Admiralty Courts at Jamaica and the Bahamas for their guidance and direction.

In obedience to your Grace's commands, I have considered the papers referred to me, and I have the honor to report that the principle stated to have been lately adopted in the Courts of Vice Admiralty at Jamaica and Providence, is directly in opposition to the decisions daily passing in the High Court of Admiralty and the Court of Appeal. It has been held by the tribunals of this country that neutrals cannot be admitted by the enemy, under the pressure of war, to carry on his colonial trade, from which, in time of peace, they were wholly excluded. But this principle may be, and has been, on account of special circumstances during the present hostilities, to a certain degree relaxed. His Majesty's instructions of January, 1798, only order that vessels shall be brought in for legal adjudication, which are coming directly from the enemy's colonies to Europe, and not being bound to England or a port of their own country. A trade between the neutral country and the enemy's colonies is now clearly permitted. Colonial produce actually imported into the neutral country may also be re-exported from thence to any other place, even to the mother country of that colony of which it is the produce. His Majesty's existing instructions are, therefore, the rule, by which at present the Judges of the Vice Admiralty courts ought to govern themselves; and I humbly apprehend that it would be advisable to convey to the courts referred to a direction to that effect, as the application of the more extended principle upon which they are represented to act may be productive, not only of much injustice, but of great public inconvenience.

I have the honor to be, &c.

J. NICHOLL.

Mr. Madison, Secretary of State, to Rufus King, Minister to England, dated

DEPARTMENT OF STATE, *December* 10, 1801.

The accounts of peace have, with some interested exceptions, given the most sincere pleasure throughout the United States. Its effects have not yet very fully unfolded themselves, but are appearing in the fall in prices of some of our productions, particularly flour and grain. It is thought probable, however, that, as often happens, the first effect will in this case exceed the more durable one. It is certain that the quantity of these particular articles, promised to foreign markets by the exuberance of our summer harvests, will be materially abridged by the scanty crops of Indian corn which, in the Middle and Southern States, have failed more generally than has for many years happened.

Among the effects of the peace in this country, none will be more important than the shock which will be felt by our navigation. Besides the loss of the extra carrying trade derived from the war, the countervailing act of Great Britain, founded on the treaty of 1794, must inevitably banish American vessels from all share in the direct trade with any part of the British dominions, as fast as British vessels can enter into competition. I have already heard of one instance in which an American owner of eight or ten ships has chartered a British ship for a cargo of cotton, as preferable to the use of his own. Instances, I am told, have occurred, even during the war, in which merchants, inattentive to the British statute, or ignorant of it, have found, to their regret, that, by shipping tobacco in American bottoms, when British bottoms could have been had, they were considerable losers by it.

This subject can scarcely fail to produce much sensation in some classes of our citizens. Three remedies occur for consideration. The first is that of imposing *light duties* on foreign vessels. This may fairly be done; but, if carried to an amount materially relieving our navigation, would probably be construed into an indirect violation of the compact. The second remedy might be to repeal here the discrimination between American and foreign ships, with respect to the impost on their cargoes, and to call on Great Britain to repeal her countervailing law. An objection to this expedient is, that it would either give an unnecessary advantage to other foreign nations, or involve disputes or complaints from them. Another difficulty is, that before these concurrent repeals could be brought about, a great part of the evil will have taken place. The third remedy is that of an immediate amendment of the British act adjusting the countervailing duties to a real equality with those of the United States. This, it is conceived, may be justly claimed on the ground that the known object, the true spirit, and the obvious import of the terms of the treaty, require that the relative advantages and disadvantages of the vessels of the two countries, in the trade between them, should become such as to put them on a fair equality. Before the treaty took place, it was complained by Great Britain that her vessels were placed under an inequality and disadvantage by the difference of tonnage duty, and a difference of one-tenth in the impost on merchandise laid by the United States in favor of their own vessels. In the treaty, the United States agreed that Great Britain might countervail these differences—in other words, might lay an equal tonnage duty on American vessels, and a duty on their cargoes equivalent to the additional duty laid in the United States on the cargoes of British vessels. By calculating this additional duty of ten per cent., not according to its real or estimated amount in the United States, but according to British rates, which are more than ten times as high, and in many articles near ten times ten, every idea of equalization is abandoned, and the alleged difference in favor of one side, which was to be remedied by the treaty, is, by the construction of the treaty, made infinitely greater in favor of the other side. No sound rules of interpretation can authorize such a consequence, nor, I will add, can any wise policy adhere to it.

What course may be preferred by Congress, on this occasion, is not known. It is not improbable that one or other of the expedients within their powers may be taken into consideration. The expedient, which belongs to the Executive Department, may, in the mean time, be a subject of negotiation, and being the most eligible, will, if likely to succeed, preclude a resort to any other. It is accordingly the wish of the President that no time may be lost in stating to the British Government the light in which their countervailing act is viewed here, and in endeavoring to obtain an accommodation of it to some rule that will produce a real equality to the navigation of the two countries, as intended by the parties, instead of that ruinous inequality to the navigation of one of them, which must result from the rule adopted.

This subject would have been committed to your attention at an earlier day; but it was thought best to await the conclusion of others depending with the British Government. The sudden and unexpected peace which has taken place varies the case, and calls for an immediate interposition in behalf of our citizens.

France, also, has a discrimination in force, which must exclude American vessels from any share in the carriage of the important article of tobacco to her ports. But as no stipulation can be pretended to restrain us from countervailing the inequality, the remedy is in our own hands if she should not see the propriety of applying it herself.

Mr. King to the Secretary of State.

LONDON, *February* 5, 1802.

SIR:

Having carefully examined what would be the footing of our navigation with the British dominions, upon the return of peace, I was quite prepared for, and, indeed, by several conversations, with Mr. Addington and other members of the administration, had already brought under consideration the subject of your letter of the 10th December, which I received a few days ago.

Immediately after its receipt, I intimated to Lord Hawkesbury my desire to confer with him respecting the points to which it relates; and, upon his naming a day for this purpose, I prepared and sent him the paper, a copy of which is annexed. Yesterday, I received the duplicate of your letter, of December 22d, which has enabled me to be more explicit, than I otherwise should have been, in my conference of this morning with Lord Hawkesbury. I began it by observing that, during the continuance of the war, which had the effect to procure to our vessels some preference over theirs, we had not called their attention to the inequality of their laws, in respect to the commercial intercourse between the two countries; but as the war was now at an end, we could not delay calling upon them to reverse these commercial regulations, in order that they may be made conformable to the respective rights of the two countries. The revision of certain branches of these regulations being more urgent than that of others, and the countervailing duties upon articles imported into Great Britain, in American vessels, appearing to be the most urgent, I confined my observations chiefly to this point, explaining to Lord Hawkesbury my motives for doing so; and, after suggesting some further reflections, in addition to those contained in the paper I sent to him, I proposed that they should agree, either

To discontinue the countervailing duties on articles imported from the United States, in American vessels, as soon as the difference of duties on articles imported into the United States in American and British vessels, shall be abolished: or

To repeal the countervailing duties on imports, and impose duties upon all articles exported from Great Britain to the United States in American vessels, corresponding with the difference of duties payable upon the importation of the like articles into the United States in American and British vessels.

Lord Hawkesbury admitted that the only legitimate purpose of the countervailing right, reserved to Great Britain, was to equalize the advantages and disadvantages of the vessels of the two countries in their commercial intercourse. He said not a single word in vindication of the manner in which this right had been exercised; and, after intimating a preference of the first of the two propositions which I had made, he said he would submit the subject immediately to the cabinet, and apprise me of its decision with as little delay as possible.

The American mail was to have been despatched to-morrow; but, upon my expressing to Lord Hawkesbury my hope that a few days only would be requisite to enable him to give me an answer upon the subject of our conference, and my solicitude to transmit it to you by the packet, he said he would order the packet to be detained.

The few words which I said concerning the tonnage duty, was, in every respect, conformable to the observations upon that subject in the paper sent to Lord Hawkesbury; and the more I consider it, the more am I satisfied that we shall find the advantage of establishing light-house duties so as to be distinct from the public revenue.

Lord Hawkesbury assured me that the subject of the West India trade should be immediately put in a train for examination.

I have but one observation to add: it is, that the return of peace will not establish cordial harmony and good humor between this country and the maritime nations of Europe, among which a general opinion prevails, whether correctly, is another point, that the commercial and financial prosperity of England is, in too great a degree, at the expense of her neighbors.

These sentiments may lead to restrictions and embarrassments upon the European commerce of this country, which will not fail to make its trade with us an object of still greater value and importance than it is already known and confessed to be. Difficulties of this sort are anticipated, and the Government consoles itself with the expectation of a progressive increase of the sale of its manufactures in America.

The inference from these remarks is, that the present time is a favorable one to press for the consideration and admission of our just claims to a fair and equal share of the advantages to be derived from the navigation and trade between the two countries. The regulations upon this subject should, in the first instance, be temporary and ex-parte; in this way they may be adjusted to the reciprocal rights of the parties, and then become matter of national stipulation.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to Lord Hawkesbury.

GREAT CUMBERLAND PLACE, *February* 3, 1802.

MY LORD:

With the view of assisting our conference on Friday next, I have prepared, and take the liberty to send your lordship the enclosed paper, concerning the present footing of the navigation and trade of the United States with the dominions of Great Britain; and which likewise suggests the grounds of our claim to an equal participation in the navigation employed between the United States and the British West Indies, as well as the objections which we have against the act of Parliament for carrying into execution the treaty of 1794.

I have the honor to be, with high consideration, your lordship's most obedient and very humble servant,

RUFUS KING.

Right Honorable Lord HAWKESBURY.

Observations respecting the Navigation and Trade of the United States of America with the dominions of Great Britain.

NAVIGATION BETWEEN THE UNITED STATES AND THE BRITISH COLONIES.

The treaty of 1794, between the United States and Great Britain, provides for, and regulates the commercial intercourse between the territories of the former, and almost all parts of the British dominions, except those in the West Indies: the provisions concerning this branch of their navigation and trade, originally inserted in the treaty, having, on account of their inequality, been excluded, at the instance of the United States, the intercourse is open to the regulations of the respective parties.

Hitherto the United States have made no regulations upon this subject, because the regulations on the part of Great Britain, contained in the statute of the 28th of George III, c. 6, having been suspended on account of the war, the trade has been opened to, and carried on by, American as well as British ships. But, as the war is now at an end, and the suspension of the British statute may be discontinued, it becomes expedient to examine the regulations which it contains.

These regulations divide themselves into two distinct heads: the first regards the articles which may be exported from the British West Indies to the United States, and those which may be exported from thence to the British West Indies: the second regards the carriage of those articles between the United States and the British West Indies.

In respect to the first head, the United States, which offer so extensive a market to all sorts of British manufactures and productions, may reasonably expect to find, in return, a market in the British West Indies for certain articles in their power to supply with advantage, but which have hitherto been prohibited.

In respect to the second head, it may be observed that these regulations exclude the American ships from any share in the carriage of the articles referred to, by confining the same exclusively to British ships, including as well the exports of the United States to the British West Indies, as the exports from thence to the United States. The mere statement of this regulation shows its inequality; and whether it be referred to the principles of commercial reciprocity, or to those even of the navigation act of Great Britain, the inference is the same, and in favor of its revision.

"If the colonies be considered as parts of the common empire, the trade between one part and another, as between London and Kingston, in Jamaica, may be considered equally internal, as with the coasting trade between London and Liverpool, and if deemed expedient, might be restrained to domestic bottoms. But when a trade is opened between a colony and a foreign country, the case is changed: the foreign country becomes a party, and has a reciprocal claim to the use of its bottoms in the trade with the colony, as with any other part of the empire to which the colony belongs. In support of this principle, the practice of other nations in Europe may be appealed to, not one of which has refused, whenever a trade was permitted at all between the colonies and a foreign country, to make the carriage common to the vessels of both." This observation is equally applicable to the trade between the United States and the other British colonies in America, as to that between the United States and the British West Indies.

COUNTERVAILING DUTIES.

The treaty of 1794 likewise provides that the ships and merchandise of the parties shall not pay higher duties in their respective ports, than the like ships and merchandise of other nations: and as the United States had imposed a higher tonnage duty upon all foreign ships than upon American ships, as well as higher imposts upon all goods imported in such foreign ships, than upon the like goods imported in American ships, the treaty reserves to Great Britain the right to impose upon American vessels, entering the British ports in Europe, a tonnage duty equal to that payable by British ships in the ports of America, and such duty as shall be adequate to countervail the difference of duties payable on the importation of European and Asiatic goods into the United States, in British and American vessels. The manifest object of this reservation is to give a fair and equal competition to the vessels of both countries in their mutual intercourse.

The act of Parliament, passed in 1797, for carrying into execution this treaty, notwithstanding, contains regulations which, in some very important instances, defeat this object of the treaty, by establishing such duties upon American ships and cargoes, as must altogether exclude the former from the carriage of their own most bulky and valuable productions to Great Britain.

TONNAGE AND LIGHT-HOUSE DUTIES.

The tonnage duty payable by all foreign ships on their entry in the ports of America, is forty-four cents, or two shillings sterling per ton more than is payable by American ships. This duty is collected and paid into the public treasury, which is charged to nearly the same amount for the support of light-houses, beacons, and buoys, upon the coasts, and in the bays, rivers, and harbors of the United States; and being analogous to the light money paid by American ships in the ports of Great Britain, is not a duty which can, consistently with the spirit of the treaty, be countervailed: this, however, has been done; so that an American vessel entering a port in Great Britain now pays not only two shillings per ton countervailing duty, but a further sum for light money, varying in different ports, but in almost all of them double the sum paid by British ships. The remedy in this particular is, however, not difficult; as, by imposing an adequate light duty upon all ships, distinct from the present tonnage duty, the United States may not only equalize the present difference of duties, but assimilate their system to that of other nations which do not confound their light duties with the public revenue.

DUTIES ON THE CARGOES OF AMERICAN SHIPS.

The manner of countervailing the difference of duties payable upon goods imported into the United States in American and foreign vessels, has, in consequence of the conclusion of the war, become a subject of urgency and importance, and requires particular and immediate consideration.

The United States might repeal the duties liable to be countervailed, and call upon Great Britain to repeal the countervailing duties; but, as they equally affect all foreign ships, and not solely the ships of Great Britain, the repeal would be a gratuitous benefit to other nations at the expense of the American navigation.

As the articles usually exported from Great Britain to the United States are not raw materials, but finished manufactures of great value in small bulk, the American duties cannot in any considerable degree affect the navigation of either country, inasmuch as the British exports are carried to the United States in a small number of vessels, compared with those employed in the carriage of the exports of the United States: the chief competition between American and British vessels will take place, not in the carriage of the manufactures of Great Britain, but in the carriage of the bulky and raw materials exported from the United States; and this competition will not be materially affected by the duty upon the imports of the United States.

Perhaps the only just and practicable mode of exercising this countervailing right would be, to impose upon the articles exported from Great Britain to the United States in American vessels precisely the same difference of duties to which they are liable upon their importation into the United States in British and American vessels. This would put the ships of the two countries exactly upon the same footing. Without, however, stopping to discuss this point at present, it will suffice to show that the mode in which the right is exercised, by the act for carrying into execution the treaty between the United States and Great Britain, will be productive of greater inequality than the measure was intended to correct: for, by referring to the act, it will be seen that, instead of imposing on American vessels only such disadvantages as would be adequate to balance the disadvantages imposed on British vessels, in the carriage of American and British exports, different countervailing duties are imposed upon different American articles, imported into Great Britain in American vessels, according to the importance of such articles in the internal economy of Great Britain, and the quantity of shipping employed in their transportation; and in pursuance of these principles, that the American oil and tobacco (the carriage of the last of which articles alone requires many times double the quantity of tonnage requisite for the carriage of the whole of the exports of Great Britain to the United States) have been selected as objects upon which the highest countervailing duties are imposed: the countervailing duties being upon fish oil 36*s*. $3\frac{12}{20}$ sterling per ton of two hundred and fifty-two gallons, and upon tobacco 1*s*. 6*d*. sterling per hundred.

The unequal and injurious effect of these duties, in respect to the American navigation, will be most completely exposed by a comparison of the freights of an American and British ship of the same tonnage, for performing the same service.

DUTY UPON AMERICAN FISH OIL.

Before the late war the freight of a ton of two hundred and fifty-two gallons of oil from America to Great Britain, varied from 40*s*. to 50*s*. sterling; the average freight being 45*s*. sterling; and a vessel of two hundred and fifty tons' burden carried about two hundred and fifty tons of oil.

Supposing upon the return of peace that freights fall to their former rates:

A British ship of two hundred and fifty tons arriving in Great Britain from the United States, with two hundred and fifty tons of oil, at 45*s*. per ton, will earn - - -					£625	0 0
An American ship of two hundred and fifty tons, also arriving in Great Britain, from the United States, with two hundred and fifty tons of oil, at 45*s*. per ton, will receive -	625	0	0			
From which must be deducted the countervailing duty of 36*s*. $3\frac{12}{20}$ per ton, paid by the American, but not by the British ship - - - - - - - -	453	15	0			
Leaving the freight earned by the American ship - - - - - - - -					171	5 0
And making a difference of more than two hundred and sixty per cent. upon the freight of the American ship, in favor of the British ship, or - - - - - - -					453	15 0

DUTY UPON AMERICAN TOBACCO.

The tobacco exported from the United States is estimated at about one hundred thousand hogsheads annually, each hogshead containing, on an average, twelve hundred pounds. A ship of two hundred and fifty tons' burden will carry about three hundred and seventy-five hogsheads, consequently, upwards of sixty-six thousand tons of shipping are requisite to export the annual crops of American tobacco. Before the late war, this average freight, from the United States to Great Britain, was 35*s.* sterling per hogshead: the countervailing duty now imposed upon tobacco imported in American ships, and from which the same is free, when imported in British ships, is 1*s.* 6*d.* per hundred, or 18*s.* per hogshead.

The earnings of an American and British ship for the same tonnage, and for the same service, will, upon these data, stand thus:

A British ship of two hundred and fifty tons, arriving from the United States with three hundred and seventy-five hogsheads of tobacco, at 35*s.* per hogshead freight, will earn - - - -		£656 5 0
An American ship of two hundred and fifty tons, arriving in Great Britain from the United States, with three hundred and seventy-five hogsheads of tobacco, at 35*s.* per hogshead freight, will receive - - - - - - - - -	656 5 0	
From which must be deducted the countervailing duty of 18*s.* per hogshead, paid by the American but not by the British ship - - - - - - - -	337 10 0	
Leaving the freight earned by the American ship - - - - - - - - -		318 15 0
And making a difference of more than a hundred per cent. upon the freight of the American ship in favor of the British ship, or - - - - - - - - - - - -		£337 10 0

It seems hardly necessary to add that a law thus inconsistent with the scope and spirit of the treaty which it professes to carry into execution, calls for immediate revision.

Mr. King to the Secretary of State.

LONDON, *February* 13, 1802.

SIR:

I am authorized to inform you that the British Government will, without hesitation, accede to a proposal for the abolition of all discrimination of duties affecting the navigation and commercial intercourse between our and their territories; and, in consequence of what has passed upon this subject, a motion has already been made in the House of Commons by Mr. Vansittart, of the Treasury, to bring in a bill authorizing his Majesty, at any time, after the passing of the act, by an order in council, or by proclamation, to cause the countervailing duties upon American vessels, and upon articles imported in American vessels, or either of them, or any part of the same or of either of them, wholly to cease or to be suspended, for such period or periods as may be deemed expedient. We may count with certainty upon the passage of the bill to a law, and that the extent of repeal will be made to depend upon our own choice. I have suggested the equity and importance of an immediate suspension of the countervailing duty upon tobacco; and the bill is so drawn up as leaves the Government at liberty at any time to take it off in particular cases, by an order in council, or to suspend it generally by proclamation. I have, however, received no assurance that this will be done, and we consequently must not be disappointed if it should be refused. I will resume the subject should a favorable occasion offer to do so; in the mean time, individuals may, upon the circumstances of their cases, ask for a remission of this duty.

Perhaps a future day will be named in our law, or in the proclamation, which the law may authorize, upon which our discriminating duties shall cease: due notice of such a measure would become the grounds for a correspondent abolition of the duties here.

I annex the copy of a letter sent by Lord Hawkesbury to the British commissioners, under the 7th article of the treaty of 1794; a copy of the convention, which I lately signed with his lordship, has, in like manner, been communicated by me to our commissioners. In consequence of these communications, the Board will immediately re-assemble and proceed to business.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

DOWNING STREET, *Feb.* 11, 1802.

GENTLEMEN:

I herewith transmit to you the copy of a convention concluded by me and Mr. King, on the 8th of January last, explanatory of the 6th and 7th articles of the treaty of amity, commerce, and navigation with the United States; and I have to signify to you His Majesty's pleasure that you propose to the commissioners, on the part of the United States, of the Board of which you are members, to re-assemble, and proceed with you in the execution of the duties imposed upon you by the provisions of the 7th article of the said treaty, and by the third article of this convention.

I am, &c.

TO MAURICE SWABEY, L. L. D. and JOHN ANSTEY, Esq. HAWKESBURY.

Mr. King to the Secretary of State.

LONDON, *May* 5, 1802.

SIR:

The bill imposing duties upon exports and imports, and the tonnage of vessels, has passed the House of Commons, and will doubtless go through the House of Lords, and receive the royal assent without alteration. If it be yet printed, I will enclose a copy thereof with this letter.

In respect to the duties on imports, the bill in effect revives the correspondent provisions of the convoy act, with the addition, in most cases, of a fifth to the duties imposed by that act. The tonnage duties, as well as the duties upon goods exported to any part of Europe, are the same as under the convoy act: the duties upon goods exported to America, and other places out of Europe, are reduced to half the rates imposed by the convoy act: and, with regard to articles excepted from the payment of duties inwards and outwards, as well as to the regulations for warehousing certain goods, and allowing drawbacks in case of re-exportation, the like provisions are contained in the present bill as were inserted in the convoy act.

In consequence of the large quantity of cotton lately imported from the United States, and the superior quality of a portion of the Georgia, it was proposed to put a higher duty upon our cotton than upon that of Turkey, which is of an inferior quality. But, on conferring with the officers charged with the settlement of these duties, the discrimination has been given up; and without distinguishing between Sea Island, and other cotton of the United States, as had at first been proposed, the duty is reduced to the lowest rate, or to that imposed upon the cotton of Turkey: and as all other cotton will pay higher duties than that of the United States and Turkey, ours will stand upon a comparatively good footing in this market. As the proposed tonnage duty upon our vessels is as low as upon the vessels of any other country, and applies to British equally with foreign vessels, so far as respects discrimination, there is nothing to complain of.

With regard to the proposed export duty, after several conferences with Mr. Vansittart, of the Treasury, to whom I was referred by Lord Hawkesbury to discuss the subject, and in which I urged, but without success, the

abolition of all discrimination between the purchasers of British manufactures, I thought it my duty to write him a letter upon the subject, a copy whereof is annexed. If his answer should be received in time, a copy of it shall also be subjoined.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to Nicholas Vansittart, Esq.

GREAT CUMBERLAND PLACE, *April* 29, 1802.

SIR:

As several points upon which we have touched in our conversations respecting the bill before Parliament, imposing certain duties on exports and imports, and the tonnage of vessels, were the subjects of discussion when the convoy duties were imposed, I take the liberty to send you the copy of the report* which I made to my Government of the conference which on that occasion I had with Mr. Pitt, thinking this as satisfactory a mode as any I could adopt, of communicating to you the objections then made against certain of the provisions of the convoy duty, and which, so far as respects the principle of the export duties now proposed to be laid, are equally applicable to the present as to the former bill.

Without repeating what has been already said, I will beg of you to give all the weight which it deserves, to the obvious and just inference to be deduced from the spirit and tenor of our treaty of amity, &c.; and, according to which, as we think, we are not liable to pay a higher duty for permission to export your manufactures than is paid by your other customers. Agreeably to the proposed tariff, the consumers of British manufactures living in Europe will pay only half per cent. for permission to export the same, while we, who live further off, and who, consequently, pay higher freight and insurance, are required to pay double that rate, or one per cent., for the like permission.

It is true that the difference will not be as considerable as under the convoy law; but it is not against the greater or less degree, but against discrimination altogether, that we contend. When this objection was formerly pressed, it was replied, as you will perceive by the enclosed report, that the duty taken in reference to convoys, which would cost more in long than short voyages, was, for this reason, not unequitable. Whatever force there might have been in this reply, it must be admitted to have no influence whatever, in respect to the discrimination now proposed; the effect of which, in regard to American and European purchasers of British manufactures, is, that each having purchased goods upon the same terms, and of the same amount, the former is called upon before he leaves the warehouse to pay, for the Government permission to carry away his purchase, double the sum demanded of the latter for the like permission. And if the Americans be supposed to purchase British manufactures of the value of six millions annually, and it be likewise admitted that the Europeans purchase to the same amount, the former will annually pay, according to the proposed discrimination, £30,000 sterling more than the latter, or, in other words, for permission to export the same quantity of goods, the British Government will require the European purchaser to pay only £30,000, at the same time that it obliges the American purchaser to pay sixty thousand.

This discrimination is, at the same time, too plain to leave any doubt of the sentiments which it must unavoidably excite; and I cannot but flatter myself that, upon a reconsideration of the subject, it will be thought both just and prudent that every sort of discrimination and preference should be abolished.

With great consideration and respect, I have the honor to be, &c.

RUFUS KING.

Mr. King to Lord Hawkesbury.

RANDALL'S, SURRY, *July* 30, 1802.

MY LORD:

Having received the leave of my Government to pass two or three months on the continent, I am desirous of conferring with your lordship before my departure, (which will take place in the course of a fortnight,) upon one or two subjects which have for some time been under your lordship's consideration. I allude to the settlement of a plan for carrying on the trade between the United States and the British colonies in the West Indies, and to the long expected transfer of the Maryland Bank stock. Upon each of these subjects I am in hopes your lordship will enable me to make some explicit communication to my Government, before I avail myself of the leave I have received of a temporary absence; and, for this purpose, I ask the favor of you to receive me on Wednesday, or any other day of next week which may be more convenient.

With perfect consideration, &c.

RUFUS KING.

Right Honorable Lord HAWKESBURY.

Lord Hawkesbury to Mr. King.

DOWNING STREET, *August* 2, 1802.

Lord Hawkesbury presents his compliments to Mr. King, and will be happy to have the honor of receiving him here on Wednesday next, at one o'clock, should that hour be convenient to him.

Mr. King to the Secretary of State.

LONDON, *August* 10, 1802.

SIR:

As I am about to avail myself of the President's permission to pass a few weeks upon the continent, I have thought it expedient to endeavor previously to ascertain the sentiments of this Government concerning the trade and navigation between the United States and the British colonies in the West Indies, as well as to press for a final decision respecting the Maryland Bank stock. For these purposes, I asked a conference of Lord Hawkesbury in a note, the copy whereof is annexed. His lordship received me at the time I had proposed; but I regret that I am not able to send you a more satisfactory report of what passed on this occasion.

In respect to the bank stock, Lord Hawkesbury said he had lately received a communication from the Chancellor concerning it, and that measures should be taken to effect a transfer of the stock to the Crown, when it would be in a situation that would enable him to receive the King's pleasure respecting it. He intimated that he had understood there were other claims, besides that of the State of Maryland; but, so far as he expressed any opinion, it seemed to be, that there would be no difficulty of importance in the way of a satisfactory settlement, after the stock had been transferred to the Crown. I repeated to his lordship arguments which had been urged upon his predecessor; and tried, though without success, to obtain from him an explicit engagement that the stock should be transferred to me after its transfer to the Crown.

Respecting the West India trade, his lordship said, after a short conversation explanatory of our expectations, that he could give me no explicit information whether, or how far, they should be able to accede to our claims; the fact being, as he observed, that not only on account of the constant succession of more pressing concerns which His

* Vide my No. 74, (1st series,) dated 1st June, 1798, to Col. Pickering, with the omission of a very few words respecting the dissatisfaction likely to be produced in America by the imposition of the convoy duty, &c.

Majesty's ministers had been called upon to decide, but from the unsettled as well as uncertain condition of the West India colonies, they had not been able to go into the consideration of the regulations which it might be deemed expedient to adopt; that they were yet also to learn the real situation of St. Domingo, as well as of some other important colonies; and that, as any change in their former system would, in some sort, depend upon the probable condition not only of their own but of other colonies, they must wait a little longer before they could form a safe opinion upon this important subject.

I remarked to Lord Hawkesbury, that, on account of our just claim to an equal participation in a trade as necessary to them as to us, as well as from the tenor of the article agreed to by England, but refused by America, in the treaty of 1794, we had not expected that a recurrence would be had, at the end of the war, to the exclusive system which had prevailed before; that any considerable delay in the decision of this point would operate in the same way as a decision in favor of the old system, which, as his lordship must know, we considered as unequal and injurious; that my apprehension, therefore, was, in case of such delay, that we should think ourselves obliged to meet the disadvantages to which our navigation is liable under the former system, by regulations which would impose the like disadvantages upon the British navigation; these countervailing regulations would prove mutually, though I could not but admit they would be equally, inconvenient, and might, moreover, have the effect to disturb the harmonious and beneficial intercourse it was the common interest of the two countries to promote.

His lordship made no distinct answer to these remarks; contenting himself to repeat, in substance, what he had before observed concerning the pressure of affairs of greater interest, and the uncertain situation of the West India colonies.

As I found that I had not obtained any precise assurance upon this subject, which probably has not yet been discussed in the cabinet, I observed, that notwithstanding the question might not appear to be of equal importance with others which continue to engage the attention of the English ministry, it nevertheless had excited, and might again excite, a lively interest in the United States; that the subject had employed much of my attention, and I had sometimes flattered myself with the hope that I should, during my residence here, be enabled to assist in the equitable and satisfactory settlement of it; that I expected to terminate my mission, and return to America early in the next spring; and that it would afford me some satisfaction to be authorized to inform you that both this business, and the other regarding the Maryland Bank stock, should be decided before my departure.

Lord Hawkesbury replied that he could not officially assure me that this should be done; but that, according to his personal view of the subject, he foresaw no reason likely to delay the decision of them beyond the time I had mentioned. This vague reply, and which binds to nothing, ended our conference upon these topics.

Lord Hawkesbury then inquired of me if I had received any late intelligence concerning the expedition to Louisiana. On my answering in the negative, he said, according to their advices, the French expedition was in preparation, and that it would certainly proceed. I, in turn, asked his lordship, how far he gave credit to the rumor which has of late been circulated, that France was preparing a formidable expedition against Algiers. He answered, that the project existed; that the army would be marched into Spain, and embarked in the Spanish ports; and that Spain, though it was understood she had recently concluded peace with Algiers, would, nevertheless, be expected to aid the French with provisions, ships, and perhaps money. I did not ask whether England was likely also to be embroiled with Algiers, in consequence of the late capture of one or two English vessels by the cruisers of this regency, having understood that it is here admitted that the passes of these vessels were irregular, and that the demand of England would be confined to the liberation of the crews, leaving the vessels as forfeited to the captors.

Before leaving Lord Hawkesbury, I took occasion to observe, that, although my absence would be only for a short time, to guard against any inconvenience which it might possibly occasion, I would take the liberty, before my departure, of introducing to him Mr. Gore, one of the commissioners under the seventh article of our treaty, who would act as our chargé des affaires during my absence. His lordship replied that he should be happy to receive Mr. Gore; and I shall accordingly present him in that character to Lord Hawkesbury before I leave town. My plan is to embark at Harwich, about the 15th instant, for Holland, from thence to go to Brussels, and then, either directly to Paris, or, turning to my left, and travelling a few days on the borders of the Rhine, to proceed to Paris through some of the more eastern provinces of France. As it is the invaluable specimens of the fine arts, more than the men and manners of Paris, which I am desirous to see, a few weeks' residence there will satisfy my curiosity. I do not, therefore, think of prolonging my absence beyond the middle of November, when the new Parliament will meet, and my return hither may be a fortnight sooner.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

LONDON, *November* 26, 1802.

SIR:

Mr. Gore has acknowledged the receipt of such letters from the Department of State as have been received during my absence; and his correspondence will have given you exact information of all that has hitherto been done towards the accomplishment of the several objects of the President's instructions. I shall immediately resume the business that has been so well commenced; and, as well from the nature of the subject, as from the temper and disposition that are understood to prevail in respect to America, I am inclined to hope that we shall experience no material difficulty in effecting a final and satisfactory adjustment of our boundaries.

Mr. King to Mr. Vansittart.

RANDALL'S, SURRY, *January* 8, 1803.

SIR:

After the conversation we lately had upon the subject, I will not trouble you at much length respecting the proposed augmentation of duty upon foreign spermaceti oil. Under the old system of duties, our whale fishery has not increased, while yours has extended itself so as to be able to supply more than your own consumption, which our united fisheries, a few years back, were unable to do. In these circumstances, it is proposed to raise the duty on foreign spermaceti oil from £22 3*s*. 1*d*. to £31 10*s*. the ton: the obvious effect of this measure will be to depress our whale fishery, by the entire exclusion of our spermaceti oil from your market, where it sometimes finds in small quantities a precarious sale: the proceeds of these sales are laid out in the purchase of British manufactures. "Live and let live," is a maxim of trade, and, in the present case, may mean a little more than it mutually does; for I cannot persuade myself, with the connexion that naturally subsists between us, and seeing, as we must, the efforts that France is making to acquire a control over the maritime strength of the North of Europe, as she already has done over that of the South, that the decrease of American seamen can be indifferent to Great Britain; and, if it be not, I should hope, for the sake of a common interest, that you would not, from light motives, be willing to sanction any measure that would produce this effect.

I will not recall to your recollection, by way of complaint, the various modes of encouraging your whale fishery, which, with whatever views adopted, have had the effect to withdraw from our service numbers of our most intelligent and useful adventurers.

As we have no laws prohibiting the transfer of their skill and persons to a foreign State, they were free to accept your invitation, and we could only regret their preference.

But it would be matter of greater concern, should these measures be followed up by a regulation which would still further depress our whale fishery, which cannot be beneficial to your revenue, and which is not wanted as a protection to a branch of industry, that has already not only established itself, but continues to thrive under an encouragement that has brought it to maturity.

With sentiments of respect and esteem, I remain, sir, your obedient servant,

RUFUS KING.

Extract of a letter from Mr. King to the Secretary of State.

LONDON, *January* 28, 1803.

No further progress has yet been made in the discussion of the boundaries. From one or two conversations that I have had with Colonel Barclay, who has returned to town, I perceive that his opinion, whatever influence it may have, will be favorable to such a settlement of the eastern boundary as would be satisfactory to us. The chief difficulty in this settlement, that I foresee at present, respects the island of Campo Bello, which, to avoid questions of interfering jurisdiction, arising from its being to the westward of a suitable boundary line, should belong to Massachusetts: if it should be ceded, I shall have no hesitation to agree to a confirmation of the titles of the settlers derived from Nova Scotia. But the minister may hesitate about a cession.

In my last conversation with Lord Hawkesbury, respecting the intercourse between the United States and the British colonies in the West Indies, he desired me to write him a letter upon that subject, in order that he might submit it to the consideration of the cabinet; and I accordingly sent him the letter, a copy of which is subjoined.

[Referred to in the foregoing.]

Extract of a letter from Mr. King to Lord Hawkesbury.

GREAT CUMBERLAND PLACE, *January* 18, 1803.

MY LORD:

Referring to the observations transmitted to your lordship in my letter of the 3d of February past, explanatory of the principle upon which we claim an equal participation of the trade between the United States and the British West Indies, I take the liberty to recall the subject to your lordship's recollection, as one that has been long under consideration, and upon which I have received orders to require the decision of His Majesty's Government.

If, contrary to the maxims by which the trade of the colonies was formerly regulated, new circumstances have rendered it expedient to open an intercourse between them and a foreign State, it is this measure, and not the admission of such foreign State to a share in the trade, which breaks in upon a system that could no longer be maintained with advantage.

Such intercourse being opened, each party is alike competent to make laws for its regulation; and, as neither can claim or expect to do so exclusively of the other, such regulation becomes fit matter for mutual explanation and agreement.

In conformity with this principle, an article respecting this trade was prepared, and inserted in the treaty of 1794; although afterwards excluded at the instance of the United States, by reason of its inequality.

Should the United States (in imitation of the example set them by Great Britain) pass a law applying the same rule to British vessels which the law of Great Britain applies to those of the United States, the effect would be, that neither British nor American vessels could carry on the trade. But as flour, corn, timber, staves, and other articles of first necessity to the colonies, must be received from the United States, the American vessels would carry them to some port or island in the West Indies, belonging to a third Power, whither the British vessels would go to receive the same, carrying thither to purchase them such articles of colonial produce as are allowed to be exported to the United States. In this way an entrepôt would be formed in the West Indies for the mutual sale and purchase of these commodities; and, as the question principally regards the navigation of the two countries, it is evident that the effect of these exclusive regulations would be more beneficial to the United States than to Great Britain, inasmuch as the voyage from the United States to the place of deposit in the West Indies would be longer, and consequently would afford more employment than between such place of deposit and the British West Indies.

Notwithstanding the equity of such a law, on the part of the United States, and the probable advantage it might secure to their navigation, we have no hesitation in preferring an amicable and equal participation of the trade to the certainty even of acquiring an unequal share of it by a measure of retaliation which, being resorted to in one branch of trade, may, by one or both sides, be extended to others, and in the end might have the effect to disturb the harmony as well as the extensive and mutually beneficial intercourse between the two countries.

Whether it may be deemed more convenient to alter the existing law, on the part of Great Britain, so as to allow the trade in question to be carried on equally by American and British vessels, or to enter into a compact for this purpose, as was intended by the treaty of 1794, is not a point of material difficulty, though, in the nature of the subject, a preference seems due to an adjustment by mutual stipulation: in either mode, as a security against the extension of this trade beyond the limits which it may be desired to give it, it might be provided that the return cargoes of American vessels should be carried directly to the United States, and that they should moreover be purchased, as well as limited, by the proceeds of cargoes imported in American vessels.

With distinguished consideration, I have the honor to be your lordship's obedient and most humble servant,

RUFUS KING.

Mr. King to the Secretary of State.

NEW YORK, *July*, 1803.

SIR:

I take the liberty to add a few miscellaneous articles by way of supplement to my last despatch.

AMERICAN SEAMEN.

As soon as the war appeared to me unavoidable, I thought it advisable to renew the attempt to form an arrangement with the British Government for the protection of our seamen: with this view, I had several conferences both with Lord Hawkesbury and Mr. Addington, who avowed a sincere disposition to do whatever might be in their power to prevent the dissatisfaction on this subject that had so frequently manifested itself during the late war. With very candid professions, I, however, found several objections in discussing the subject with the first Lord of the Admiralty. Lord Hawkesbury having promised to sign any agreement upon the subject that I should conclude with Lord St. Vincent, I endeavored to qualify and remove the objections he offered to our project: and finally, the day before I left London, Lord St. Vincent consented to the following regulations:

1. No seamen nor seafaring person shall, upon the high seas and without the jurisdiction of either party, be demanded or taken out of any ship or vessel belonging to the citizens or subjects of one of the parties, by the public or private armed ships or men of war belonging to, or in the navy of the other party; and strict orders shall be given for the due observance of this engagement.

2. Each party will prohibit its citizens or subjects from clandestinely concealing or carrying away from the territories or colonial possessions of the other, any seamen belonging to such other ports.

3. These regulations shall be in force for five years, and no longer.

On parting with his lordship, I engaged to draw up, in the form of a convention, and send him, these articles in the course of the evening, who promised to forward them, with his approbation, to Lord Hawkesbury. I accordingly prepared and sent the draught to his lordship, who sent me a letter in the course of the night, stating that on further reflection he was of opinion that the narrow seas should be expressly excepted, they having been, as his lordship remarked, immemorially considered to be within the dominions of Great Britain; that with this correction he had sent the proposed convention to Lord Hawkesbury, who, his lordship presumed, would not sign it before he should have consulted the Judge of the High Court of Admiralty, Sir William Scott.

As I had supposed, from the tenor of my conferences with Lord St. Vincent, that the doctrine of the *mare clausum* would not be revived against us on this occasion, but that England would be content with the limited jurisdiction or dominion over the seas adjacent to her territories, which is assigned by the law of nations to other States, I was not a little disappointed on receiving this communication; and, after weighing well the nature of the principle, and the disadvantages of its admission, I concluded to abandon the negotiation, rather than to acquiesce in the doctrine it proposed to establish.

I regret not to have been able to put this business on a satisfactory footing, knowing as I do its very great importance to both parties; but I flatter myself that I have not misjudged the interests of our own country, in refusing to sanction a principle that might be productive of more extensive evils than those it was our aim to prevent.

NEUTRAL FLAG.

As it is possible that another attempt will be made during the present war to establish the rule that free bottoms make free goods, I ought not to omit the communication of the following anecdote:

Soon after the British armament in March past, Bonaparte sent his aid-de-camp du roi to Berlin, to announce his determination to occupy Hanover, and to close the Elbe against England, in the event of war. The Prussian cabinet, a thing very rarely done, immediately despatched a courier with orders to Baron Jacobi, the Prussian ambassador at London, to apprise the English Government of the views of France, to impress the dissatisfaction with which Prussia had learned them, and to offer to protect Hanover and the North of Germany, provided England would give her consent to the principle that free ships should make free goods. The English cabinet immediately replied, that the German empire is bound to protect the rights of its several members; that Hanover must therefore look to Germany, and not to England, for support; and, in respect to the proposed rule that free ships should make free goods, that no advantage nor service which could be named, would be sufficient to engage England to give it her sanction. In any circumstances, this would be the opinion of England; in the present instance, if I mistake not, the proposition was believed to have come, indirectly, from Paris.

COLONY TRADE.

In a very late conversation with Mr. Addington respecting the colony trade, he insinuated the probability that events might happen in the course of the present war, alluding, as I understood, to South America, that would enable England to form with us such commercial arrangements as would be satisfactory. As Mr. Addington meant to be obscure, I could only conjecture his meaning; and my inference was, in case of the independence of South America, that the colony system must every where be abandoned—an opinion not peculiar to Mr. Addington, but one that is entertained by the principal members of the late English ministry.

SOUTH AMERICA.

When the preliminaries of the late peace were signed, an expedition, fully prepared, was in readiness to set sail for the purpose of assisting the inhabitants of the province of Caraccas in throwing off their obedience to Spain. Trinidad was retained by England, chiefly with the view of furthering this revolt; and if Spain be drawn into the war which she will be unable to avoid, the expedition to the Caraccas will be revived. No probable change of the ministry of England will change this intention, for it is known to be the opinion of the first men of the nation that the secondary object of the present war, and one that must give England courage as well as resources to go on with the struggle, is the entire independence of South America.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

MARYLAND BANK STOCK.

Mr. King to the Secretary of State.

LONDON, *May* 1, 1803.

SIR:

According to the certificate of the Accountant General of the Court of Chancery, the fund now standing in his name, and claimed by the State of Maryland, is composed of—

£98,518	2	9	Bank stock, worth at the present price of 170	-	-	-	£167,480	12	0
15,290	17	9	5 per cent. stock at par	-	-	-	-	-	-	15,290	17	9
4,796	2	3	Cash in the Bank of England	-	-	-	-	-	-	4,796	2	3
								Sterling,		£187,567	12	0

It will be recollected that suits in Chancery were instituted many years back against Russell and other trustees of this fund—

By Chase, agent of Maryland.

By Barclay and others, executors of Hanbury, for the two sums of eleven thousand pounds, and four hundred and forty pounds bank stock, and the accruing dividends granted to them by Maryland in 1786.

By Harford, devisee of Lord Baltimore, claiming as lord proprietor of the province of Maryland, and, as such, entitled to all forfeitures.

Besides these persons, the Ewers, and the assignee of Buchanan, have likewise respectively claimed an indemnity for losses of real estate in Maryland.

The title of Maryland has been more than once argued in the case of Barclay and others; and it has appeared to be the opinion, both of the late and present Lord Chancellor, that the Crown is legally entitled to this property. My correspondence with the Department of State has explained the means that have been employed to effect a transfer of it to Maryland, as well as the series of disappointments which has defeated them.

I have now the satisfaction to send you the copy of a letter that I have received from Lord Hawkesbury, in which the King engages, in the event of its being decided that the title to this stock has accrued and belongs to the Crown, that the same shall be transferred to the State of Maryland, together with the accumulations proceeding from the re-investment of the dividends. I likewise enclose for your information copies of the instruction given to the Attorney General relative to this stock; of the decree of the Court of Chancery, in the suit of Barclay and others, against Russell and others; and of the motion of the Attorney General, founded on the presumption that after the decree in Barclay's suit, the regular course of an information, for the purpose of vesting the stock in the Crown, would have been dispensed with by the parties consenting to receive their costs, and withdraw all opposition to the funds being disposed of as the Crown should direct.

Contrary, however, to this expectation, the solicitors of Mr. Chase and of Mr. Harford refused their consent: the motion was therefore postponed to a future day, before which I sent the two subjoined letters to Messrs. Lyons and Collyer, the solicitors of Mr. Chase, who, in consequence thereof, withdrew their opposition. Mr. Harford continued to oppose; and when the motion of the Attorney General was resumed, on the 27th past, his solicitor again refused his consent: previous, however, to his doing so, he came to me with an offer to withdraw his opposition, and consent to the motion of the Attorney General, provided I would engage to transfer to Mr. Harford ten thousand pounds bank stock. This I declined doing, with the observation that, as both the late and present Chancellor had given an opinion that, upon the dissolution of the corporation or colony of Maryland, the stock accrued as *bona vacantia* to the Crown; and as I held the engagement of the King to transfer the same to the State of Maryland, upon its being decided that the title to the same had accrued to the Crown, there was sufficient certainty that Maryland must ultimately, and in spite of all opposition, obtain possession of the entire fund; and although it might be some time before this could be accomplished, owing to delays which might be created, still, as the dividends would, from time to time, be reinvested, the property would in the end be received, together with compensation for its detention.

Could I have been certain that the representatives of Buchanan and of the Ewers, or that the holders of a considerable sum of the colony bills of credit, said to have been issued upon the credit of this fund, and who have petitioned the King to apply the same according to its original destination, might not have been encouraged by the settlement with Harford to pursue their opposition, unless they also were bought off, I might, for the sake of finishing a tedious business, have agreed with the Hanburys to give to Mr. Harford, according to the respective interests of the proprietors, a sum of money, or bank stock, to induce him to withdraw his opposition. But, after mature consideration of the subject, I have preferred the course which is now to be adopted.

The suit of Barclay and others having been dismissed upon the principle that the fund must by law accrue to the Crown, and the King having given his solemn engagement to transfer the same to Maryland as soon as it shall have been decided that it has so accrued, it remains only that an information be filed against all the parties hitherto in opposition, in order to obtain a decision vesting the fund in the Crown; and for this purpose it may be expedient that the solicitors of Mr. Chase be instructed to assist those of the Treasury, and the family of Hanbury, in pressing the process to a conclusion. Owing to the dispersed situation of the parties, and of the angry perseverance which influences the conduct of Mr. Harford, it may require some time to complete the business; but it is a satisfaction that we hitherto have not enjoyed, that no future change in the Court of Chancery, or in the ministry, can alter the decision of the one or the precise engagement of the other.

It would have given me great pleasure to have seen the close of a business that is of importance to the State of Maryland, and which has so constantly as well as zealously engaged my attention; but the entanglements of an intricate suit in Chancery, early and unfortunately thrown into an embarrassing situation, are reached with difficulty by diplomatic means: there have, moreover, been some difficulties in our way, which neither patience nor industry has hitherto been able to surmount. We may, I think, now put our opponents at defiance, as we at length stand on secure ground, and with a little more patience may reckon with confidence upon the attainment of our object. I shall leave with the papers of the legation such a view of the subject as I hope may enable my successor with little trouble to hasten the conclusion of this long protracted business.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Lord Hawkesbury to Mr. King.

DOWNING STREET, *April* 25, 1803.

SIR:

I have the honor to send you herewith enclosed a copy of the instruction that has been given to His Majesty's Attorney General, relative to the stock claimed by the State of Maryland; and I have the satisfaction, by His Majesty's commands, to state to you, for the information of your Government, that in the event of its being decided that the title to this stock has accrued, and belongs to His Majesty, His Majesty will cause the same to be transferred to the State of Maryland, together with the accumulations which shall have accrued from the reinvestment of the dividends; and measures to enable His Majesty to fulfil his intention, to this purpose, shall be adopted with as little delay as shall be consistent with the due observance of the forms with which it may be requisite to comply.

I flatter myself, sir, that this communication will be regarded by your Government as a new proof of His Majesty's disposition to consult and promote the interests of the United States; and I avail myself of this occasion to renew to you the assurances of the high consideration with which

I have the honor to be, sir, your most obedient, humble servant,

HAWKESBURY.

Lord Hawkesbury to Mr. Perceval.

DOWNING STREET, *December* 15, 1802.

SIR:

As I understand that a cause has long been depending in the Court of Chancery, relative to a sum of money which is claimed by the State of Maryland, I have to desire that you will take such measures as may appear to you most advisable, for putting the Crown in possession of this property, in order that His Majesty may be enabled to dispose of it in such manner as he may think proper.

I am, &c.

HAWKESBURY.

His Majesty's ATTORNEY GENERAL.

Minutes of Decree, 1st April, 1803. } Lord Chancellor.

FRIDAY, *April* 1, 1803.

Barclay and Russell, p. quer. opens the bill.
P. defts. opens their answer.
Cause and petition.
P. petitioners.
Mr. Attorney General for the Solicitor of the Treasury, Hollist, p.
The petition read.
The Accountant General's certificate read.

CUR:—Dismiss the bill, with liberty for the parties to apply to the court on this or any other cause for a transfer of the funds standing in the name of the Accountant General, in trust in this cause, as they shall be advised; and no order on the petition.

Motion in Hanbury's cause, 26th April, 1803. } In Chancery.

Between Samuel Chase, Esq. plaintiff, and James Russell and others, defendants; between David Barclay and others, plaintiffs, the said James Russell and others, defendants; and between Henry Harford, Esq. plaintiff, and His Majesty's Attorney General and others, defendants.

Take notice that this honorable court will be moved by the Attorney General, on behalf of His Majesty, on Wednesday, the twentieth day of April instant, being the first seal before next Easter term, that all parties be

paid their costs of these suits, to be taxed by one of the masters of this court, out of the sum of four thousand seven hundred and ninety-six pounds two shillings and three pence cash, in the Bank, in the name of the Accountant General of this court, in trust in the cause, Chase against Russell; and that, after payment of such costs, the Accountant General of this court may transfer the several sums of ninety-eight thousand five hundred and eighteen pounds two shillings and nine pence bank stock, the sum of eight thousand three hundred and fourteen pounds sixteen shillings and one penny five per cent. annuities, 1797, and the sum of six thousand nine hundred and seventy-six pounds one shilling and eight pence bank navy five per cent. annuities, also standing in his name in trust in the same cause, and may pay the residue of the said sum of four thousand seven hundred and ninety-six pounds two shillings and three pence, cash in the Bank; and, also, all such future dividends on the said several stocks, as shall accrue thereon respectively, until such transfer thereof unto such person or persons as His Majesty shall, by warrant, under his royal sign manual, nominate and appoint. Dated 18th April, 1803.

JOS. WHITE, *Solicitor for the Attorney General.*

To Messrs. WADESON, BARLOW, & GROSVENOR, *Austin Friars.*

Mr. King to Messrs. Lyon & Colyer.

GREAT CUMBERLAND PLACE, *April* 22, 1803.

GENTLEMEN:

Having reason to be satisfied, in the event of its being decided that the title to the stock of the Bank of England, claimed by the State of Maryland, has accrued and belongs to the Crown, that the same will be transferred to the State of Maryland, (in which case I am authorized to transfer to Mr. Chase the portion thereof to which he may be entitled,) I am of opinion that you will promote the interests of the State of Maryland and of Mr. Chase, by giving no opposition to the measures concerning this stock proposed by the Attorney General.

I am, gentlemen, your obedient servant,

RUFUS KING.

Mr. King to Messrs. Lyon & Colyer.

GREAT CUMBERLAND PLACE, *April* 26, 1803.

GENTLEMEN:

Since the appointment of Mr. Chase as agent of Maryland for the recovery of the bank stock claimed by that State, the business has been committed by the State of Maryland to me, as the minister of the United States in this country; and, in virtue of this authority, I took the liberty to send you my letter of the 22d instant. Perceiving that you have some hesitation in complying with the tenor of that communication, on the score that it is not sufficiently explicit and directory; in behalf of the State of Maryland and Mr. Chase, I hereby request and direct you to give your consent to the motion made in the Court of Chancery by the Attorney General, or to any other motion or process having for its object a transfer of the stock in question, to such person as the King, under his sign manual, may nominate and appoint.

With great respect, I remain, gentlemen, your obedient servant,

RUFUS KING.

7th CONGRESS.] No. 182. [2d SESSION.

FRANCE AND SPAIN—LOUISIANA.

COMMUNICATED TO THE SENATE, OCTOBER 17, 1803, AND TO THE SENATE AND HOUSE OF REPRESENTATIVES, OCTOBER 21, 1803.

Gentlemen of the Senate:

In my message of this day to both Houses of Congress, I explained the circumstances which had led to the conclusion of conventions with France for the cession of the province of Louisiana to the United States. Those conventions are now laid before you, with such communications* relating to them, as may assist in deciding whether you will advise and consent to their ratification.

The ratification of the First Consul of France is in the hands of his chargé des affaires here, to be exchanged for that of the United States, whensoever, before the 30th instant, it shall be in readiness.

TH: JEFFERSON.

OCTOBER 17, 1803.

* The communications transmitted to the Senate, are—

The instructions of March 2, 1803.
The instructions of April 18, 1803.
Extract from Mr. King to the Secretary of State, April 28, 1803; and to Messrs. Livingston and Monroe, 7th May, 1803.
Extract from Mr. Cevallos to Mr. Pinckney, May 4, 1803.
Letter from Messrs. Livingston and Monroe, of May 13 and May 16, 1803.
Letter from Messrs. Livingston and Monroe, June 7, 1803.
Extract of a letter from Secretary of State, of July 2, 1803.
Extract from Mr. Monroe, at London, August 15, 1803.
Extract from M. D'Yrujo to Secretary of State, September 4, 1803, and September 27, 1803.
Extract from Mr. Madison to Mr. Livingston, October 6, 1803.
Letter from Secretary of State to M. D'Yrujo, October 4, 1803.
Letter from M. D'Yrujo to the Secretary of State, October 12, 1803.
Letter from Secretary of State to D'Yrujo, October 12, 1803.
Mr. Pichon to Secretary of State, October 14, 1803.

To the Senate and House of Representatives of the United States:

In my communication to you of the 17th instant, I informed you that conventions had been entered into with the Government of France, for the cession of Louisiana to the United States; these, with the advice and consent of the Senate, having now been ratified, and my ratification exchanged for that of the First Consul of France in due form, they are communicated to you for consideration in your legislative capacity. You will observe, that some important conditions cannot be carried into execution but with the aid of the Legislature; and that time presses a decision on them without delay.

The ulterior provisions, also suggested in the same communication, for the occupation and government of the country, will call for early attention. Such information relative to its government, as time and distance have permitted me to obtain, will be ready to be laid before you within a few days; but as permanent arrangements for this object may require time and deliberation, it is for your consideration whether you will not forthwith make such temporary provisions for the preservation, in the mean while, of order and tranquillity in the country, as the case may require.

TH: JEFFERSON.

OCTOBER 21, 1803.

Treaty between the United States of America and the French republic.

The President of the United States of America, and the First Consul of the French republic, in the name of the French people, desiring to remove all source of misunderstanding, relative to objects of discussion mentioned in the second and fifth articles of the convention of (the 8th Vendemiaire, an 9,) September, 30, 1800, relative to the rights claimed by the United States, in virtue of the treaty concluded at Madrid, the 27th October, 1795, between His Catholic Majesty and the said United States, and willing to strengthen the union and friendship, which at the time of the said convention was happily re-established between the two nations, have respectively named their plenipotentiaries, to wit: The President of the United States of America, by and with the advice and consent of the Senate of the said States, Robert R. Livingston, minister plenipotentiary of the United States, and James Monroe, minister plenipotentiary and envoy extraordinary of the said States, near the Government of the French republic; and the First Consul, in the name of the French people, citizen Francis Barbé Marbois, minister of the public treasury, who, after having respectively exchanged their full powers, have agreed to the following articles:

ART. 1. Whereas, by the article the third of the treaty concluded at St. Ildefonso, (the 9th Vendemiaire, an 9,) October 1, 1800, between the First Consul of the French Republic and His Catholic Majesty, it was agreed as follows: His Catholic Majesty promises and engages on his part to cede to the French republic, six months after the full and entire execution of the conditions and stipulations herein, relative to his Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that is now in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States: And whereas, in pursuance of the treaty, and particularly of the third article, the French republic has an incontestable title to the domain and to the possession of the said territory. The First Consul of the French republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French republic, for ever and in full sovereignty, the said territory with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French republic, in virtue of the above mentioned treaty, concluded with His Catholic Majesty.

ART. 2. In the cession made by the preceding article, are included the adjacent islands belonging to Louisiana, all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices, which are not private property. The archives, papers, and documents, relative to the domain and sovereignty of Louisiana and its dependencies, will be left in the possession of the commissaries of the United States, and copies will be afterwards given in due form to the magistrates and municipal officers, of such of the said papers and documents as may be necessary to them.

ART. 3. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

ART. 4. There shall be sent by the Government of France a commissary to Louisiana, to the end that he do every act necessary, as well to receive from the officers of His Catholic Majesty the said country and its dependencies in the name of the French republic, if it has not been already done, as to transmit it, in the name of the French public, to the commissary or agent of the United States.

ART. 5. Immediately after the ratification of the present treaty by the President of the United States, and in case that of the First Consul shall have been previously obtained, the commissary of the French republic shall remit all the military posts of New Orleans, and other parts of the ceded territory, to the commissary or commissaries named by the President to take possession of the troops, whether of France or Spain, who may be there, shall cease to occupy any military post from the time of taking possession, and shall be embarked as soon as possible in the course of three months after the ratification of this treaty.

ART. 6. The United States promise to execute such treaties and articles as may have been agreed between Spain and the tribes and nations of Indians, until, by mutual consent of the United States and the said tribes or nations, other suitable articles shall have been agreed upon.

ART. 7. As it is reciprocally advantageous to the commerce of France and the United States, to encourage the communication of both nations, for a limited time, in the country ceded by the present treaty, until general arrangements relative to the commerce of both nations may be agreed on, it has been agreed between the contracting parties, that the French ships coming directly from France or any of her colonies, loaded only with the produce or manufactures of France or her said colonies, and the ships of Spain coming directly from Spain or any of her colonies, loaded only with the produce or manufactures of Spain or her colonies, shall be admitted during the space of twelve years in the port of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain, or any of their colonies, without being subject to any other or greater duty on the merchandise, or other or greater tonnage than there paid by the citizens of the United States.

During the space of time above mentioned, no other nation shall have a right to the same privileges in the ports of the ceded territory. The twelve years shall commence three months after the exchange of ratifications, if it shall take place in France, or three months after it shall have been notified at Paris to the French Government, if it shall take place in the United States: it is, however, well understood, that the object of the above article is to favor the manufactures, commerce, freight, and navigation of France and of Spain, so far as relates to the importations that the French and Spanish shall make into the said ports of the United States, without in any sort affecting the regulations that the United States may make concerning the exportation of the produce and merchandise of the United States, or any right they may have to make such regulations.

ART. 8. In future and forever, after the expiration of the twelve years, the ships of France shall be treated upon the footing of the most favored nations in the ports above mentioned.

ART. 9. The particular convention signed this day by the respective ministers, having for its object to provide for the payment of debts due to the citizens of the United States by the French republic, prior to the 30th of September, 1800, (8th Vendemiaire, an 9,) is approved, and to have its execution in the same manner as if it had been inserted in the present treaty; and it shall be ratified in the same form and in the same time, so that the one shall not be ratified distinct from the other. Another particular convention, signed at the same date as the present treaty, relative to a

definitive rule between the contracting parties is, in the like manner, approved, and will be ratified in the same form and in the same time, and jointly.

ART. 10. The present treaty shall be ratified in good and due form, and the ratification shall be exchanged in the space of six months after the date of the signature by the ministers plenipotentiary, or sooner if possible.

In faith whereof, the respective plenipotentiaries have signed these articles in the French and English languages, declaring, nevertheless, that the present treaty was originally agreed to in the French language, and have thereunto put their seals.

Done at Paris, the 10th day of Floreal, in the 11th year of the French republic, and the 30th April, 1803.

ROBERT R. LIVINGSTON,
JAMES MONROE,
F. BARBE MARBOIS.

A Convention between the United States of America and the French republic.

The President of the United States of America, and the First Consul of the French republic, in the name of the French people, in consequence of the treaty of cession of Louisiana which has been signed this day, wishing to regulate definitively every thing which has relation to the said cession, have authorized, to this effect, the plenipotentiaries, that is to say: the President of the United States has, by and with the advice and consent of the Senate of the said States, nominated for their plenipotentiaries, Robert R. Livingston, minister plenipotentiary of the United States, and James Monroe, minister plenipotentiary and envoy extraordinary of the said United States, near the Government of the French republic; and the First Consul of the French republic, in the name of the French people, has named, as plenipotentiary of the said republic, the citizen Francis Barbé Marbois, who, in virtue of their full powers, which have been exchanged this day, have agreed to the following articles:

ART. 1. The Government of the United States engages to pay to the French Government, in the manner specified in the following article, the sum of sixty millions of francs, independent of the sum which shall be fixed by another convention for the payment of the debts due by France to citizens of the United States.

ART. 2. For the payment of the sum of sixty millions of francs, mentioned in the preceding article, the United States shall create a stock of eleven million two hundred and fifty thousand dollars, bearing an interest of six per cent. per annum, payable, half-yearly, in London, Amsterdam, or Paris, amounting, by the half-year, to three hundred and thirty-seven thousand five hundred dollars, according to the proportions which shall be determined by the French Government, to be paid at either place: the principal of the said stock to be reimbursed at the treasury of the United States in annual payments of not less than three millions of dollars each, of which the first payment shall commence fifteen years after the date of the exchange of ratifications: this stock shall be transferred to the Government of France, or to such person or persons as shall be authorized to receive it, in three months, at most, after the exchange of the ratifications of this treaty, and after Louisiana shall be taken possession of in the name of the Government of the United States.

It is further agreed that, if the French Government should be desirous of disposing of the said stock, to receive the capital in Europe at shorter terms, that its measures, for that purpose, shall be taken so as to favor, in the greatest degree possible, the credit of the United States, and to raise to the highest price the said stock.

ART. 3. It is agreed that the dollar of the United States, specified in the present convention, shall be fixed at five francs $\frac{3333}{10000}$, or five livres eight sous tournoise.

The present convention shall be ratified in good and due form, and the ratifications shall be exchanged in the space of six months, to date from this day, or sooner if possible.

In faith of which, the respective plenipotentiaries have signed the above articles, both in the French and English languages, declaring, nevertheless, that the present treaty has been originally agreed on and written in the French language, to which they have hereunto affixed their seals.

Done at Paris, the tenth day of Floreal, eleventh year of the French republic, (30th April, 1803.)

ROBERT R. LIVINGSTON,
JAMES MONROE,
F. BARBE MARBOIS.

Convention between the French republic and the United States of America.

The President of the United States of America, and the First Consul of the French republic, in the name of the French people, having, by a treaty of this date, terminated all difficulties relative to Louisiana, and established on a solid foundation the friendship which unites the two nations, and being desirous, in compliance with the second and fifth articles of the convention of the 8th Vendemiaire, 9th year of the French republic, (30th September, 1800,) to secure the payment of the sum due by France to the citizens of the United States, have respectively nominated as plenipotentiaries, that is to say: the President of the United States of America, by and with the advice and consent of their Senate, Robert R. Livingston, minister plenipotentiary, and James Monroe, minister plenipotentiary and envoy extraordinary of the said States, near the Government of the French republic; and the First Consul, in the name of the French people, the citizen Francis Barbé Marbois, minister of the public treasury, who, after having exchanged their full powers, have agreed to the following articles:

ART 1. The debts due by France to citizens of the United States, contracted before the 8th of Vendemiaire, 9th year of the French republic, (30th September, 1800,) shall be paid according to the following regulations, with interest at six per cent., to commence from the periods when the accounts and vouchers were presented to the French Government.

ART. 2. The debts provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note, which fall within the exceptions of the following articles, shall not be admitted to the benefit of this provision.

ART. 3. The principal and interest of the said debts shall be discharged by the United States by orders drawn by their ministers plenipotentiary on their treasury; these orders shall be payable sixty days after the exchange of ratifications of the treaty and the conventions signed this day, and after possession shall be given of Louisiana by the commissaries of France to those of the United States.

ART. 4. It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States who have been and are yet creditors of France for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged, within the time mentioned in the said convention of the 8th Vendemiaire, 9th year, (30th September, 1800.)

ART. 5. The preceding articles shall apply only, 1st. to captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States, otherwise than he might have had to the Government of the French republic, and only in case of the insufficiency of the captors; 2dly, the debts mentioned in the said fifth article of the convention contracted before the 8th Vendemiaire, an 9, (30th September, 1800,) the payment of which has been heretofore claimed of the actual Government of France, and for which the creditors have a right to the protection of the United States. The said fifth article does not comprehend prizes whose condemnation has been or shall be confirmed. It is the express intention of the contracting

parties not to extend the benefit of the present convention to reclamations of American citizens, who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who, by that reason, and the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention; saving, however, to such persons their claims in like manner as if this treaty had not been made.

ART. 6. And that the different questions which may arise under the preceding article may be fairly investigated, the ministers plenipotentiary of the United States shall name three persons, who shall act from the present, and provisionally, and who shall have full power to examine, without removing the documents, all the accounts of the different claims already liquidated by the bureaux established for this purpose by the French republic, and to ascertain whether they belong to the classes designated by the present convention, and the principles established in it; or if they are not in one of its exceptions, and on their certificate declaring that the debt is due to an American citizen, or his representative, and that it existed before the 8th Vendemiaire, 9th year, (30th September, 1800,) the debtor shall be entitled to an order on the treasury of the United States, in the manner prescribed by the third article.

ART. 7. The same agents shall likewise have power, without removing the documents, to examine the claims which are prepared for verification, and to certify those which ought to be admitted by uniting the necessary qualifications, and not being comprised in the exceptions contained in the present convention.

ART. 8. The same agents shall likewise examine the claims which are not prepared for liquidation, and certify in writing those which, in their judgments, ought to be admitted to liquidation.

ART. 9. In proportion as the debts mentioned in these articles shall be admitted, they shall be discharged with interest at six per cent. by the treasury of the United States.

ART. 10. And that no debt, which shall not have the qualifications above mentioned, and that no unjust or exorbitant demand may be admitted, the commercial agent of the United States at Paris, or such other agent as the minister plenipotentiary of the United States shall think proper to nominate, shall assist at the operations of the bureaux, and co-operate in the examination of the claims. And if this agent shall be of opinion that any debt is not completely proved, or if he shall judge that it is not comprised in the principles of the fifth article above mentioned, and if, notwithstanding his opinion, the bureaux established by the French Government should think that it ought to be liquidated, he shall transmit his observations to the Board established by the United States, who, without removing documents, shall make a complete examination of the debt, and vouchers which support it, and report the result to the minister of the United States. The minister of the United States shall transmit his observations in all such cases to the minister of the treasury of the French republic, on whose report the French Government shall decide definitively in every case.

The rejection of any claim shall have no other effect than to exempt the United States from the payment of it; the French Government reserving to itself the right to decide definitively on such claims, so far as it concerns itself.

ART. 11. Every necessary decision shall be made in the course of a year, to commence from the exchange of ratification, and no reclamation shall be admitted afterwards.

ART. 12. In case of claims for debts contracted by the Government of France with citizens of the United States since the 8th Vendemiaire, 9th year, (September 30, 1800,) not being comprised in this convention, may be pursued, and the payment demanded in the same manner as if it had not been made.

ART. 13. The present convention shall be ratified in good and due form, and the ratification shall be exchanged in six months from the date of the signature of the ministers plenipotentiary, or sooner, if possible.

In faith of which, the respective ministers plenipotentiary have signed the above articles, both in the French and English languages, declaring, nevertheless, that the present treaty has been originally agreed on and written in the French language, to which they have hereunto affixed their seals.

Done at Paris, the 10th day of Floreal, 11th year of the French republic, (30th of April, 1803.)

ROBERT R. LIVINGSTON,
JAMES MONROE,
F. BARBE MARBOIS.

Mr. King to the Secretary of State, dated

LONDON, *March* 29, 1801.

DEAR SIR:

In confirmation of the rumors of the day, Carnot's answer to Bailleul, published during the exile of the former, states the project which had been discussed in the Directory, to obtain from Spain a cession of Louisiana and the Floridas. A reference to that performance, copies of which I at the time sent to the Department of State, will show the manner in which it was expected to obtain the consent of Spain, as well as afford a clue to the views of France in seeking this establishment. What was then meditated, has, in all probability, since been executed. The cession of Tuscany to the Infant, Duke of Parma, by the treaty between France and Austria, forms a more compact and valuable compensation to this branch of the House of Spain than was formerly thought of; and adds very great credit to the opinion which, at this time, prevails, both at Paris and London, that Spain has in return actually ceded Louisiana and the Floridas to France. There is reason to know that it is the opinion of certain influential persons in France, that nature has marked a line of separation between the people of the United States living upon the two sides of the range of mountains which divides their territory. Without discussing the considerations which are suggested in support of this opinion, or the false consequences, as I wish to believe them, deduced from it, I am apprehensive that this cession is intended to have, and may actually produce, effects injurious to the union and consequent happiness of the people of the United States. Louisiana and the Floridas may be given to the French emigrants, as England once thought of giving them to the American tories; or, they may constitute the reward of some of the armies which can be spared at the end of the war.

I hear that General Collot, who was a few years ago in America, and a traveller in the Western country, and who for some time has been in disgrace and confinement in France, has been lately set at liberty; and that he, with a considerable number of disaffected and exiled Englishmen, Scotchmen, and Irishmen, is soon to proceed from France to the United States. Whether their voyage has any relation to the cession of Louisiana, is a matter of mere conjecture; but having heard of it in connexion with that project, I think proper to mention it to you.

What effect a plain and judicious representation upon this subject, made to the French Government by a minister of talents and entitled to confidence, would be likely to have, is quite beyond any means of judging which I possess; but on this account, as well as others of importance, it is a subject of regret that we have not such a character at this time at Paris.

With perfect respect and esteem, I have the honor to be, dear sir, your obedient and faithful servant,

RUFUS KING.

Extract:—Mr. King to the Secretary of State, dated

LONDON, *June* 1, 1801.

On this occasion, among other topics of conversation, his lordship [Hawkesbury] introduced the subject of Louisiana. He had, from different quarters, received information of its cession to France, and very unreservedly expressed the reluctance with which they should be led to acquiesce in a measure that might be followed by the most important consequences. The acquisition might enable France to extend her influence, and perhaps her dominion up the Mississippi; and through the lakes even to Canada. This would be realizing the plan, to prevent the accomplishment of which, the seven years' war took place; besides, the vicinity of the Floridas to the West

Indies, and the facility with which the trade of the latter might be interrupted, and the islands even invaded, should the transfer be made, were strong reasons why England must be unwilling that the territory should pass under the dominion of France. As I could not mistake his lordship's object in speaking to me on this subject, I had no difficulty or reserve in expressing my private sentiments respecting it; taking, for my text, the observation of Montesquieu, "that it is happy for trading Powers, that God has permitted Turks and Spaniards to be in the world, since of all nations they are the most proper to possess a great empire with insignificance." The purport of what I said was, that we are contented that the Floridas remain in the hands of Spain, but should not be willing to see them transferred, except to ourselves.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Extract:—Mr. Madison, Secretary of State, to Charles Pinckney, dated

DEPARTMENT OF STATE, WASHINGTON, *June* 9, 1801.

On different occasions since the commencement of the French revolution, opinions and reports have prevailed that some part of the Spanish possessions, including New Orleans and the mouth of the Mississippi, had been or was to be transferred to France. Of late, information has been received through several channels, making it probable that some arrangement for that purpose has been concerted. Neither the extent of the cession, however, nor the consideration on which it is made, is yet reduced to certainty and precision. The whole subject will deserve and engage your early and vigilant inquiries, and may require a very delicate and circumspect management. What the motives of Spain in this transaction may be, is not so obvious. The policy of France in it, so far, at least, as relates to the United States, cannot be mistaken. Whilst she remained on the footing of confidence and affection with the United States, which originated during our revolution, and was strengthened during the early stages of her own, it may be presumed that she adherred to the policy which, in the treaty of 1778, renounced the acquisition of continental territory in North America; and was more disposed to shun the collisions threatened by possessions in that quarter, coterminous with ours, than to pursue objects to which the commanding position at the mouth of the Mississippi might be made subservient. Circumstances are not now the same. Although the two countries are again brought together by stipulations of amity and commerce, the confidence and cordiality which formerly subsisted have had a deep wound from the occurrences of late years. Jealousies probably still remain, that the Atlantic States have a partiality for Great Britain, which may, in future, throw their weight into the scale of that rival. It is more than possible, also, that, under the influence of those jealousies, and of the alarms which have at times prevailed, of a projected operation for wresting the mouth of the Mississippi into the hands of Great Britain, she may have concluded a pre-occupancy of it by herself to be a necessary safeguard against an event from which that nation would derive the double advantage of strengthening her hold on the United States, and of adding to her commerce a monopoly of the immense and fertile region communicating with the sea through a single outlet. This view of the subject, which suggests the difficulty which may be found in diverting France from the object, points, at the same time, to the means that may most tend to induce a voluntary relinquishment of it. She must infer, from our conduct and our communications, that the Atlantic States are not disposed to enter, nor are in danger of being drawn, into partialities towards Great Britain unjust or injurious to France; that our political and commercial interests afford a sufficient guaranty against such a State of things; that, without the co-operation of the United States, Great Britain is not likely to acquire any part of the Spanish possessions on the Mississippi; and that the United States never have favored, nor, so long as they are guided by the clearest policy, ever can favor, such a project. She must be led to see again, and with a desire to shun, the danger of collisions between the two republics, from the contact of their territories; and from the conflicts in their regulations of a commerce involving the peculiarities which distinguish that of the Mississippi. Such are the general observations which the President has thought it proper should be communicated to you; that, knowing the light in which the subject is viewed by him, you may be less in danger of presenting it in any other. It is not expected that you will have occasion to make any positive use of them in relation to the councils of the French republic, the minister to which will be charged with that task. In relation to the Spanish Government, although the chief difficulty is not supposed to lie there, the President wishes you to cultivate a favorable disposition, by every proper demonstration of the preference given by the United States to the neighborhood of that of every other nation. This may be the more important, as it is not improbable that her councils also may have been affected by rumors of proceedings in this country, connected with schemes of Great Britain for getting possession of New Orleans.

Extract:—James Madison, Secretary of State, to Robert R. Livingston, minister to France, dated

DEPARTMENT OF STATE, *September* 28, 1801.

You have been already informed of the intention of the President that your departure from France should be hastened, and that you would be furnished with a passage in the Boston frigate, which, after landing you at Bordeaux, is to proceed to the Mediterranean.

From different sources information has been received that, by some transaction concluded, or contemplated between France and Spain, the mouth of the Mississippi, with certain portions of adjacent territory, is to pass from the hands of the latter to the former nation. Such a change of our neighbors in that quarter is of too momentous concern not to have engaged the most serious attention of the Executive. It was, accordingly, made one of the subjects of instruction to Mr. Charles Pinckney, our minister plenipotentiary to the court of Spain. You will find an extract of the passage hereto annexed, No. 1. A paragraph connected with the same subject, in a letter to Mr. King, is also extracted and annexed, No. 2. In these extracts you will see the ideas entertained by the Executive, and the general considerations which, it is presumed, will have most tendency to dissuade the parties from adhering to their object. As soon as you shall have prepared the way by the necessary inquiries at Paris, it will be proper for you to break the subject to the French Government, and to make the use of these considerations most likely to give them their full weight. You will probably find it advantageous to press, in a particular manner, the anxiety of the United States to maintain harmony and confidence with the French republic, the danger to which these will be exposed by collisions, more or less inseparable from a neighborhood under such circumstances, and the security which France ought to feel that it cannot be the interest of this country to favor any voluntary or compulsive transfer of the possessions in question from Spain to France.

Among other topics to be employed on the occasion, you may, perhaps, find it eligible to remark on the frequent recurrence of war between France and Great Britain, the danger to which the Western settlements of the United States would be subject of being embroiled by military expeditions between Canada and Louisiana, the inquietudes which would be excited in the Southern States, whose numerous slaves have been taught to regard the French as the patrons of their cause, and the tendency of a French neighborhood, on this and other accounts, to inspire jealousies and apprehensions which may turn the thoughts of our citizens towards a closer connexion with her rival, and possibly produce a crisis in which a very valuable part of her dominions would be exposed to the joint operation of a naval and territorial power. Suggestions of these kinds must be managed with much delicacy; or rather the expediency of hazarding them at all, as well as the manner of doing it, must be left to your own information and discretion.

Should it be found that the cession from Spain to France has irrevocably taken place, or certainly will take place, sound policy will require, in that state of things, that nothing be said or done which will unnecessarily

irritate our future neighbors, or check the liberality which they may be disposed to exercise in relation to the trade and navigation through the mouth of the Mississippi; every thing being equally avoided, at the same time, which may compromit the rights of the United States beyond those stipulated in the treaty between them and Spain. It will be proper, on the contrary, to patronize the interests of our Western fellow-citizens, by cherishing in France every just and liberal disposition towards their commerce. In the next place, it will deserve to be tried whether France cannot be induced to make over to the United States the Floridas, if included in the cession to her from Spain, or at least West Florida, through which several of our rivers, particularly the important river Mobile, empty themselves into the sea. Such a proof, on the part of France, of good will toward the United States, would contribute to reconcile the latter to an arrangement in itself much disrelished by them, and to strengthen the returning friendship between the two countries; and, by affording a fund for indemnifying and soothing our fellow-citizens who have suffered from her wrongs, would, in that view, also, be a measure founded not less in an enlarged policy, than in solid justice. The great importance of West Florida to the United States recommends to your patriotism the prudent use of every fair consideration which may favor the attainment of the object.

These ideas suppose that the cession to the United States is to be obtained from the single will of France. But it may happen that the Floridas are so far suspended, on unfinished negotiations between her and Spain, as to admit or require the concurrence of both in gratifying the wishes of the United States. In this state of things, France may yield to the considerations suggested with less of concession and reluctance; and as Spain, too, must feel an interest in the good will of the United States, and is responsible, in justice, for very considerable depredations on their commerce, there may be the greater possibility of her joining in the measure.

Should the Floridas neither have been ceded to France, nor be an acquisition contemplated by her, still it will be material, considering her intimate and influential relations to Spain, to dispose her to favor experiments on the part of the United States, for obtaining from Spain the cession in view. The interest which the latter has in cultivating our friendly dispositions, and the obligation she is under to satisfy our claims for spoliations, for doing which no other mode may be so convenient to her, are motives to which an appeal may be made with no inconsiderable force. Mr. Pinckney is accordingly to avail himself of the most auspicious occasions for sounding and exciting the dispositions of the Spanish Government on this subject; and your efforts at Paris cannot be too attentively combined with his at Madrid, as well on the last supposition that Spain alone is to make the cession, as on the former, that France is to have a direct share in the transaction. Mr. Pinckney's instructions will relate to each alternative, and you will be sensible of the advantages of such a correspondence between you as will give the proper concert to your operations.

Mr. King to the Secretary of State, dated

LONDON, *November* 20, 1801.

SIR:

If the annexed copy of the treaty between France and Spain, respecting the establishment of the Prince of Parma in Tuscany, be genuine, of which I have no reason to doubt, you will perceive the value which these Powers seem to have placed upon Louisiana; the cession whereof to France is confirmed by the seventh article of this treaty.

I am in hopes that I shall be able to obtain and send you a copy of the treaty ceding Louisiana to France: this would enable us to determine whether it includes New Orleans and the Floridas.

There is, doubtless, an understanding between England and France in respect to the expedition now nearly ready to proceed to Saint Domingo: and I think I am not mistaken in the belief, whatever may be the intentions of France in respect to the occupation of Louisiana, that no part of the forces now collecting, and which are going to Saint Domingo, will be employed for this purpose.

It is not a little extraordinary that during the whole negotiation between France and England not a word was mentioned on either side respecting Louisiana, though this Government was not ignorant of the views of France in this quarter.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Traité signé à Madrid le 21 *Mars*, 1801, *par le Prince de la Paix et Lucien Bonaparte.*

Le Premier Consul de la république Françoise et S. M. C., désirant déterminer d'une manière perpetuelle les etats a donner à fils de l'Infant, Duc actuel de Parme, frère de la Reine de l'Espagne, en compensation de ceux de Parme, ont convenu des articles suivants, ayant à cela autorisé le Citoyen Lucien Bonaparte et le Prince de la Paix.

ARTICLE I. Le Duc regnant de Parme renonce pour lui et ses heritiers à perpetuité, au Duché de Parme, avec toutes ses dependances, en faveur de la république Françoise, et S. M. C. garantit cette reconciliation. Le Grand Duché de Toscane (renoncé par le Grand Duc, et sa reconciliation garantié par l'Empereur d'Allemagne,) sera possedé par le fils du Duc de Parme, en compensation des etats cédés par l'Infant son père, et en vertu d'un traité conclu anterieurement entre S. M. C. et le Premier Consul de la république Françoise.

ART. II. Le Prince de Parme passera en Florence, ou il sera reconnu pour souverain de tous les domaines appartenants au Grand Duché, recevant, dans la forme la plus solemnelle, des autorités constitués dans le pays, les clefs des fortresses, et le serment de vasselage, qui lui est dû comme souverain. Le Premier Consul contribuera de toutes ses forces à la consommation pacifique de cet acte.

ART. III. Le Prince de Parme sera reconnu pour Roi de Toscane, avec tous les honneurs dus à cette qualité; et le Premier Consul le fera reconnoitre et traité comme Roi par les autres Puissances, ce qui aura lieu avant la prise de possession.

ART. IV. La partie de l'Ile d'Elbe appartenante à la Toscane, sera cédée à la république Françoise; et le Premier Consul donnera en équivalent au Roi de Toscane, la principauté de Piambin, qui appartenoit du Roi de Naples.

ART. V. Ce traité etant en conséquence de celui déjà conclu entre le Premier Consul et S. M. C., par lequel le Roi céde à la France la possession de la Louisiane, les parties contractantes conviennent d'effectuer le dit traité et de s'arranger à l'égard de leur droits respectifs.

ART. VI. La Maison qui va s'établir en Toscane, etant de la famille d'Espagne, ces etats seront considerés comme propriété de l'Espagne, et ce sera toujours un enfant de la famille qui devra y regner; et dans le cas que la succession du Roi qui en prend possession vint a manquer, elle sera remplacée par un des fils de la Maison regnante d'Espagne.

ART. VII. Le Premier Consul et S. M. C., en considération du Duc regnant de Parme, en faveur de son fils se concerteront pour lui procurer un indemnité convenable en possession ou en rentes.

ART. VIII. Le traité sera ratifié dans le terme de trois semaines, passé lequel il n'aura plus de force.

[TRANSLATION.]

A treaty signed at Madrid the 21*st of March*, 1801, *by the Prince of Peace and Lucien Bonaparte.*

The First Consul of the French republic and His Catholic Majesty, desiring to make a final determination of the estates which are to be given to the son of the Infant, the Duke of Parma, and brother of the Queen of Spain, having duly empowered citizen Bonaparte and the Prince of Peace, have agreed upon the following articles:

ARTICLE I. The reigning Duke of Parma, for himself and his heirs, renounces forever the Duchy of Parma, with all its dependencies, in favor of the French republic, and His Most Catholic Majesty guaranties this recon-

ciliation. The Grand Duchy of Tuscany (renounced by the Grand Duke, and his reconciliation being guarantied by the Emperor of Germany) shall be possessed by the son of the Duke of Parma, in compensation for the estates ceded by the *infant*, his father, in virtue of a treaty previously concluded between His Most Catholic Majesty and the First Consul of the French republic.

ART. II. The Prince of Parma shall proceed to Florence, where he will be acknowledged as the sovereign of all the domains appertaining to the Grand Duchy, and shall receive, in the most formal manner, from the constituted authorities of the country, the keys of the fortresses, and the oath of fealty, which will be due to him as sovereign. The First Consul will contribute all in his power to the pacific consummation of this act.

ART. III. The Prince of Parma shall be recognised as the King of Tuscany, and shall be entitled to the honors due to royalty; and the First Consul shall cause him to be acknowledged and treated as King by other Powers; and this shall be done before taking possession.

ART. IV. That part of the Isle of Elba which appertains to Tuscany, shall be ceded to the French republic; and, as an equivalent, the First Consul shall give to the King of Tuscany the principality of Piambin, which belonged to the King of Naples.

ART. V. This treaty being in consequence of that already concluded between the First Consul and His Most Catholic Majesty, by which the King cedes to France the possession of Louisiana, the contracting parties agree to carry the said treaty into execution, and to arrange it in conformity to their respective rights.

ART. VI. The House which is about to be established in Tuscany being of the family of Spain, these States shall be considered as the property of Spain, and one of the *infants* of that family shall always reign there; and in case the succession of the King who takes possession shall fail, it shall be supplied by one of the sons of the reigning House of Spain.

ART. VII. The First Consul and His Most Catholic Majesty, in consideration of the reigning Duke of Parma, will concert in favor of his son a suitable indemnity in possession or in rents.

ART. VIII. This treaty shall be ratified within the term of three weeks, or, in case of failure, shall no longer be in force.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *December* 10, 1801.

I found, from a variety of sources here, and some I think I can depend on, the business of Louisiana had been concluded, and it was understood it had been given in exchange for the Spanish port of St. Domingo, to be restored to its old master. Several circumstances concurred to induce me to believe this report was not void of truth. I, therefore, took the earliest opportunity to touch upon that subject with the minister, and to hint at the reason of policy (as it respected the French Government, as well as ourselves) that made the object interesting to us. He seemed at first inclined to waive the subject; but when he found I pressed more closely, he admitted that it had been a subject of conversation, but nothing had been concluded, or even resolved on, in that affair. I left him with a hint that perhaps both France and Spain might find a mutual interest in ceding the Floridas to the United States.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *December* 12, 1801.

In addition to what I wrote you yesterday, I have only to mention, that I am more and more confirmed, notwithstanding what I there say of the minister's assurance, that Louisiana is a favorite object, and that they will be unwilling to part with it on the condition I mentioned. Speaking of the means of paying their debts to one of their ministers, yesterday, I hinted at this. His reply was, "none but spendthrifts satisfy their debts by selling their lands;" adding, however, after a short pause, "but it is not ours to give."

Extract:—Mr. Livingston to Mr. King, minister to England.

PARIS, *December* 30, 1801.

Among the objects that would most naturally engage my attention on my arrival, was the state of the negotiation between France and Spain, regarding Louisiana; with a view, if it had not been concluded on, to throw obstacles in the way, so far as it could be advantageously done; or, if it had been effected, to make some such arrangements as would lessen the inconveniences which might result from it to our Western territory. I have, however, reason to think the whole business had been settled before my arrival. I took occasion, on my first private audience of the Minister of Exterior Relations, to press him directly upon the subject, taking the common reports as a foundation for my inquiry. He explicitly denied that any thing had been concluded, but admitted that it had been a subject of conversation. I know, however, from a variety of channels, that it is not a mere matter of conversation, but that the exchange has actually been agreed upon; that the armament destined, in the first instance, for Hispaniola, is to proceed to Louisiana, provided Toussaint makes no opposition. General Collot, whom you may have seen in America, was originally intended for Governor of that province, but he is, at present, out of favor. I think it probable the minister will justify his concealment to me, by its not having been definitively closed with Spain, as this, though determined between the two Governments, may form an article in the general treaty. His absence (being at Lyons) prevents my coming to something more explicit with him. That Spain has made this cession, (which contravenes all her former maxims of policy,) cannot be doubted; but she is no longer a free agent.

I wish to know from you in what light this is seen by England. It will certainly, in its consequences, be extremely dangerous to her, as it will give an almost unbounded power to her rival.

It puts Spain in a perpetual state of pupilage, since she must always tremble for the safety of her colonies, in case of rupture. To avoid this evil, she must grant every commercial and political advantage to France. Her manufactures will find their way, through this channel, into every part of the Spanish territory, to the exclusion of those of *Britain*. Our own Western territory may be rendered so dependent upon them as to promote their political views, while the interest they have always nurtured with the Indians, and the national character of the peasantry of Canada, may render the possessions of Britain very precarious, to say nothing of the danger which must threaten her islands in case a respectable establishment should be made by France in Louisiana, which will not fail to be the case, as the territory is uncommonly fine, and produces sugar, and every article now cultivated in the islands.

I suggest these hints, that they, with many others which may occur to you, may be made use of with the British ministry, to induce them to throw all the obstacles in their power in the way of a final settlement of this business, if it is not already too late. You know, however, the importance of not appearing yourself, or permitting me to appear much opposed to it, if you find the thing concluded, since it might be made use of to embroil us with France, and Britain will have sufficient address to endeavor to keep up a mutual jealousy, if possible, between us.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *December* 31, 1801.

The business of Louisiana is very disagreeable to Spain, as far as I can learn. If it should be equally so to Britain, perhaps it may meet with some obstacles. It is a very favorite measure here. Marbois told me yesterday it was considered important to have an outlet for their turbulent spirits; yet would not explicitly acknowledge that the business had been concluded.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *January* 13, 1802.

My former letters left you little doubt on the subject of the cession of Louisiana. By the enclosed copy of the late treaty between France and Spain, you will find that it is a transaction of pretty long standing.*

The absence of the minister prevents my applying to him for the former treaty, which he will hardly know how to give me after absolutely denying that any had been formed on the subject. By the secrecy and duplicity practised relative to this object, it is clear to me that they apprehend some opposition, on the part of America, to their plans. I have, however, upon all occasions, declared that, as long as France conforms to the existing treaty between us and Spain, the Government of the United States does not consider herself as having any interest in opposing the exchange. The evil our country has suffered by their rupture with France is not to be calculated. We have become an object of jealousy both to the Government and people.

The reluctance we have shown to a renewal of the treaty of 1778, has created many suspicions. Among other absurd ones, they believe seriously that we have an eye to the conquest of their islands. This business of Louisiana also originated in that; and they say expressly, that they could have had no pretence, so far as related to the Floridas, to make this exchange, had the treaty been renewed, since by the sixth article they were expressly prohibited from touching the Floridas. I own I have always considered this article and the guaranty of our independence as more important to us than the guaranty of the islands was to France; and the sacrifices we have made, of an immense claim, to get rid of it as a dead loss. We must calculate upon every effort from every maritime Power in Europe to diminish our commerce. France has already excluded us from her African colonies. Her premiums will exclude our oil; and her heavy duties upon tobacco in foreign bottoms will prevent our carrying that article for ourselves. She refuses to naturalize our ships; so that a very large capital in that article will sink in our hands. The American Government have it in their power to counteract these measures; but they must do it instantly and decidedly, so as to show that measures of hostility to her commerce will not produce the effect contemplated by the nations of Europe. Let the United States impose a duty upon special articles, of her own produce, exported in foreign bottoms, equivalent to the difference of duty paid in Europe on such articles when imported in American or national vessels. This will secure to us the carriage of our own articles; first, because we can carry cheaper; and, second, because this duty being paid in advance imposes a greater burden than one that is paid out of the sale of the produce.

Extract:—Mr. King to the Secretary of State.

SIR: LONDON, *January* 15, 1802.

I have before mentioned to you that the cession of Louisiana (of which it seems to me we can have no doubt, notwithstanding what may be said to amuse us) was not once a topic of inquiry or discussion in the negotiation of the preliminaries; and, for the same reason that it was not heard of on that occasion, Lord Hawkesbury has recently informed me that it had not been, and would not be, mentioned at Amiens. It is impossible for me to suspect collusion in this affair, and my persuasion, after the most careful attention, is, that England abstains from mixing herself in it, precisely from those considerations which have led her to acquiesce in others of great importance to the balance of Europe, as well as her own repose, and upon which she has been altogether silent.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Extract:—Mr. King to the Secretary of State.

SIR: LONDON, *February* 5, 1802.

I have seen a letter, dated Paris, February 26, which says, it is definitively settled to send a colony to Louisiana and Florida. General Bernadotte is to have the direction and command of it: preparations are making for the first expedition, whose departure will perhaps depend upon the accounts expected from St. Domingo. It is asserted that the Indian nations, adjoining to Florida, have agents, now here, for the purpose of making treaties with this country to unite themselves with the troops and settlers that may be sent from hence. The establishment of this colony is a darling object, and will be pursued with ardor and upon a great scale, unless the affairs of St. Domingo shall, for the moment, derange the plan. Louisiana, Guiana, and the desert island of Tristan de Cunha, are each spoken of as places to which the rebellious and untractable negroes and people of color may be sent from St. Domingo and the other French colonies.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *February* 26, 1802.

On the subject of Louisiana, I have nothing new. The establishment is disapproved by every statesman here as one that will occasion a great waste of men and money, excite enmities with us, and produce no possible advantage to the nation. But it is a scheme to which the First Consul is extremely attached; and it must, of course, be supported. You will find, by the enclosed note, that I have pressed an explanation on the subject, but I have received no answer. I have it, however, through a friend, from the First Consul, that it is by no means their intention to obstruct the navigation of the Mississippi, or violate our treaty with Spain. General Bernadotte is understood to be designated for the command, and to have asked ten thousand troops.

[Enclosed in Mr. Livingston's despatch of February 26, 1802.]

Mr. Livingston to the Minister of Exterior Relations, dated

FEBRUARY 20, 1802.

The undersigned, minister plenipotentiary of the United States, has seen, with some concern, the reserve of the French Government, with respect to the cession they have received from Spain of Louisiana.

He had hoped that they would have found a propriety in making such frank and open communications to him as would have enabled him to satisfy the Government of the United States that neither their boundary, nor the naviga-

* For this treaty see Mr. King's despatch of November 20, 1801, page 511.

tion of the Mississippi, secured by their treaties with Spain, would be, in any way, affected by the measure. It would also have been very satisfactory to him to have taken such arrangements with the Minister of Exterior Relations as would have had a tendency to dissipate the alarms the people of the Western territory of the United States will not fail to feel on the arrival of a large body of French troops in their vicinity; alarms which will probably be increased by the exertions of those Powers that are interested in keeping the two republics from cementing their connexion. The policy of the former Government of France led it to avoid all ground of controversy with the United States, not only by declining to possess any territory in their neighborhood, but by stipulating never to hold any. The undersigned does not, by this reference to the sixth article of the treaty of 1778, mean to reclaim any rights under it, since, by the convention of Paris, 30th September, 1800, it is understood to be revoked; but merely to lead the French Government to reflect how far a regard to the same policy might render it conducive to the mutual interest of both nations to cover, by a natural barrier, their possessions in America, as France has invariably sought to do in Europe.

The undersigned prays the Minister of Exterior Relations (if the request is not inconsistent with the views of the Government) to inform him whether East and West Florida, or either of them, are included in the treaty made between France and Spain; and to afford him such assurances, with respect to the limits of their territory and the navigation of the Mississippi, heretofore agreed on between Spain and the United States, as may prove satisfactory to the latter.

If the territories of East and West Florida should be included within the limits of the cession obtained by France, the undersigned desires to be informed how far it would be practicable to make such arrangements between their respective Governments as would, at the same time, aid the financial operations of France, and remove, by a strong natural boundary, all future causes of discontent between her and the United States. The undersigned embraces this opportunity of renewing to the Minister of Exterior Relations his, &c. &c.

PARIS, 1st Ventose, year 10, (20th February, 1802.)

Extract:—Mr. King to the Secretary of State.

LONDON, *February* 27, 1802.

SIR:

From all I can gather upon the subject, we may consider the cession of Louisiana and the Floridas as an affair decided. Without doubt, you are fully aware of its various and extensive consequences. Has it occurred to you that the French Government will probably send thither a large body of people from France, and that it may add to them all the refractory and discontented blacks and persons of color of their West India colonies?

With perfect respect and esteem, &c.

RUFUS KING.

Mr. Livingston to the Secretary of State.

PARIS, *March* 15, 1802.

SIR:

After closing my packet, I received the note of which the within is a copy. It amounts to nothing, but must serve to keep me quiet a few days longer, till they see what turn the business takes at Amiens, which becomes more and more doubtful. The bad news from St. Domingo also renders it necessary to keep us in suspense. I have already expressed my fear that American property in the islands will not be very safe; and the passage in Le Clerc's letter relative to the powder and arms may serve as an apology.

I am, sir, &c.

R. R. L.

[Enclosed in Mr. Livingston's despatch of March 15, 1802.]

Le Ministre des Relations Extérieures, de la république Française, à Monsieur Livingston, Ministre Plenipotentiare des Etats Unis.

PARIS, 23*d Ventose*, (13*th March*,) *an* 10.

MONSIEUR:

J'ai reçu les différentes notes que vous m'avez fait l'honneur de m'addresser sur l'affaire des créances, et des prises Americaines; et j'en ai fait l'objet d'un rapport pour le Premier Consul. Je m'empresserai de vous informer de la décision qu'il aura prise.

Ne doutez pas, monsieur, que des questions qui concernent les Etats Unis, et qui ont pour objet de regler quelques uns de leurs rapports avec la France, ne soient examinées avec beaucoup d'intérêt et d'attention.

Agréez, monsieur, les assurances de ma haute considération.

CH. MAU. TALLEYRAND.

[TRANSLATION.]

PARIS, *March* 13, *year* 10.

SIR:

I have received the different notes which you have done me the honor to address to me, relating to the debts, and to the American captures; and I have made them the subject of a report to the First Consul. As soon as his decision shall be made, I will hasten to inform you of the result.

Do not doubt, sir, that the questions which concern the United States, the determination of which may affect their relations with France, will be examined with equal interest and attention.

Accept, sir, the assurances of my high consideration.

CH. MAU. TALLEYRAND.

Extract:—James Madison, Secretary of State, to Robert R. Livingston, minister to France, dated

DEPARTMENT OF STATE, *March* 16, 1802.

The subject of your letter to Mr. King, of the 30th of December, is regarded by the President as not less delicate than you have supposed. Considering the particular views which Great Britain may mingle with ours, and the danger that a confidential resort to her may be abused, for the purpose of sowing jealousies in France, and thereby thwart our object, you and Mr. King will both be sensible that too much circumspection cannot be employed.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *March* 24, 1802.

On the business of Louisiana they have, as yet, not thought it proper to give me any explanations, though I have omitted no opportunity to press the subject in conversation, and ultimately, by the note sent you on the 25th of February, (a duplicate of which was forwarded on the 28th,) with the copy of another note enforcing the above, to which I have, as yet, received no answer.

The fact is, they believe us to be certainly hostile to this measure, and they mean to take possession of it as early as possible, and with as little notice to us as they can.

They are made to believe this is one of the most fertile and important countries in the world; that they have a much greater interest with the Indians than any other people; that New Orleans must command the trade of our whole Western country; and, of course, that they will have a leading interest in its politics. It is a darling object with the First Consul, who sees in it a mean to gratify his friends, and to dispose of his armies. There is a man here, who calls himself a Frenchman, by the name of Francis Tatergem, who pretends to have great interest with the Creek nations. He has been advanced to the rank of a general of division. He persuades them that the Indians are extremely attached to France, and hate the Americans; that they can raise twenty thousand warriors; that the country is a paradise, &c. I believe him to be a mere adventurer; but he is listened to, and was first taken up by the old Directors.

I cannot help thinking that it would be advisable for the present Congress to take measures for establishing the Natchez, or some other port, and giving it such advantages as would bring our vessels to it, without touching at Orleans. On this subject, however, you will form a better judgment than I can. I have but one hope left as to defeating this cession. It consists in alarming Spain and England. The Spanish minister is now absent; but I have not failed to show, in the strongest light, to the minister of Britain the danger that will result to them from the extension of the French possessions into Mexico, and the probable loss of Canada, if they are suffered to possess it.

I have requested Mr. King to press this subject, also, as opportunity offers. I enclose a copy of my last letter to him. If the treaty does not close soon, I think it would be advisable for us to meet at Amiens, and have accordingly proposed it to him.

I believe, such is the state of things here, and such the desire for peace, that Britain may force them to relinquish Louisiana, particularly as the people here are far from desiring the establishment of any foreign colony which they consider as a weak point, and drain for the population and wealth.

[Enclosed in Mr. Livingston's despatch of March 24, 1802.]

Extract:—Mr. Livingston to Mr. King, minister at London.

PARIS, *March* 10, 1802.

If Louisiana goes into the hands of France, without any explanations on the part of her Government to us, (and this I have not yet been able to bring it to, though I have pointedly pressed it, both verbally and by note,) on the subject either of her boundary or the navigation of the Mississippi, it is impossible to see the extent of the power she will have in and over America. As part of the territory of Spain, Louisiana has no precise boundary; so that it is easy to foresee the fate of Mexico, especially when it is considered that General Bernadotte, who is marked for this expedition, has demanded, it is said, a large body of men. Britain will judge how far she is able to contend with France, enriched by the treasures of Spain. The boundary between Canada and Louisiana is alike unsettled. The dispositions of a great part of the natives of that country are friendly to France; her influence over the Indian tribes has always been, and will again be, much greater than that of the British, both from the disposition and manners of her people, and from the whole body of carriers in the Indian trade being native Canadians, and much the greater part of them mongrel French. It is impossible to say what their influence may be upon our Western country, in case of a controversy with Great Britain, particularly if they keep the keys of it by possessing the mouth of the Mississippi, or invite their aid in the plunder of Mexico. That the possession of that country, aided by the power of France in Europe, will draw after it that of all the islands, is easily foreseen. I mention these circumstances to you, though I know they could hardly escape you, as hints that you may use with advantage to introduce this business at Amiens. You well know how to give them additional weight. Nor is the right of Britain to interfere unfounded. By the sixth article of the treaty with us of 1778, they absolutely renounce all right to take, under any circumstances, any part of the country possessed then or before by Britain on that continent. Though we have relinquished all advantages deducible from that treaty, yet, so far as other nations were interested in it at the close of the last war, they have a right to enforce it. And surely it was a very important guaranty to Britain of her colonies; and it might, for aught we know, have had great influence upon the terms of the then peace.

Extract:—James Madison, Secretary of State, to Mr. Pinckney, dated

DEPARTMENT OF STATE, *March* 30, 1802.

We are anxious to hear from you on the several subjects with which you have been charged; particularly on that of Louisiana. By a treaty entered into between Spain and France, in March 1801, and lately published in the Paris newspapers, it appears that in an antecedent treaty the cession of that country had been stipulated by Spain. Still it is possible that the cession may have been since annulled; and that such was, or was to be the case, has been stated in verbal accounts from Madrid. At Paris, Mr. Livingston has been given to understand, by the French Government, that the cession had never been more than a subject of conversation between the two Governments. No information, however, has been received from him subsequent to the publication of the treaty of March, 1801, which must have led to some more decisive explanations.

The copies herewith enclosed of a memorial of sundry inhabitants living on waters running from the United States through Florida into the Gulf of Mexico, and of a letter from the late Mr. Hunter, representative in Congress of the Mississippi territory, will present to your attention a subject of some importance at this time, and of very great importance in a future view. The treaty with Spain having, as these documents observe, omitted to provide for the use of the Mobile, Chatahoochee, and other rivers running from our territory through that of Spain, by the citizens of the United States, in like manner with the use of the Mississippi, it will be proper to make early efforts to supply the defect. Should a cession, indeed, including the Spanish territory eastward of the Mississippi, have finally taken place, it can answer no purpose to seek from the Spanish Government this supplemental arrangement. On a contrary supposition, you will avail yourself of the most favorable moment and manner of calling its attention to the object. In support of our claim you will be able to use the arguments which enforced that to the navigation of the Mississippi. If it should be observed that a greater proportion of these rivers than of the Mississippi run through the exclusive territory of Spain, it may be a set-off that the upper parts of the rivers run, exclusively, through the territory of the United States, and do not merely divide it, like the Mississippi, from that of Spain. But neither the one nor the other circumstance can essentially affect our natural rights. Should the Spanish Government be favorably disposed, it will be proper for you to pave the way for a formal convention on the subject, endeavoring to obtain, in the mean time, such regulations from its authority, and such instructions to its officers, as will answer the purposes of our citizens. Among other hardships, of which they now complain, and for which a regulation is particularly wanted, one, I understand, is, that the article, cotton, which is acquiring rapid importance in that quarter, must, after it has been conveyed to Mobile, be shipped to New Orleans, and pay a duty of about twelve and a half per cent. before it can be exported.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *April* 24, 1802.

The business most interesting to us, that of Louisiana, still remains in the state it was. The minister will give no answer to any inquiries I make on that subject. He will not say what their boundaries are, what are their inten-

tions, and when they are to take possession. And what appears very extraordinary to me, is, that by a letter I have just received from Mr. Pinckney, I find that he still supposes that the Floridas are not included in the cession: and he writes me that he has made a proposition to purchase them, which lies before the minister with whom he is to have a conference on the subject. You may, however, be fully assured that the Floridas are given to France; that they are, at this moment, fitting out an armament from here to take possession. This will be commanded by General Bernadotte. The number of troops designed for this object is between five and seven thousand. They will shortly sail for New Orleans, unless the state of affairs in St. Domingo should change their destination. You may act upon this information with absolute certainty, since I have no doubts of the channel through which I have received it. It would be wise immediately to take measures to enable the Natchez to rival Orleans. I have suggested the means; and I hope they will not be neglected by the Congress now sitting. That you may judge of the light in which this country is viewed by some here, I send you the extract of a paper that now lies before the minister. If Congress make the Natchez a free port, and if the state of affairs in St. Domingo should employ the troops designed for Louisiana, time will still be left for gold to operate here. But it must be plentifully and liberally bestowed, not barely in the assumption of debts, but in active capital, afforded in supplies, to aid their armaments in the islands. Give me your instructions as to the utmost amount, if, as you will be better able to judge than I can, the affairs of St. Domingo are likely to be protracted.

Extract:—James Madison, Secretary of State, to Robert R. Livingston, dated

DEPARTMENT OF STATE, WASHINGTON, *May* 1, 1802.

The conduct of the French Government, in paying so little attention to its obligations under the treaty, in neglecting its debts to our citizens, in giving no answers to your complaints and expostulations, which you say is the case with those of other foreign ministers also, and particularly in its reserve as to Louisiana, which tacitly contradicts the language first held to you by the Minister of Foreign Relations, gives tokens as little auspicious to the true interests of France herself, as to the rights and the just objects of the United States.

The cession of Louisiana to France becomes daily more and more a source of painful apprehensions. Notwithstanding the treaty of March, 1801, and notwithstanding the general belief in France on the subject, and the accounts from St. Domingo that part of the armament sent to that island was eventually destined for Louisiana, a hope was still drawn, from your early conversations with M. Talleyrand, that the French Government did not mean to pursue the object. Since the receipt of your last communications, no hope remains but from the accumulating difficulties of going through with the undertaking, and from the conviction you may be able to impress, that it must have an instant and powerful effect in changing the relations between France and the United States. The change is obvious; and the more it can be developed in candid and friendly appeals to the reflections of the French Government, the more it will urge it to revise and abandon the project. A mere neighborhood could not be friendly to the harmony which both countries have so much an interest in cherishing; but if a possession of the mouth of the Mississippi is to be added to other causes of discord, the worst events are to be apprehended. You will, consequently, spare no efforts, that will consist with prudence and dignity, to lead the councils of France to proper views of this subject, and to an abandonment of her present purpose. You will also pursue, by prudent means, the inquiry into the extent of the cession, particularly whether it includes the Floridas as well as New Orleans, and endeavor to ascertain the price at which these, if included in the cession, would be yielded to the United States. I cannot, in the present state of things, be more particular on this head, than to observe, that in every view it would be a most precious acquisition, and that, as far as the terms could be satisfied by charging on the acquisition itself the restitutions and other debts to American citizens, great liberality would doubtless be indulged by this Government. The President wishes you to devote every attention to this object, and to be frequent and particular in your communications relating to it.

Extract:—James Madison, Secretary of State, to Rufus King, minister to England, dated

DEPARTMENT OF STATE, *May* 1, 1802.

We are fully aware of the tendency of the reported cession of Louisiana to plant in our neighborhood troubles of different kinds, and to prepare the way for very serious events. It has accordingly been a primary object with the President to obviate such an event.

Mr. King to the Secretary of State.

SIR: LONDON, *May* 7, 1802.

Among the few great principles of national policy worthy of fixing the attention of our statesmen, I am willing to hope there is not one concerning which there is greater unanimity in opinion, than in that which enjoins upon us all to do our utmost, in every way, and upon all occasions, to maintain and perpetuate the union of our country.

With this persuasion, though the subject may not be thought to be included among the duties of my mission, I have not been able to remain inattentive or indifferent to the cession of Louisiana and the Floridas to France, because I have viewed it as a measure calculated and possibly intended to weaken and divide us. I have already communicated to you what passed between me and the ministers of this country in relation to this cession, during the negotiation for peace: but, as these communications were merely verbal, and as it appeared to me to be of some importance that they should be distinctly and formally confirmed, as well as that we should be ascertained of the sentiments of this Government in respect to this cession, I prepared and sent to Lord Hawkesbury a confidential letter upon the subject, a copy whereof, together with a copy of his answer, is annexed. I will only add that I have reason to be satisfied that the cession of Louisiana and the Floridas is considered by all the late ministry, as well as by all other men of influence in this country, as a measure of the greatest consequence, and which must have an unavoidable influence upon the duration of peace.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

[Enclosed in Mr. King's despatch of May 7, 1802.]

Mr. King to Lord Hawkesbury.

MY LORD: LONDON, *April* 21, 1802.

By the treaty of alliance concluded at Paris, in 1778, between the United States of America and France, the latter renounced forever the possession of every part of the continent of America, lying to the east of the course of the river Mississippi. This renunciation, confirming that which had been previously made in the treaty of 1763, between Great Britain and France, authorized the expectation that France, content with her widely-spread dominions, would abstain from seeking an extension of them in this part of the American continent; an expectation that appeared the more reasonable, inasmuch as the motives to such extension could not be satisfactorily reconciled with a just regard to the rights and security of those Powers between which this portion of America is divided, and by which the same is at present possessed.

Contrary, nevertheless, to expectations which have been entertained on this subject, if credit be due to uniform and uncontradicted reports, the Government of France has prevailed upon His Catholic Majesty to cede to France both the provinces of Louisiana and the Floridas, and, having thus acquired a station at the mouth, and on the sides of the Mississippi, may be inclined to interfere with and interrupt the open navigation of the same.

By the treaty of peace concluded at Paris, in 1783, between the United States of America and Great Britain, it is mutually stipulated, that "the navigation of the river Mississippi, from its source to the ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States." Without enlarging upon the great and peculiar importance of this navigation to the United States, a large and increasing portion of whose people can conveniently communicate with each other, and with foreign countries, by no other route, I take the liberty, through your lordship, to request that the British Government will, in confidence, explain itself upon this subject, and especially that it will explicitly declare whether any communication has been received by it from the Government of France or Spain respecting the said cession; or whether His Britannic Majesty has, in any manner, acquiesced in or sanctioned the same, so as to impair or affect the stipulation above referred to, concerning the free navigation of the Mississippi; in a word, I entreat your lordship to open yourself on this occasion with that freedom which, in matters of weighty concern, is due from one friendly nation to another, and which, in the present instance, will have the effect to do away all those misconceptions that may otherwise prevail in respect to the privity of Great Britain to the cession in question.

With the highest consideration, I have the honor to be,

RUFUS KING.

[Enclosed in Mr. King's despatch of May 7, 1802.]

Lord Hawkesbury to Mr. King.

DOWNING STREET, *May* 7, 1802.

SIR:

I have the honor to acknowledge the receipt of your letter of the 21st ultimo.

It is impossible that so important an event as the cession of Louisiana by Spain to France should be regarded by the King in any other light than as highly interesting to His Majesty, and to the United States; and should render it more necessary than ever that there should subsist between the two Governments that spirit of confidence which is become so essential to the security of their respective territories and possessions.

With regard to the free navigation of the Mississippi, I conceive that it is perfectly clear, according to the law of nations, that, in the event of the District of Louisiana being ceded to France, that country would come into the possession of it subject to all the engagements which appertained to it at the time of cession; and that the French Government could, consequently, allege no colorable pretext for excluding His Majesty's subjects, or the citizens of the United States, from the navigation of the river Mississippi.

With regard to the second question in your letter, I can have no difficulty in informing you that no communication whatever has been received by His Majesty from the Government of France or Spain relative to any convention or treaty for the cession of Louisiana or the Floridas; and I can, at the same time, most truly assure you that His Majesty has not, in any manner, directly or indirectly, acquiesced in or sanctioned this cession.

In making this communication to you, for the information of the Government of the United States, I think it right to acquaint you that His Majesty will be anxious to learn their sentiments on every part of this subject, and the line of policy which they will be inclined to adopt in the event of this arrangement being carried into effect.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

HAWKESBURY.

James Madison, Secretary of State, to Charles Pinckney, minister to Spain, dated

DEPARTMENT OF STATE, *May* 11, 1802.

We are still without a line from you since your arrival at Madrid, and feel an increasing solicitude to hear from you on the subject of Louisiana. The latest information from Paris has confirmed the fact that it was ceded by a treaty prior to that of March, 1801; and, notwithstanding the virtual denial of the cession in the early conversations between Mr. Livingston and the Minister of Foreign Relations, a refusal of any explanations at present seems to admit that the cession has taken place. Still there are chances of obtaining a reversal of the transaction. The repugnance of the United States to it is, and will be, pressed in a manner that cannot be without some effect: it is known that most of the French statesmen best informed on the subject disapprove of it; the pecuniary difficulties of the French Government must, also, be felt as a check; whilst the prospect of a protracted and expensive war in St. Domingo must form a very powerful obstacle to the execution of the project. The councils of England appear to have been torpid on this occasion. Whether it proceeded from an unwillingness to risk a fresh altercation with France, or from a hope that such a neighborhood between France and the United States would lead to collisions which might be turned to her advantage, is more than I can decide. The latter consideration might justly have great weight with her; but as her eyes may be more readily turned to the immediate and certain purposes to be answered to her rival, it is to be presumed that the policy of England will contribute to thwart the acquisition. What the intentions of Spain may be, we wait to learn from you. Verbal information, from inofficial sources, has led us to infer that she disowns the instrument of cession, and will rigorously oppose it. Should the cession actually fail from this, or any other cause, and Spain retain New Orleans and the Floridas, I repeat to you the wish of the President, that every effort and address be employed to obtain the arrangement by which the territory on the east side of the Mississippi, including New Orleans, may be ceded to the United States, and the Mississippi made a common boundary, with a common use of its navigation for them and Spain. The inducements to be held out to Spain were intimated in your original instructions on this point. I am charged by the President now to add, that you may not only receive and transmit a proposition of guaranty of her territory beyond the Mississippi, as a condition of her ceding to the United States the territory, including New Orleans, on this side, but, in case it be necessary, may make the proposition yourself, in the forms required by our constitution. You will infer from this enlargement of your authority, how much importance is attached to the object in question, as securing a precious acquisition to the United States, as well as a natural and quiet boundary with Spain; and will derive from this consideration additional motives to discharge, with a prudent zeal, the task committed to you.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *May* 20, 1802.

The same conduct was held [by the Minister of Exterior Relations] with respect to Louisiana. He would not acknowledge that the Government had yet formed any specific plan with respect to it, or that any troops were going out; but assured me, in general terms, that nothing should be done that should give us any just ground of complaint; on the contrary, their vicinity would promote our friendship.

I will not trouble you with the answers that obviously presented to this reasoning. It terminated, however, as all my conversations on this subject have done, in nothing.

I shall wait a few days in hopes of hearing from you, after having received a copy of my first note, when I shall act agreeably to your instructions, or, if you afford me none, send in a second, in which I shall press for a communication of the treaty with Spain, which, however, I am in hopes you may receive through Mr. Pinckney.

I believe that, for the present, the armament designed for Louisiana will be sent to Hispaniola, about which I find that much anxiety is entertained here.

Mr. Livingston to the Secretary of State.

PARIS, *May* 28, 1802.

SIR:

Since my last I have acquired information which I can depend on, relative to the intentions of this Government with respect to Louisiana. Bernadotte is, as I told you, to command: Collot, second in command. Adet is to be Prefect: but the expedition is delayed till about September, on account (as Talleyrand expressed himself to Bernadotte) of some difficulty which he did not explain; but which, I have no doubt, has arisen from the different apprehensions of France and Spain relative to the meaning of the term Louisiana, which has been understood by France to include the Floridas, but probably by Spain to have been confined to the strict meaning of the term. This explains why I could never get an answer to my questions relative to the extent of the cessions; and upon which the French Government had probably no doubt till we started it. Believing, if this conjecture as to the cause of the delay of the expedition was right, that no time should be lost in throwing obstructions in the way of its conclusion, I wrote the note, of which the enclosed is a copy, with the double purpose of alarming Spain, and furnishing with arguments, arising from the good faith they owed us, against giving their cession the construction France would wish. I consider this as the more important, because I believe that every negotiation for this object will be carried on here. I shall, however, give the earliest and fullest information I can on this subject to Mr. Pinckney, who will enforce at Madrid the arguments I may use here to excite the alarm of the court of Spain.

I wait impatiently some further instructions from you; those I have, in some sort prohibiting such measures as may show any dissatisfaction on the subject, of which, however, I doubt the policy. The subject is so interesting as to induce us to risk something to defeat it.

If I do not hear from you soon, I shall present a pointed memorial to this Government, stating fully and candidly our objections to their taking possession of the Floridas, and demanding security for the rights we had originally, and by treaty with Spain.

I am, sir, &c.

R. R. L.

[Enclosed in Mr. Livingston's despatch of 28th May, 1802.]

Mr. Livingston, Minister Plenipotentiary of the United States, to his Excellency Chevalier d'Azara, Ambassador of His Catholic Majesty.

PARIS, *May* 28, 1802.

SIR:

The powerful interests that our respective Governments have, that the sincerest friendship and harmony should subsist between their territories in America, naturally leads to mutual confidence between their ministers, and a full exposition of their sentiments upon subjects which may have a tendency to interrupt that union. I think it my duty, therefore, to open myself to you with freedom on one which is very important as it regards the good faith which, I trust, both your Government and mine will consider as the first of obligations, and as it respects the great territorial interests of both Spain and the United States; and I flatter myself, sir, that with these objects in view, I shall meet with equal frankness and confidence on your part. It is generally understood that Spain has made a cession of Louisiana to France; and it might have been expected, considering the situation of this territory, and the friendly connexion between both countries and the United States, that a communication would have been made of this treaty to their Government. Passing over this circumstance, probably owing rather to inattention than to a want of confidence, I proceed to make some observations on the treaty now in force between the court of Madrid and the United States; and to inquire how far Spain has provided for the stipulations contained in that treaty, and secured thereby to the United States. The boundary between our respective Governments having been established, it is not to be doubted that the cession has confined itself to the same limits. But, sir, by the fourth article of that treaty, it is agreed that the mid-channel of the Mississippi, where it divides the territories of Spain from those of the United States, shall be the boundary, and that the navigation of this river shall be confined to the subjects of Spain and the citizens of the United States, unless it shall be extended to others by special convention. I am solicitous to know, sir, in what manner the rights of the citizens of the United States in this river are preserved by the terms of the cession. Where the river runs *wholly* within the territory of Spain, the United States have, by the treaty, a qualified right of navigation of which they cannot be divested. They have also the assurance of Spain that no other nation shall share this right unless by *convention;* by which I understand that Spain binds herself not to grant this right without some previous agreement on the subject with the United States: and this is rendered more evident from the words of the article not being confined to the river below the thirty-first degree of north latitude, but extending to the whole of the Mississippi, as well above as below: whereas, half the river above that boundary belonging to the United States, it could not have been intended that either of the contracting parties should have a right to grant, without the consent of the other, a right that was held in common. The word *convention* must, therefore, be intended to mean a convention between Spain and the United States; nor can any cession of the territory carry with it a right to admit other Powers to a participation of the advantages of the navigation of the Mississippi, unless by convention previously entered into between His Catholic Majesty and the United States. It is to be presumed that, in the cession which Spain has made, the Floridas are not included, because of the evident interest that she has in retaining them as a security for her territories in South America, if unfortunate events should hereafter produce a rupture between France and Spain. In this case, the Floridas, by lying in the rear of the French colonies, would serve as an effectual check as well to them as to those turbulent spirits in the adjoining States as might, in spite of the efforts of their Government, incline to associate in the enterprises of France. Upon this subject, sir, however, I pray to have more explicit information, because you will observe that, by the existing treaty between our respective nations, there are special stipulations mutually agreed upon, and which the United States have a right to expect some security for in any cession that Spain may make of that country. By the fifth article it is agreed that Spain will restrain by *force* all hostilities on the part of the Indian nations living within their boundary, either on the citizens of the United States, or the Indians within their territory, &c. You will easily see, sir, that as this is a national obligation, it may be doubtful whether it will pass with the territory, and yet is of such a nature as to entitle the United States to look for its performance from the good faith of Spain, who cannot, without the consent of the United States, place herself in a situation to render it of no effect. By the twenty-second article of the same treaty, Spain stipulates to permit the citizens of the United States to deposite their goods at New Orleans, and to export from thence free of duty, or, in case of withdrawing this permission, to assign them an establishment for this purpose on another part of the banks of the Mississippi. I take the liberty to ask, sir, (if the Floridas are included in the cession to France,) what stipulations the cession contains ensuring to the United States this important privilege which they considered themselves entitled to by the best of all guaranties, the good faith of His Catholic Majesty? You will easily see, sir, that if a naked cession has been made to France, without attention to these articles, how much reason the United States will have to complain of the measure: and I trust, sir, that you will see the propriety of their forming one of the parties to any treaty in which their rights may be so materially affected. I know, sir, that observations might, and I doubt not will be made officially to your court by the minister of the United States at Madrid: but, in the mean time, sir, as it is my intention to address myself upon this subject to the Government of France, I wish to receive from you every information which might throw light upon the subject, and the rather as knowing the confidence that His Catholic Majesty reposed in your talents and patriotism; and seeing, at the same time, that in every thing that related to this object our respective nations had a joint interest. I have believed that you will receive with pleasure this unofficial note as a mark of my confidence, and afford me your aid in giving efficacy to a treaty which has served as the basis of friendship between our respective nations.

R. R. L.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *June* 8, 1802.

Enclosed is the answer of the Spanish ambassador to my letter, a copy of which was forwarded on the 28th ult. It accords with the conclusions I drew from the delay of the expedition, and the conduct of the Minister for Exterior Relations. I have had a conversation with Collot and Adet, separately. I find, that though they both consider their going in official characters to Louisiana as settled, yet that they have neither seen the treaty, nor know precisely the boundary of the territory acquired. Pensacola and Mobile, they say, are expressly given: as to the rest, or whether it includes West Florida, they cannot say. That France intended that it should, I have no doubt; and I still think it probable that she will make it yield to her intentions: for in Europe she does what she will, and it will require firmness and exertion to prevent her doing so in America.

[Enclosed in Mr. Livingston's despatch of June 8, 1802.]

Le Chevalier d'Azara, Ambassadeur de S. M. Catholique près la république Française, à Monsieur Livingston, Ministre Plénipotentiaire des Etats Unis.

PARIS, *le* 2 *Juin*, 1802.

MONSIEUR:

Je vous demande bien pardon de n'avoir pas pu vous recevoir quand vous avez eu la bonté de venir chez moi; l'état de mon santé, que n'est pas bien depuis dix jours, m'a privé de cet honneur là.

Je vous rend bien de graces pour la franchise avec laquelle vous me parlez dans vôtre lettre non-officielle du 28 Mai; et, en adoptant la même amitié et la même franchise, j'ai l'honneur de vous dire, que l'affaire dont vous me parlez n'ayant pas passé par mes mains, je ne me trouve pas en état de vous en donner tous les renseignemens que vous souhaitez. Nonobstant, je crois certain le traité de la cession de la Louisianne; mais il me parait que les Florides n'y ont pas été compris.

Comme le ministre des Etats Unis à Madrid sera chargé (selon ce que vous avez la bonté de me dire) de demander à ma cour des explications sur le traité en question, vôtre Gouvernement recevra, par son moyen, tous les éclaircissemens convenables. Néanmoins, j'écrirai à ma cour, et je ne manquerai pas de vous communiquer tout ce que j'en apprendrai, pour calmer, en mon particulier, toutes vos doutes et vos inquiétudes.

J. NICOLAY D'AZARA.

[TRANSLATION.]

The Chevalier d'Azara, Ambassador of His Catholic Majesty near the French republic, to Mr. Livingston, Minister Plenipotentiary of the United States.

PARIS, *June* 2, 1802.

SIR:

I pray you to excuse my not having been able to see you when you were so good as to call at my dwelling; the ill state of my health for the last ten days has deprived me of that honor.

I return you thanks for the frankness disclosed in your unofficial note of the 28th May; and, in adopting the same friendship and equal frankness, I have the honor to inform you that the affair concerning which you have addressed me not having passed through my hands, I am unable to give you all the information which you have desired. It appears certain, however, that a treaty ceding Louisiana has been concluded; but I am of opinion that the Floridas are not comprised in the cession.

As the minister of the United States at Madrid will be required (agreeably to what you have had the goodness to inform me) to demand explanation of my court concerning the treaty in question, your Government will receive, through him, all the information which may be proper. Nevertheless, I will write to my court, and will not fail to communicate all that I may learn, for the purpose, as far as depends on me, of removing your doubts and dispelling your inquietude.

J. NICOLAY D'AZARA.

Extract:—James Madison, Secretary of State, to Rufus King, minister to England, dated

DEPARTMENT OF STATE, *July* 23, 1802.

The subject of your letter of May 7th, namely, your correspondence with Lord Hawkesbury on the cession of Louisiana and the Floridas to France, will receive from the President all the consideration which its great importance demands; and as soon as an answer can be founded on the result of his reflections, no time will be lost in transmitting it.

Extract:—James Madison, Secretary of State, to Charles Pinckney, minister to Spain, dated

DEPARTMENT OF STATE, *July* 26, 1802.

The last information from Paris renders it certain that the cession of Louisiana to France has actually been concluded, and that the cession comprehends the two Floridas. In this state of the business, it seems unnecessary to decide on the price which Spain might be led to expect for a cession of the Floridas, including New Orleans, to the United States; and the more so, as it would be of use for us previously to know the value she places on the guaranty proposed in my letter to you of 25th of September last. For the present, the cession wished by the United States must be an object of negotiation with the French Government. It will, notwithstanding, continue to be proper for you to cultivate the good dispositions of Spain in relation to it, both as they may not be entirely disregarded by France, and as, in the turn of events, Spain may possibly be extricated from her engagements to France, and again have the disposal of the territories in question.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *July* 30, 1802.

I have received your despatches and the President's by M. Dupont de Nemours. I shall reply, more particularly to them at the next opportunity, as I am now very much engaged in preparing a lengthy memoir on the subject of the mutual interest of France and the United States, relative to Louisiana, by which I hope to convince them that, both in a commercial and political view, the possession of it would be disadvantageous to France. In my last, I hinted to you my suspicions that France and Spain did not understand each other on the subject of Louisiana, and communicated to you my letters to the Spanish ambassador, calculated to sound this business, and interpose some difficulties to its execution. His answer confirmed my opinion. I have since received, verbally, his explicit assurance that the Floridas are not included in the cession; and I have been applied to, by one of the ministers here, to know what we understand, in America, by Louisiana. You can easily conceive my answer. I have just received a letter from Mr. Graham, in which he communicates the Spanish minister's answer to Mr. Pinckney's application upon the same subject, in these words: "If the King should think proper to cede Louisiana, he will take care that the interest of the United States shall not be affected by it." It appears, also, by the fifth article of the treaty of Madrid, March 21st, 1801, that the cession had been made of *Louisiana generally*. The French, you

know, have always extended it to South Carolina and all the country on the Ohio. Since the possession of the Floridas by Britain, and the treaty of 1763, I think there can be no doubt as to the precise meaning of the terms.

I find a certain degree of *raideur* in the Spanish ambassador, on that subject, which it will be our interest to cherish at the court of Spain, unless we should have a prospect of purchasing the Floridas. In the present state of things, until the point is settled, I think it probable the expedition to Louisiana will be postponed. In the mean time, all that can be done here will be to endeavor to obtain a cession of New Orleans, either by purchase, or by offering to make it a port of entry to France, on such terms as shall promise advantages to her commerce, and give her hopes of introducing her manufactures and wines into our Western country. An arrangement of this sort, if they listen to it, would certainly be beneficial to both countries, and only hurtful to Britain. If to this we could add a stipulation that she shall never possess the Floridas, but, on the contrary, in case of a rupture with Spain, and a conquest of them, cede them to us, our affairs in that quarter would stand as well as I would wish; and the colonies that France might attempt to establish on the west side of the Mississippi would be too feeble to injure us. I find them very anxious to have the ports of Pensacola and St. Augustine, as they dread our having the command of the Gulf. I confess this appears to me no very important object; and if they would be content with these, and give us West Florida and New Orleans, even at a *large price*, we should not hesitate. I am sorry that you have not communicated to me what are precisely the utmost limits of the sum I may venture to offer in cash, or in our own demands. As the minister has been absent some time, and has but just returned, I cannot state precisely to you what we may hope on this subject; but be persuaded that I am fully impressed with the importance of the subject, and that nothing will be left undone which I can do to effectuate your wishes. I saw him last night, and was very cordially received. His health is so much mended by the waters, that I hope he will be able to go through business more speedily than he has done.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *August* 10, 1802.

Our own affairs have advanced but little, since the whole attention of those in power are turned to objects nearer home. I have had several conferences on the subject of Louisiana, but can get nothing more from them than I have already communicated. I have thought it best, by conversation and by writing, to pave the way, prior to any direct application, till I know better to what object to point. For this purpose, I have written the enclosed essay, which I have had translated, and struck off twenty copies; I have just got them finished; I have placed some of them in such hands as I think will best serve our purposes. Talleyrand has promised me to give it an attentive perusal; after which, when I find how it works, I will come forward with some proposition. I am very much, however, at a loss, as to what terms you would consider it as allowable to offer, if they can be brought to a sale of the Floridas, either with or without New Orleans: which last place will be of little consequence, if we possess the Floridas, because a much better passage may be formed on the east side of the river. I may, perhaps, carry my estimate of them too high; but when I consider, first, the expense it will save us in guards and garrisons, the risk of war, the value of duties, and what may be raised by the sale of lands, I should think them a cheap purchase. I trust, however, that you will give me some directions on this head, and not leave the responsibility of offering too much or too little entirely at my door. I speak in all this business as if the affair of the Floridas was arranged with Spain; which I believe is not yet the case. But I took occasion to touch on the subject three days ago with the Spanish ambassador, with whom I was dining, and think he appeared to have somewhat relaxed on that ground, but would say nothing decisive; nor were the time and place proper to press him.

[Memoir, referred to in the preceding despatch.]

Whether it will be advantageous to France to take possession of Louisiana?
This question presents itself in two points of view:
First, as it affects the commerce and manufactures of France.
Second, as it affects her positive or relative strength.

Colonies are never cherished for themselves, but on account of the influence they may have upon the general prosperity of the nation. And as one man, at home, contributes more to this than two at a distance, no wise nation colonizes but when it has a superfluous population, or when it has a superfluous capital that cannot otherwise be rendered productive.

The population of France, though very considerable, has by no means attained the point which renders it necessary to colonize. The soil, climate, and local situation give it advantages as a commercial and more particularly as a manufacturing nation, over every other part of Europe. The ingenuity, taste, and industry of the inhabitants have placed them in the highest rank; but these advantages are very much restricted by the want of a sufficient capital to bring them into operation. A rival nation, inferior in all the circumstances I have mentioned, by the single effect of a large capital, has attained a superiority both in commerce and manufactures which, in return, those circumstances enable it to maintain by continually adding to that national wealth. Capital increases manufactures by the introduction of machines, by the regular payment of workmen, by reducing the interest of money, and, above all, by forcing new markets. The wealthy mechanic alone can afford those expensive and slow operations which, in many cases, give perfection to a fabric. And the rich merchant, alone, can afford to make long voyages, from which he has slow returns; or give such extensive credits as will tempt those of foreign countries to purchase his commodities in preference to such as are offered by nations who expect more speedy payments. Such is the want of capital in France, that no manufacturer has any quantity of goods on hand to answer an immediate demand; and, of course, no foreign merchant can rely upon the certainty of obtaining such an assortment of goods from the French consignee of his cargo, as will answer his purpose, without either detaining his vessel, or being compelled to take a considerable proportion in articles of very inferior value, picked up from different manufactories; so that if frauds are committed, no one can be charged with them; a circumstance that renders character of little importance to the French mechanic.

To this cause is owing that when a foreign ship, particularly one from a distant nation, disposes of her cargo in France, she has orders to take wines and brandies in return, because these are the only articles that the owner can depend upon having, in time, of the quantity he orders. On the contrary, any species of goods is obtained in England at an hour's warning from a single manufacturer, whose character is at stake if they should not prove equal to the sample. This circumstance will always induce a foreign merchant to prefer dealing for goods of the same nature with a British, rather than with a French factor: and accordingly we find cargoes sold in France, and the money remitted to England to purchase articles that France might furnish, were her manufacturers sufficiently rich to supply them, at a short notice, without compelling the buyer to seek them at different deposits. This evil can only be remedied by an increase of capital in the hands of manufacturers. To show how this capital might be obtained, would lead me too far out of my present subject. But it must be obviously diminished either where a navy is raised at the expense of the manufacturer, or where the capital of the nation is employed in distant countries. The operation of capital in opening new markets is obvious; for nothing is more evident than that merchants of foreign countries, not possessing large capitals, are content to be the agents of those who can furnish them goods upon credit. And it is by this means that Britain has found no loss of market in America, in consequence of their having become independent; their immense capital having created a moneyed dependence which has supplied, in a commercial point of view, that which they before derived from the supremacy of her Government. The increase of American capital is now freeing her, in some sort, from that dependence, and enabling her to extend her commercial operations, and even to afford a capital to other nations, who shall know how to estimate the value of the market she

affords to the manufactures and luxuries of Europe. It will readily be admitted that transmarine colonies add nothing to the strength of a nation. They are, on the contrary, weak points, that are guarded at great expense of men and money; more particularly where they are placed in warm and unhealthy climates. The simple question, then, is—Has France such a superfluity of capital or people as will justify the establishment of new colonies?

Those that France already possesses in the West Indies and at Cayenne are more than sufficient to supply all the demands of France, and indeed, the demands of all Europe, were they fully cultivated, for those commodities that constitute their staples. But how are they to be cultivated? Experience has proved that the inhabitants of warm climates are never led by their necessities to labor. Force alone can supply those taskmasters (cold and hunger) which nature has placed under northern skies. Hence the necessity of slaves in rendering the West Indies productive. These are only to be procured at a very considerable expense. The Spanish port of St. Domingo was almost uncultivated for want of slaves. It is now in the hands of France; and to render it productive, an immense capital in slaves, in buildings, and in improvements of uncultivated lands, will be necessary. Great capital will also be required to supply the losses that the French part of the island has sustained, to say nothing of the other islands. From whence is this capital to be drawn? Persons that settle in remote and unhealthy climates seldom possess much. It must, then, be drawn either from France, or from some other country that possesses superfluous capital. If drawn from France, it must, to a certain degree, injure the manufactures of France at home. It may, however, where the territory is so extremely productive as the French islands are, where the lands are already in a state of cultivation, and the capital advanced will produce an *immediate* interest, be found advantageous, in a national point of view, to encourage the application of French capital to this object. But while the interest of money is high in France, while the interior of the republic affords a variety of profitable speculations to the capitalist, and while few persons are found possessed of superfluous wealth, it will be difficult to induce many to vest their capital in a distant country, subject to risk from the dishonesty of their agents, and those others which recent transactions will teach them to dread. Foreign capital was once drawn from the United Provinces. The state, however, of the Batavian colonies, and the losses sustained by the war, preclude all hope that much of this will now be applied to ameliorate the French islands. The United States possess an extensive capital in money, and in products necessary for the re-establishment of the islands. Money will not be lent, in large quantities, upon the credit of the planters; but, with proper encouragement, there is little doubt that products for which money must otherwise be paid, might be obtained. And the mercantile speculations of the United States will embrace the French islands, when the private and public credit of France shall be re-established, and experience shall have taught her the futility of attempting to raise a revenue upon foreign commerce, while in fact she is throwing it upon her own citizens.

In St. Domingo twenty per cent. is paid on articles introduced by foreigners. This is, indeed, collected from the foreigners; and, owing to the mismanagement and frauds which generally prevail in custom-houses at a distance, is a source of very considerable vexation to the trader. But the money is paid by the planter: for it is always added to the price, and even an interest or profit charged upon the duty itself, and a compensation for all the vexations the merchant suffers. What, then, is the effect of this operation but to deduct, at least, one quarter from the money which the planter has, with difficulty, drawn from France or elsewhere, and so far to impede the re-establishment of the capital that can alone render the island ultimately productive to France? I say *ultimately*, for it will be idle to expect that they should compensate the actual expenses of the French Government till years have elapsed. Nay, I will venture to say, that, unless the ports of St. Domingo are thrown open to all vessels bringing *necessaries*, unless the inhabitants are permitted to buy cheap and to sell dear, by encouraging a competition among buyers and sellers, unless every species of vexation is removed, and every possible assurance given that foreign capitals entrusted to the islands will be perfectly safe, ages will elapse before St. Domingo will cease to drain the wealth and strength of France without offering an equivalent return. It is obvious, then, that if France possessed no other transmarine property than her islands in the West Indies, she would find room to place all the capital she can now, or probably will be able to spare in a long course of years. But if, in connexion with this, we look to her immense territory in the Brazils, to its productions, and the capital it will require to give it the value it is susceptible of; if we add to this the establishments it may be necessary to make in the East Indies, in order to enable the French ports to possess all that variety of commodities which invite exchanges and give activity to commerce; we shall find a century, at least, will elapse before France needs such new establishments. But as she, like every other country, possesses a limited capital, the sole object of inquiry should be, where can this capital be best placed? At home? In the islands? At Cayenne? In the East Indies? Or in Louisiana? For it is obvious, that whatever is placed in one is taken from the other. It is equally obvious that the national expense must be increased by the increase of its establishments, and the points of attack and defence be multiplied in the same proportion in case of war.

Many able statesmen have doubted whether, to a country situated as France, any colonies were of use; but it is not my design to enter into those theories. France possesses colonies. She has urged her citizens to remove themselves, and invest property in them, and she is bound in good faith to retain and protect them. But she is not bound to create new colonies, to multiply her points of defence, and to waste a capital which she needs both at home and abroad. In what view would the possession of Louisiana be useful to France? First, like every other warm climate, it must be cultivated by slaves. The capital employed in purchasing these slaves, or the slaves themselves, would be carried to the islands, if a new market was not open for them. The competition will enhance the price to the planters in the islands, and so far obstruct their speedy re-establishment. When the slaves arrive in Louisiana, they must be employed in the unproductive labor of clearing the immense forests with which that country is covered; a labor ill calculated for slaves, since it requires long habit in the use of the axe, and a strength and activity seldom found in slaves. At all events, they must be maintained, clothed, and fed, for years, before any profit will result from their labor: how long, may be determined, in some sort, from this fact. When new lands are put out to lease in the Northern and Middle States of America, the usual terms are ten years free of rent, and, after that, twelve bushels of wheat per hundred acres forever. It is obvious, then, that the first ten years are considered as years of expense, during which the landlord asks nothing; but, in the Southern States, land cannot even be put out on these terms, because there the white inhabitants place a higher value upon their labor, and the clearing lands by slaves involves too great an expense for any man who is not absolute owner of the soil. Who, then, will cultivate Louisiana with slaves? Who, among the French citizens, will vest a large capital in so precarious a property, with the hope of a distant return? There are, also, circumstances in the situation of Louisiana, which render it more difficult. Louisiana is bounded by an immense wilderness. Slaves, employed in the clearing of forests, will form acquaintances with the natives; and they will, upon every occasion, escape from labor to the indolence of a savage life. It may be asked, why does this not happen in the Southern States of America? First, because none are so far South as to be free from the rigors of winter, which make it difficult for the inhabitants of a warm climate to endure a savage life; and, next, because the Southern States are, in a great measure, surrounded by the sea, and by the mountains which only know a white population, and intercept the communication of the slaves with the waste forests in their rear. But, supposing all these difficulties surmounted, what advantage would result to France, in a commercial point of view, from the establishment of this colony? So far as its productions are similar to those of their islands, nothing would be gained, because the islands, well cultivated, are equal to every demand of France, and, indeed, of Europe. The introduction of those from Louisiana would only reduce the price, without adding to the value; and France would find herself compelled, in order to prevent the ruin of those who had vested their capital in the colonies, to imitate the Dutch, who destroy their spices and teas when they find that the quantity debases the value. Commodities, not raised in the islands, and which might be found in Louisiana, are only wood, and, perhaps, rice; but it is certain that these productions, when attended with the expense of procuring them in a warm and unhealthy climate, will not compensate the expense, or, at least, furnish the same profit to labor that might be obtained, were it employed, as in the islands, in raising more valuable commodities; a proof of which will be found in the United States. It is not from Georgia or South Carolina that the West India islands are supplied with wood, but principally from the Northern States, though wood-lands are much scarcer and more valuable with them than to the Southward. The reason is, that the furnishing lumber, the pre-

paring it for the market, the mills necessary for that purpose, all require the labor of free hands content to work for a small profit.

Though it may seem paradoxical, I will venture to say that it is not the interest of France to supply herself with wood, even if she could do it from Louisiana: and that, for two reasons. The lumber supplied to her islands by the Northern States is paid for in molasses, and a small quantity of taffia. The first costs nothing to the planter, being an otherwise useless product of his sugar; and the second a trifling expense in the distillation. If these were not consumed in America, the molasses would absolutely be thrown away, (as it was when the United States were British colonies,) because the commerce of France offers no other market for it. The islands then may be truly said to have their lumber from the United States for nothing. If, on the contrary, an establishment was made in Louisiana for the purpose of furnishing lumber, all the expense of such an establishment to the nation, together with all the labor employed in cutting the wood, preparing and sending it to market, would be actual loss to the nation, even supposing the wood-cutter content to be paid in molasses and rum, because his labor produces nothing to the nation. But it is certain that Louisiana would afford no market for either molasses or rum. The consumption of those are found only in the Northern States of America: the Southern prefer spirits made from grain, apples, and peaches, to that distilled from molasses. The planters, then, supposing their supply of lumber to be exclusively furnished by a French colony in Louisiana, would be compelled to pay for it in money, or in some article of real value. If it was not exclusively furnished, it would not be furnished at all; because the wood-cutter in a southern climate could never work so cheap as to compete with the hardy sons of the North. It may be thought that the molasses would find a market in the Northern States, even if not given in return for lumber: but this is not the fact. The only inducement with them to take it, is, that they get it in return for a commodity for which they have little other market. Let the islands refuse to take the wood of the Northern States, and they will instantly substitute spirits distilled from grains and apples to that drawn from molasses: (because, in this case, the price of rum must necessarily rise,) and all commerce between the islands will stop, except for articles of provision, in return for which they will only take money, or what will produce money at a foreign market. The second reason why France should not, were it even in her power, seek her supply of lumber from a colony in Louisiana, is, that, in case of a war, supposing Britain to maintain her naval superiority, those supplies would be rendered extremely precarious. Nor would the want of them be easily supplied from the United States; for having, during peace, given up that branch of commerce, (and the persons employed in it having turned their attention to other objects, and the mills created for sawing the lumber having gone to decay,) it would not be easily re-established on the breaking out of a war; the calamities of which would by this means fall doubly hard upon the islands. In a commercial point of view, then, it is obvious that the colonization of Louisiana would be injurious to France; because it would divert a capital that might be more usefully employed in her other colonies; because that capital would be unproductive for many years; and because, when it became productive to the individual, it would add nothing to the mass of national wealth, but merely lower the price of commodities supplied by the West Indies, and lessen the profit of labor. It may, however, be supposed that the possession of Louisiana would afford an additional market to French manufactures, and so far compensate the nation for the expense of the establishment. This question is worthy of examination; and the supply or consumption of French fabrics must have a reference either to the free population, or to that of the slaves. If the free population is to be supplied by emigration from France, it will consist of that class of people who could not only maintain themselves in France, but add something to its wealth by their labor; for France is not overstocked with inhabitants; and, of course, none can emigrate without leaving a void somewhere, or some useful labor unperformed. The actual emigrant, then, takes something from the general stock of productive labor in the parent state. He also carries with him a part of the capital, (for he cannot go empty-handed,) and he must remain, as I have stated, ten years before he renders his new establishment more than sufficient to support himself. In the mean time, he must live with the utmost economy; for having nothing to give in exchange, he can furnish little from the parent country; and, indeed, the nature of a southern climate exacts very few of those articles which are necessaries in Europe. There can be no question, then, that, so far as relates to the actual emigrant, the few articles he will require from French looms will not compensate the nation for his loss of labor: nay, that he will consume so much less in America than he would have done in France, that, beside his labor, the manufacturer that supplied him in both countries will be an actual loser by his removal. Black population will contribute still less to aid the manufactures of France, because their consumption is extremely small in the article of clothing. Even in South Carolina it does not amount to more than forty francs a year for each black. In Louisiana, as the winter is less severe, it will be proportionably less. It will consist of cotton, much of it made at home, and much more obtained from the United States by an illicit commerce. But even if the whole was brought from France, after deducting the value of the raw material which France must purchase, the whole profit to the French manufacturer and merchant would not exceed thirty livres a head, for each slave. Now, every slave sent to Louisiana will cost the nation one thousand francs; and as this capital should produce in France at least ten per cent. employed in any species of commerce or manufacture, the whole difference between one hundred francs, the product in France, and thirty francs, drawn from the advantage of clothing him, will be actual loss to France, for the first ten years at least, in which they can, (as I have before proved,) at the utmost, do no more than support themselves: as numbers will die in the seasoning, and many will elope, the actual loss to France upon every slave imported and employed in Louisiana will be one hundred and sixty francs per annum. But if the profit resulting from the labor of the same slave, who might have been carried to the islands instead of to Louisiana, is added to the account, (and it is certain that all carried to Louisiana is taken from the islands,) it will be found that the actual loss to the nation, in the mis-employment of his labor, will amount to upwards of six hundred francs a year, so that the first loss to the nation, on the introduction of one thousand slaves into Louisiana, beyond the first cost of the slaves, will be six hundred thousand francs. It is true, that if peace continues, and the colony, contrary to every reasonable expectation, should flourish, the wealthy planters will consume more French fabrics, but the consumption of the slaves will always be trifling, and their labor absolutely unprofitable; because, as I have before observed, being employed in raising articles that can be better raised in quantities equal to the demand in the islands, and for which the market is limited, they will only, by adding to the quantity, lower the price of those commodities which it is the interest of France, who possesses such productive islands, to keep up. I know an idea prevails that the commodities of France can, by means of the Mississippi, find their way into the western parts of the United States. Nothing could give birth to this idea but the most perfect ignorance of the navigation of that river, and of the wants of the inhabitants. It is certain that the wines of France are ill calculated for so warm a climate as they must pass through to arrive in the Western States, and worse suited to the palates or purses of the inhabitants, both of which are better adapted to their own liquors, cider, beer, whiskey, and peach brandy; the last of which, with age, is superior to the best brandy of France. Instead, then, of receiving these articles from France, through Louisiana, they will more probably supply the colony with them. Glass, or earthenware, as they have all the materials on hand, they make for themselves, in all the back countries of America. The consumption of china is exceedingly small, and, were it greater, the French china is too dear to enter into competition with that of the East Indies. Bulky articles in iron are also made among themselves; and the hardware of England has such an acknowledged superiority over that of France, that none of the latter could be vended, were the market open to both. The only articles, then, that could be possibly introduced, would be silks, cambrics, and other light articles of luxury. These, however, will never pass by the way of the Mississippi. The dangerous navigation of the Gulf, the slow and expensive passage up the river against the current, the large capital of the American and British merchants at Philadelphia, and the great improvements that are daily making in the inland canals and roads, will always carry these by land to the Ohio and other rivers, from which they can be transported to every other settlement on cheap and easy terms. It is a well known fact that dry goods have been carried from Philadelphia to New Orleans by this route, in preference to going thither directly by water. It is chimerical, therefore, to expect to vend the commodities of France, through that channel, when even England, with all her enterprise, her right to the navigation of the Mississippi, and the prejudice of Americans in favor of her fabrics, has never ventured to send her commodities by that channel, well knowing that through Baltimore and Philadelphia they will find an easier entrance. But should France wish to in-

troduce more bulky articles by this channel, and habituate the inhabitants of the Western States to her wines and to her fabrics, it can only be done by putting New Orleans into their hands, stipulating, at the same time, that it shall ever remain a free port of entry to French ships and French fabrics, subject to no greater duties than those paid by American ships. This will, at once, interest the American merchants settled in New Orleans, in their commerce, turn their capital from England to France, and give the latter all the advantages of the island, without the expense of maintaining it; and the money acquired by the activity of America from the Spanish Government would centre in France, because England, not having the same facilities, and paying higher duties, could not supply them upon the same terms. Should France, on the other hand, determine to keep the island, a great part of the commercial capital now in Orleans (which is principally American and British) will, in that case, be moved to such other place as the United States shall fix upon, and this being naturally placed in a state of rivalry to New Orleans, and freed from the vexations that never fail to attend a military Government at a distance from the eye of the sovereign, will, notwithstanding any disadvantage in point of situation, draw after it the commerce that now centres there. The limits settled between Spain and the United States, and lately between the latter and Britain, preclude the inhabitants of Louisiana from any share of the fur-trade, which, indeed, never could have been considerable, as the Southern furs are of little value; the few deer skins they receive are an object of no moment in a commercial view, as will be found from a view of the exports of New Orleans, even now that the United States Mississippi territory transport through that channel.

In these reflections I have not taken into account the hardships, expenses, and loss of lives, that result from the establishment of new colonies in a marshy country and warm climate, the inroads of savages, the insurrection of slaves, the insubordination of troops, and the abuses of officers when far removed from the superintending eye of the sovereign; any or all of which may defeat the object, and ruin the establishment. There is, however, one consideration, and that a very important one, that ought to have some weight. Many who carry their families and their capital into Louisiana, finding that land is equally cheap on the American side of the line, will, sometimes from a preference to their form of Government, sometimes from caprice, sometimes from pique, or to get rid of the oppression of a military government, (for such that of Louisiana must necessarily be,) remove to the territory of the United States, even in time of peace. In case of a war between France and Spain, this desire will be general; because, supposing Britain to maintain her naval superiority, (which I have upon a former occasion shown that she will, unless the commercial system of France shall be much more liberal than it now is,) the mouth of the Mississippi will be blocked up, and the planters of the French colony be reduced to the utmost distress, while those of the United States will acquire advantages from the war. In this case, a great proportion of the capital that France shall place in Louisiana will be transferred to the United States, where farms ready cleared may be purchased at half the price at which a French planter can clear his, owing to the dexterity of American woodsmen, who have been educated to the use of the axe, and acquired that strength in the muscles of the arm, which is unattainable by men who have been brought up to other employments. Past experience has evinced the truth of these observations. Louisiana, though settled near a century, has flourished neither in the hands of Spain nor of France; and, at this moment, at least half the trade of Orleans is carried on upon the capital of citizens of the United States, under the faith of their treaty with Spain. When France shall establish a rival colony there, this will be removed to such other place on the Mississippi as it shall be the policy of the United States to encourage.

If, in a commercial view, the settlement of Louisiana shall not be advantageous to France, but, on the contrary, really injurious, by diverting her capital from more important objects; in a political one, it will be found still more inconsistent with her interests. To France, considered either as a maritime or a commercial nation, the United States are of the last importance. On the first subject, I have, upon a former occasion, expressed my sentiments fully. On the latter, there can be no doubt that an agricultural nation, whose industry enables them to purchase with the product of their raw materials the luxuries and fabrics of Europe, and whose habits and pursuits prevent them from manufacturing for themselves, must offer an important market to the inhabitants of the Old World. In this view the trade of the United States is considered as extremely valuable to Britain. But France, when her manufactures shall attain the perfection of which they are susceptible, and her trade be placed upon the proper foundation, presents a much greater variety of subjects for the support of this commerce than Britain. From the last, America receives only the product of her looms and her forges. From the first, she will not only take these, but aid her agriculture by the purchase of her wines, her oils, and her brandies; while, on the other hand, France affords a better market than Britain to many of the products of the United States. These circumstances, and the relative positions of France, which precludes all idea of danger or rivalship, either by sea or by land, between her and the United States, has made them view her as a natural ally, and consider the measure of her power as an additional pledge for the safety of their commerce and their future tranquillity. They have done homage to the wisdom of those statesmen who, at the end of a successful war, conceived it more advantageous to France to ensure the lasting friendship of the United States, than to acquire a territory which might excite their jealousy, and throw them back into the hands of the nation from whom they had but just aided to liberate them.

I am aware of the delicacy of touching upon the political evils that may result to France and to the United States from the former possessing itself of New Orleans and the Floridas, lest, on the one hand, I should leave unsaid what truth requires to be spoken, and, on the other, give umbrage by a freedom which haughty spirits may construe into menace. Feeling myself, however, a citizen of one of these States, and warmly attached to the other, I trust that those into whose hands this shall be placed, will duly appreciate my motives in endeavoring to remove all ground of controversy between nations formed to aid each other: and, while they believe me sufficiently acquainted with the resources of my own country, not to dread the power of any European nation, they will think me equally incapable of so ridiculous an idea as that of menacing a Government before whose power united Europe has bowed. I have observed that France and the United States are so happily placed with respect to each other, as to have no point of collision. They can mutually aid, without having the smallest temptation to injure, each other. And, as there is no nation at present on the globe whose consumption offers such encouragement to foreign manufactures as that of the United States; as this consumption is rapidly increasing; as they have the means of establishing a navy whenever their situation shall render it necessary, how strong, how powerful, should the inducement be that compels France to lose these advantages, and convert a natural and warm ally into a jealous and suspicious neighbor, and perhaps, in the progress of events, into an open enemy!

Experience has evinced that no two nations can border upon each other, without having the spirit of rivalry excited: and if this is true with respect to neighboring nations, it will be found to apply more forcibly to the colony of a great and powerful nation placed at a distance from home, and a sovereign adjoining such nation. The reason is obvious. Where two nations join each other, every thing passes under the eye of the sovereign; and differences may be accommodated as soon as they arise; but when the Governor of a colony, relying for protection from home, is guilty of an act of hostility, the wound festers before the physician can be called in. The offended sovereign, too, will presume that the officer will meet with support, the greater as his nation is more powerful; will endeavor to anticipate the hostilities it dreads; it will recriminate; and the nations will be plunged into a war before explanations can take place. If there is a situation in the world that would lead to these melancholy consequences, it would be that of France in possession of New Orleans. It blocks up the great outlet to a great number of the American States, and to a very extensive and growing population. On this island a military Government will be established. The commander and his troops, justly elated with the glory of their nation, will look down upon surrounding people. Commerce will be despised, and those who practise it be subjected to the despotism of men who will seek a compensation for their privations in being sent to a distant country and unhealthy climate, in the acquisition of wealth. The colony itself affords no legitimate sources for this, but those which arise gradually from commerce and agriculture, equally ill-suited to the military character. No vigilance on the part of the parent country can control the oppressions, that will be practised by men at such a distance; nor will the ardent spirits of the new settlers in States that border on the Mississippi, in many cases be sufficiently controlled, (even by their own Government,) to prevent their endeavors to avenge themselves, rather than to wait the tardy justice that they may hope for from diplomatic representations. The resentments of the people will be sharpened against each other; the ties of friend-

ship will be broken, and the Government of the United States, which always partakes of the feelings of the people, will find itself unavoidably placed in such a situation as to change its connexion, and to guard against the supposed hostility of its old ally, by forming cautionary connexions with Britain, who will court their alliance and stimulate their resentments against France; because by this connexion she will hope to retain the commerce of America, which she almost exclusively possesses, give security to her colonies, and, in case of a war, facilitate her attempts to conquer the French islands; and, above all, prevent that commercial and maritime union between France and the United States, on which alone France can hope to engraft a naval superiority.

It may be asked why these jealousies, that I appear so greatly to apprehend with respect to France, do not prevail with respect to Britain in possession of Canada.

First, because Britain has, very prudently, separated her territory by a natural boundary, which keeps the inhabitants of the respective nations from coming into contact. While she held posts on the south sides of the lakes, the United States viewed her with jealousy, and there is no sort of doubt that hostilities and national hatred would have been the consequences of her retaining them, when the American population in their neighborhood had increased; symptoms of which had frequently been exhibited, before they were relinquished. Second, because the natural export of the United States being by their own rivers, there is no communication of any moment between them and Canada: but thirdly, because Upper Canada is principally settled by emigrants from the United States, who, in case of a rupture, would probably join them if the spirit of the American Government did not prohibit an extension of their limits.

And, after all, what advantages, political or commercial, can France obtain by the possession of New Orleans and the east side of the Mississippi, that can compensate for the losses she will sustain in both respects, by placing herself in a state of rivalry with the United States? The Floridas are a narrow slip of very barren lands, absolutely indefensible in case of a rupture, and which will require more than they are worth in guards, garrisons, and Indian subsidies: and however valuable New Orleans may be to the United States, it will be of little value to France, when the foreign capital shall be withdrawn from it, or a rival city established by the United States. I find, upon the most careful inquiry, that one-third of the mercantile houses now employed in New Orleans belongs to the citizens of the United States. No sooner shall a military Government be established there, than these houses, with all the capital that gives activity to the commerce of New Orleans, will be removed either to such other place as the United States shall receive agreeably to the terms of their treaty with Spain, or to the Natchez, to which any vessel that may enter at New Orleans can be received. Large vessels have already gone from France, and unloaded their cargoes there without any difficulty. As the market is always the better the further you advance, there is little doubt that this will become a rival city to that of New Orleans; and when the American capital shall be withdrawn from the latter, when the Government of the United States shall declare it a port free of duties, New Orleans will become of little consequence as a commercial city, and only remain a useless expense to France, and a source of endless jealousies between them and the United States.

The cession of Louisiana is, however, very important to France if she avails herself of it in the only way that sound policy would dictate. I speak of Louisiana proper; in which I do not include the Floridas, presuming that they make no part of the cession. Since, by this cession, she may acquire a right to navigate the Mississippi, and a free trade: and if she knows how to avail herself of this circumstance by a perfect understanding with the United States, she will find a vent through it for a vast variety of her commodities when she has given the people of the Western States the habit of consuming them, in preference to those they receive from Britain. This can only be done by affording them cheaper. She can only afford them cheaper by interesting the American merchant in their sale, and having the use of his capital, and, by engaging the Government of the United States to give them a preference. These objects can only be obtained by a cession of New Orleans to the United States, with a reservation of a right of entry, at all times, free of any other duties than such as are exacted from the vessels of the United States; together with a right to navigate the Mississippi. This will give her ships an advantage over those of every other nation, will retain and increase the capital of New Orleans, from which her supplies for her islands will be purchased on the easiest terms, will carry the fabrics of France into all the Western territory, which the United States will have no interest in checking, as all rivalry between the two nations would then be removed. France will then command the respect, without exciting the fear of the two nations whose friendship is most important to her commerce, and to the preservation of her islands; and all this without the expense of establishments that would drain the national treasury, and divert the national capital from its proper objects; while, on the other hand, should France retain New Orleans, and endeavor to colonize Louisiana, she will render herself an object of jealousy to Spain, the United States, and Britain, who will not only discourage her commerce, but compel her to make expensive establishments for the security of her rights.

In reasoning upon this subject, I have confined myself to such observations as obviously presented themselves, without seeking any of those subtleties which might serve to mislead the judgment. I have candidly exposed the plainest facts, in the simplest language. If ever they are opposed, it will be by a contrary course. Eloquence and sophistry may reply to and may obscure them; but time and experience will evince their truth.

Extract:—Mr. Livingston to the Secretary of State.

PARIS, *August* 16, 1802.

I informed you in my last letter that I found some relaxation on the subject of the Floridas in my last conversation with the Spanish minister. I have reason to think that within these few days they have come to a settlement with France on that subject. What it is, I cannot precisely say; but I presume it is whatever France wishes it to be. I find all the old French maps mark the river Perdido as the boundary between Florida and Louisiana. It is possible that this may have been insisted upon. If so, the remainder was hardly worth the keeping. Whatever it is, the project of taking possession has resumed a certain degree of activity. General Victor is appointed. He is to have under him a general of division, two generals of brigade, and three thousand men only. No more than two millions of francs are allowed to this service; so that they must starve or find resources in the country. Saturday the General was all day with the Minister of Marine, arranging the inferior appointments to be submitted to the First Consul. I have been pressing, for some time past, with every body that I thought could have any influence in this business. And, as I have been happy enough to convince most of them, I do not absolutely despair; though I am much discouraged, from this last arrangement. The same silence is observed by the minister. I can get him to tell me nothing. I shall see him this morning again, and if I cannot induce him to speak on the subject more plainly than he has done, I will put in a note insisting on our claims under the Spanish treaty, and demanding an explicit recognition of them. On this I believe there will be little difficulty, as they have always agreed that the cession must be subject to the restrictions under which Spain held the territory. There are obvious symptoms of ill humor between this country and Britain, and I think it will not be long before they assume a serious aspect. Good may arise out of this evil, if it should happen.

Mr. Livingston to the Secretary of State.

PARIS, *August* 19, 1802.

SIR:

I write in haste, in hopes that this may overtake Mr. Lyle, and correct an error in my last. Notwithstanding the appointment of General Victor, and several other officers for Louisiana, among others a comptroller of the forests, no prefect is yet appointed. Nor is the difference relative to the Floridas settled. Spain insists that they

are not ceded; and I have certain information that, two days ago, the Minister of Marine wrote to the Minister of Foreign Affairs that without the Floridas there could be no Louisiana. Nothing shall be neglected on my part to keep up this difference: for, while it lasts, there will, I believe, be no expedition; and time and change may work in our favor.

I am, sir, &c. &c.

R. R. L.

Mr. Livingston to the Secretary of State.

PARIS, *September* 1, 1802.

SIR:

I yesterday made several propositions to the minister on the subject of Louisiana. He told me frankly, that every offer was premature; that the French Government had determined to take possession first; so that you must consider the business as absolutely determined on. The armament is what I have already mentioned, and will be ready in about six weeks. I have every reason to believe the Floridas are not included. They will, for the present, at least, remain in the hands of Spain. There never was a Government in which less could be done by negotiation than here. There is no people, no Legislature, no counsellors. One man is every thing. He seldom asks advice, and never hears it unasked. His ministers are mere clerks; and his Legislature and counsellors parade officers. Though the sense of every reflecting man about him is against this wild expedition, no one dares to tell him so. Were it not for the uneasiness it excites at home, it would give me none: for I am persuaded that the whole will end in a relinquishment of the country, and transfer of the capital to the United States. Their islands call for much more than France can ever furnish. The extreme hauteur of this Government to all around them will not suffer peace to be of long continuance. The French minister at Lisbon, it is said, is coming home without taking leave. England is very sour; the debts due the northern Powers unpaid, as well as ours, though their justice is admitted. Helvetia is still in arms; the little Cantons not acceding to the new form of government.

I propose to make an excursion of about fifteen days into the Low Countries, as I find nothing pressing at this moment here that I can forward by my stay.

I am, sir, &c. &c.

R. R. L.

Extract:—James Madison, Secretary of State, to Robert R. Livingston, minister to France.

DEPARTMENT OF STATE, *October* 15, 1802.

The suspense which has taken place in relation to Louisiana and the Floridas is favorable to the efforts for diverting the French Government from its unwise project. Whether we regard the sentiments prevailing in this country on the subject, or the striking tendencies of the project itself, no pains ought to be spared for putting an end to it. If the occasion can be so improved as to obtain for the United States, on convenient terms, New Orleans and Florida, the happiest of issues will be given to one of the most perplexing of occurrences. I postpone more particular remarks on this subject until the President shall know the impressions on the French councils, resulting from the views of it to which you will be led by the despatches of which Mr. Dupont was the bearer.

Mr. Livingston to the President of the United States.

PARIS, *October* 28, 1802.

DEAR SIR:

Nothing very important having occurred for some time past, I have not thought it necessary to trouble you, particularly as I concluded that you would, for a time, have quitted the seat of Government, and sought repose from the fatigues of politics.

While the union between France and Russia subsists, the discontents which almost every nation in Europe feels at the extreme loftiness of the first will be suppressed. But as fear and not affection occasions the suppression, they are ready to break out on the first favorable moment. Many think that moment not very distant. Great changes have taken place in the administration: Wormzoff is known to be inclined to Britain; and I find that the change occasions considerable sensation here, not only among the foreign ministers, but among those of France. One effect of it has been to send off Andriotte, who has hitherto been retained till Lord Whitworth arrived, even though formal notice had long since been given that he was to go in eight days. Britain is seriously dissatisfied; and, indeed, has some reason to complain; several of her vessels which put in here, (as is said by stress of weather,) having been detained, and Mr. Murray's representations treated with neglect.

The affairs of Helvetia have also excited great uneasiness in England, where all parties seem to concur in wishing to oppose some barriers to the power of France. The British republicans are disgusted with the changes which have taken place here; while the royalists dread the stability that the Government has assumed in the hands of the First Consul. The mercantile and manufacturing interests, who looked to peace for the renewal of the treaty of commerce, from which they derived such advantages, are sore at the severity with which their commerce is interdicted here. You will accordingly find, by the British papers, that both those of the majority and minority teem with abuse on France, and blow aloud the trumpet of discord.

By the treaty of Madrid, you recollect that the reigning Duke of Parma and Placentia was to renounce them in favor of France; in consideration of which, his heir was to have the kingdom of Etruria. This he has constantly refused to do, and has lately died without making any renunciation. The Spanish ambassador here has been called upon to complete the treaty. He replied that he had no powers. And General Bournonville has gone express to Spain to effect this object—the King of Etruria being now Duke of Parma. Whether he will prefer the crown he now holds to his hereditary dominions I know not; but I think he must submit to what is dictated here, or risk the loss of both.

The Mississippi business, though all the officers are appointed, and the army under orders, has met with a check. The army under orders is obstructed for the moment. Events may possibly arise, of which we may avail ourselves.

I had, two days ago, a very interesting conversation with Joseph Bonaparte, having put into his hands a copy of the memoir on Louisiana, which I sent the Secretary of State. I took occasion to tell him that the interest he had taken in settling the differences between our respective countries had entitled him to our confidence, and that I should take the liberty to ask his advice in matters that were likely to disturb the harmony that subsisted between our respective republics. He seemed pleased at the compliment, and told me that he would receive with pleasure any communication I could make; but as he would not wish to appear to interfere with the minister, he begged my communication might be informal and unsigned—exactly what I wished, because I should act with less danger of committing myself, and of course with more freedom. He added, you must not, however, suppose my power to serve you greater than it actually is; my brother is his own counsellor; but we are good brothers, he hears me with pleasure, and as I have access to him at all times, I have an opportunity of turning his attention to a particular subject that might otherwise be passed over. I then asked him whether he had read my notes on Louisiana. He told me he had, and that he had conversed upon the subject with the First Consul, who, he found, had read them with attention; that his brother had told him that he had nothing more at heart than to be upon the best terms with the United States. I expressed to him my apprehensions of the jealousies that would naturally be excited from their vicinity, and the impossibility of preventing abuses in a military government established at so great a distance from home.

Wishing to know with certainty whether the Floridas were included, (which, however, I had pretty well ascertained before,) I told him that the only cause of difference that might arise between us being the debt and Louisiana, I conceived that both might be happily and easily removed by making an exchange with Spain, returning them Louisiana, retaining New Orleans, and giving the latter and the Floridas for our debt.

He asked me whether we should prefer the Floridas to Louisiana? I told him that there was no comparison in their value, but that we had no wish to extend our boundary across the Mississippi, or give color to the doubts that had been entertained of the moderation of our views; that all we sought was security, and not extension of territory. He replied, that he believed any new cession on the part of Spain would be extremely difficult; that Spain had parted with Trinidad and Louisiana with great reluctance. I have, however, reason to think that Bournonville is instructed to effect this object, not, however, with a view to my project, but with intention to procure for France some part in the Gulf, from which they think they may secure their own and annoy the British commerce; so that, if we should, contrary to our hopes, make any bargain with them, I fear that East Florida will not be included. However, every thing is yet in air; and I doubt much, considering the present state of things in Europe, whether Spain will make any exchange that will give France a command of the Gulf. Though this is a favorite object with France, she may not, in the present state of things in Europe, think it prudent to press too hard. It is time that she should acquire some character for moderation.

The First Consul is gone to Rouen, and is to be back by the 18th Brumaire. The British fear he means to examine the coasts. The prospect of a rupture grows more serious. I can tell you, with certainty, that a remonstrance, in pretty strong terms, has been presented by her minister, on the subject of the Consul's interference in the affairs of Helvetia. How it will be received I know not; but I think it would not have been made if it had not been the intention of Britain to seek a quarrel.

I refer you to the Secretary of State for information on our particular affairs.

Lafayette's situation demands the aid of our country. * * * * He was ready to sacrifice every thing for us, and we owe him something effectual. I must pray you to get Mr. Randolph, or some other leading mem- of Congress, to patronize him. Our gratitude will do us honor abroad, and not be unpopular at home.

I have the honor to be, &c.

ROB. R. LIVINGSTON.

THOMAS JEFFERSON, Esq., *President of the United States.*

Extract:—Robert R. Livingston, minister to France, to James Madison, Secretary of State, dated

PARIS, *November* 2, 1802.

My letter to the President, sent by the way of England, will show you that the business of Louisiana has met with a check, though I fear it will be soon resumed; and that troops will go out this autumn, as every thing was arranged, and they were under marching orders. Florida is not, as I before told you, included in the cession. You will see in the President's letter my conversation with Joseph Bonaparte; this I shall have a convenient opportunity to renew, as he has promised to give me a shooting party at his country house in a few days. Time may afford circumstances of which we may avail ourselves. I therefore pray you to be explicit in your instructions, and in your replies to some questions that I have asked you relative to this subject in my former letters, since I am at present wholly unauthorized as to any offers that it would be proper to make; and we certainly do not expect to receive this country, or any interest in it, as a free gift.

Robert R. Livingston, minister to France, to James Madison, Secretary of State, dated

PARIS, *November* 11, 1802.

France has then cut the knot. The difficulty relative to Parma and Placentia, that stopped the expedition to Louisiana, has ended by their taking possession of the first, as you see by the enclosed paper. Orders are given for the immediate embarkation of troops (two demi-brigades) for Louisiana; they will sail in about twenty days from Holland. The Government here will give no answer to my notes on the subject. They will say nothing on that of our limits, or of our right under the Spanish treaty. Clarke has been presented to General Victor as a merchant from Louisiana. The General did not probably conceal his views, which are nothing short of taking exactly what they find convenient. When asked what they meant to do as to our right of *entrepôt*, he spoke of the treaty as waste paper; and the prefect did not know that we had such right, though it had been the subject of many conversations with the minister, and of three different notes. The sum voted for this service is two millions and a half; as to the rest, they expect to compel the people to support the expenses of the Government, which will be very heavy, as the number of the officers, civil and military, with their suite, is great; and they are not empowered to draw: so that the first act of the new Government will be the oppression of their people and of our commerce. I believe you may add to this an early attempt to corrupt our Western people, and, if I may judge by the temper that the General will carry with him, an early attempt upon the Natchez, which they consider as the rival of New Orleans. If you will look back to some of my letters on this subject, you will see my opinion of the necessity of strengthening ourselves by force and ships at home, and by alliance abroad. No prudence will, I fear, prevent hostilities ere long; and perhaps the sooner their plans develop themselves the better. In a letter to the President, sent by the way of England, I mention a conversation with Joseph Bonaparte, from which I derive some small hopes; but they are of no avail now that the expedition is determined upon. I had yesterday written you a long letter upon the general state of our affairs, but, having no one to copy it, and being anxious to give you this intelligence as early as possible, I confine myself to this single object, lest I should miss the ship which is about to sail from Havre.

I am, dear sir, with the most respectful consideration, your most obedient servant,

ROB. R. LIVINGSTON.

JAMES MADISON, *Secretary of State.*

Robert R. Livingston, minister to France, to James Madison, Secretary of State.

PARIS, *November* 11, 1802.

SIR:

After writing mine of this date, I called on the minister and insisted on some positive answer to my notes. He told me that he was expressly instructed by the First Consul to give me the most positive assurances that the treaties we had entered into with Spain or them, relative to Louisiana, should be strictly observed. When I expressed my surprise that their officers should not be informed on that head, though on the eve of departing, he assured me that they would be furnished with copies of the treaties, and directed to conform strictly to them. I asked why these assurances were not given me, in the usual form, by replying to my notes? He said that he hoped that there would be no difficulty on that head, when the Consul should arrive (he is now absent). I have stated this that you might, by comparing this conversation with the contents of the letter, and the information derived

from Clarke's conversation with the General, draw your own inferences. I shall endeavor to-day to see J. Bonaparte, though he has all along assured me that it was the Consul's intention to cultivate our friendship, and by no means to do any thing that would endanger it. It will, however, be well to be on our guard, and, above all, to reinforce the Natchez, and to give it every possible commercial advantage. If we can put ourselves in a situation to prevent the danger of hostility, I think we may hope that the dissatisfaction of inhabitants, the disappointment of officers, and the drain of money which the establishment will occasion, will facilitate our views after a very short time.

I am, dear sir, with the most respectful consideration, your most obedient servant,

ROBERT R. LIVINGSTON.

Hon. JAMES MADISON, *Secretary of State.*

P. S. In my letter to the President, I informed him that General Bournonville had gone post to Spain, and that I had reason to think he had it in charge to obtain the Floridas. I know that he went with the greatest speed; accordingly, on his very first conference, he proposed to Spain to relinquish Parma and Placentia for the Floridas.* * * * * * * But Spain may be forced to give them, though she should not like the exchange. You see by this how much it is a favorite object with the First Consul, and judge from thence of our prospects.

What effect the news from St. Domingo may have I know not. The army there is reduced to one thousand two hundred effectives. Other particulars you will have more correctly than we have here.

The Consul is still absent, but daily expected. Lord Whitworth is on his way from Calais, and will be here to-morrow.

Robert R. Livingston, minister to France, to James Madison, Secretary of State.

PARIS, *November* 14, 1802.

In addition to my last, (duplicates enclosed,) I have obtained accurate information of the offer to Spain. It is either to sell them Parma for forty-eight millions of livres, or to exchange it for Florida. You see by this the value they put on Florida. I fear Spain will accede to their proposition. Lord Whitworth has arrived. The affairs of Switzerland are in a train to be settled as France thinks proper; the Diet being dissolved, and deputies appointed to come to Paris. Sweden has made a peace with Tripoli, for which she pays one hundred and fifty thousand dollars. The Emperor is not yet satisfied with the indemnities, and there are many symptoms of change in the politics of Russia.

Mr. Madison, Secretary of State, to Charles Pinckney, minister to Spain, dated

DEPARTMENT OF STATE, *November* 27, 1802.

A letter from a confidential citizen at New Orleans, a copy of which is enclosed, has just informed us that the Intendant at that place by a proclamation, from which an extract is also enclosed, had prohibited the deposite of American effects stipulated by the treaty of 1795; and, as the letter is interpreted, that the river was also shut against the external commerce of the United States from that port. Whether it be the fact or not that this latter prohibition has also taken place, it is evident that the useful navigation of the Mississippi so essentially depends on a suitable depository for the articles of commerce that a privation of the latter is equivalent to a privation of both.

This proceeding is so direct and palpable a violation of the treaty of 1795, that, in candor, it is to be imputed rather to the Intendant solely, than to instructions of his Government. The Spanish minister takes pains to impress this belief, and it is favored by private accounts from New Orleans, mentioning that the Governor did not concur with the Intendant. But, from whatever source the measure may have proceeded, the President expects that the Spanish Government will neither lose a moment in countermanding it, nor hesitate to repair every damage which may result from it. You are aware of the sensibility of our Western citizens to such an occurrence. This sensibility is justified by the interest they have at stake. The Mississippi is to them every thing. It is the Hudson, the Delaware, the Potomac, and all the navigable rivers of the Atlantic States, formed into one stream. The produce exported through that channel last year amounted to one million six hundred and twenty-two thousand six hundred and seventy-two dollars from the districts of Kentucky and Mississippi only, and will probably be fifty per cent. more this year, (from the whole Western country, Kentucky alone has exported, for the first half of this year, five hundred and ninety-one thousand four hundred and thirty-two dollars in value) a great part of which is now, or shortly will be, afloat for New Orleans, and consequently exposed to the effects of this extraordinary exercise of power. Whilst you presume, therefore, in your representations to the Spanish Government that the conduct of its officer is no less contrary to its intentions than it is to its good faith, you will take care to express the strongest confidence that the breach of the treaty will be repaired in every way which justice and a regard for a friendly neighborhood may require.

I have communicated the information received from New Orleans to the Chevalier d'Yrujo, with a view to obtain his immediate interposition, as you will find by the enclosed copy of a letter to him. He readily undertakes to use it with all the effect he can give it by writing immediately on the subject to the local authority at New Orleans. I shall write at the same time to Mr. Hulings, who will enforce, as far as he may have an opportunity, the motives for recalling the unwarrantable prohibitions. It is to be hoped that the Intendant will be led to see the error which he has committed, and to correct it before a very great share of its mischief will have happened. Should he prove as obstinate as he has been ignorant or wicked, nothing can temper the irritation and indignation of the Western country, but a persuasion that the energy of their own Government will obtain from the justice of that of Spain the most ample redress.

It has long been manifest that, whilst the injuries to the United States, so frequently occurring, from the colonial officers scattered over our hemisphere, and in our neighborhood, can only be repaired by a resort to their respective sovereigns in Europe, that it will be impossible to guard against most serious inconveniences. The instance before us strikes with peculiar force, and presents an occasion on which you may advantageously suggest to the Spanish Government the expediency of placing in their minister on the spot, an authority to control or correct the mischievous proceedings of their colonial officers towards our citizens; without which any one of fifteen or twenty individuals, not always among either the wisest or best of men, may, at any time, threaten the good understanding of the two countries. The distance between the United States and the old continent, and the mortifying delays of explanations and negotiations across the Atlantic on emergencies in our neighborhood, render such a provision indispensable, and it cannot be long before all the Governments of Europe, having American colonies, must see the policy of making it.

Extract from the message of the President of the United States to Congress, dated

DECEMBER 15, 1802.

The cession of the Spanish province of Louisiana to France, which took place in the course of the late war, will, if carried into effect make a change in the aspect of our foreign relations, which will doubtless have just weight in any deliberations of the Legislature connected with that subject.

* Nearly a line here is too illegible to be safely conjectured.

Robert R. Livingston, minister to France, to James Madison, Secretary of State.

PARIS, *December* 20, 1802.

SIR:

I have received your favor by Mde. Broniau, and had, as you will find, anticipated your wishes in finding another manual to the First Consul. The consequence of which is, that I have at this moment a very strong memorial under his eye, and some projects which appear to be well received. But the subject is too delicate to treat here: when a safe conveyance offers I shall write to you more at large. The minister has changed his conduct much for the better, either because of our late difference, or because he suspects that I have another passage to the First Consul. France has not yet got Florida; but there is not much doubt that her negotiations on this subject will succeed, as Parma is a favorite object with Spain. Pray be explicit in the amount of what I may offer, and consider the value of the country—its importance to peace—the expensive establishment it will save—and its intrinsic worth from the price of the land and actual revenue. I do not, however, mean that you should infer from this that my prospects of obtaining the object are great, because I find, as Mr. Talleyrand told me yesterday, the First Consul *entété* with this project. But I have made so many converts, that I would wish, in case favorable circumstances should arise, to know how to act. If left to myself I may go beyond the mark. General politics you will collect from the papers I send. I have mentioned that the storm in England will blow over for the present; and the peace will not be lasting. The armament for Louisiana has not yet sailed; the civil officers are yet here, if I am rightly informed by the minister from whom I had it yesterday.

The necessity of my sending this immediately prevents my adding any thing but my assurance of the highest esteem.

I have the honor to be, sir, your most obedient humble servant,

ROBERT R. LIVINGSTON.

P. S. December 23d. The armament has not yet sailed; Florida not ceded; more hesitation and doubt on the subject than I have yet observed. I have, in a private memoir under the Consul's eye, touched a string that has alarmed them. I cannot now explain. The minister knows nothing of this. Set on foot a negotiation fixing our bound with Britain, but by no means conclude until you hear from me that all hope here is lost. It is an important card in my hands, and must, for the present at least, be somewhat under my control. Do not absolutely despair, though you may have no great reason to hope should New Orleans be possessed by a small force.

This letter goes by the way of England by Mr. Murray, who has not allowed me time to give it you in any better dress. I must wait for some more direct conveyance to write fully to you.

James Madison, Secretary of State, to Robert R. Livingston, minister to France.

DEPARTMENT OF STATE, *December* 23, 1802.

SIR:

In the latter end of last month we received information from New Orleans of the interdiction of the deposite there for our merchandise, stipulated by the treaty with Spain, without an equivalent establishment being assigned. A copy of the Intendant's proclamation to that effect is enclosed. Private accounts render it probable that the Governor of the province openly dissented from that act; but private letters, of so late a date as the 29th of October, inform us that it is still enforced. The Legislature of Kentucky have voted a memorial to Congress complaining of it, and they will, probably, be followed by other portions of the Western people. Should it not be revoked before the time for the descent of the boats in the spring, both the injury and irritation proceeding from it will be greatly increased. The House of Representatives passed a resolution on the 17th of this month calling for information upon this subject, a copy of which, if it should be printed early enough, will be enclosed. The result of their deliberations cannot be anticipated: but I may hazard the remark that, whilst we have no clear foundation on which to impute this infraction to orders from the Spanish Government, it would be contrary to the duty, policy, and character of our own to resort for redress in the first instance to the use of force.

JANUARY 3, 1803.

The delay in the sailing of the British packet, by which this is forwarded, gives an opportunity of adding that, since the date of the above, a letter has been received from Governor Claiborne, of the Mississippi territory, enclosing one from the Governor of Louisiana, which says that the suspension of the deposite by the Intendant was without orders from the Spanish Government, and that the measure did not accord with his judgment. He observes, also, that he had communicated the proceeding to the Governor of the Havana, who has some kind of superintendence over the authorities at New Orleans. This information strengthens the hope that the irregularity may be corrected before it can have wrought extensive injury to our Mississippi commerce. The occurrence has drawn forth the clearest indications, not only of the sensibility of the Western country with respect to the navigation of the Mississippi, but of the sympathy of their Atlantic fellow citizens on the subject.

I have the honor to be, &c.

JAMES MADISON.

ROBERT R. LIVINGSTON, ESQ.

James Madison, Secretary of State, to Charles Pinckney, minister to Spain.

DEPARTMENT OF STATE, *January* 10, 1803.

SIR:

Since my letter of November 27th, on the subject of what had taken place at New Orleans, a letter has been received from the Governor of Louisiana to Gov. Claiborne, in which it is stated that the measure of the Intendant was without instructions from his Government, and admitted that his own judgment did not concur with that of the Intendant. You will find, by the printed documents herewith transmitted, that the subject engaged the early and earnest attention of the House of Representatives; and that all the information relating to it, possessed by the Executive prior to the receipt of that letter, was reported, in consequence of a call for it. The letter itself has been added to that report; but being confidentially communicated, it does not appear in print; a translation of it, however, is herewith enclosed. You will find, also, that the House has passed a resolution explicitly declaring that the stipulated rights of the United States on the Mississippi will be inviolably maintained. The disposition of many members was to give to the resolution a tone and complexion still stronger. To these proofs of the sensation which has been produced, it is to be added, that representations, expressing the peculiar sensibility of the Western country, are on the way from every quarter of it to the Government. There is, in fact, but one sentiment throughout the Union with respect to the duty of maintaining our rights of navigation and boundary. The only existing difference relates to the degree of patience which ought to be exercised during the appeal to friendly modes of redress. In this state of things, it is to be presumed, that the Spanish Government will accelerate, by every possible means, its interposition for that purpose; and the President charges you to urge the necessity of so doing with as much amicable decision as you can employ. We are not without hopes that the Intendant will yield to the demands which have been made on him: and to the advice which he will have received from the Spanish minister here. But it will be expected from the justice and good faith of the Spanish Government, that its precise orders to that

effect will be forwarded by the quickest conveyance possible. The President wishes, also, that the expedient suggested in the letter above referred to, for preventing similar occurrences and delays, may also be duly pressed on that Government.

I have the honor to be, &c.

JAMES MADISON.

CHARLES PINCKNEY, Esq. *&c. &c.*

James Madison, Secretary of State, to Robert R. Livingston, minister to France.

DEPARTMENT OF STATE, *January* 18, 1803.

SIR:

My letters of December 23d and January 3d communicated the information which had been received at those dates, relating to the violation, at New Orleans, of our treaty with Spain; together with what had then passed between the House of Representatives and the Executive on the subject. I now enclose a subsequent resolution of that branch of the Legislature. Such of the debates connected with it as took place with open doors will be seen in the newspapers; which it is expected will be forwarded by the Collector at New York by the present opportunity. In these debates, as well as in indications from the press, you will perceive, as you would readily suppose, that the cession of Louisiana to France has been associated as a ground of much solicitude with the affair at New Orleans. Such, indeed, has been the impulse given to the public mind by these events, that every branch of the Government has felt the obligation of taking the measures most likely, not only to re-establish our present rights, but to promote arrangements by which they may be enlarged, and more effectually secured. In deliberating on this subject, it has appeared to the President that the importance of the crisis called for the experiment of an extraordinary mission; carrying with it the weight attached to such a measure, as well as the advantage of a more thorough knowledge of the views of the Government, and the sensibility of the people, than could be otherwise conveyed. He has, accordingly, selected for this service, with the approbation of the Senate, Mr. Monroe, formerly our minister plenipotentiary at Paris, and lately Governor of the State of Virginia; who will be joined with yourself in a commission extraordinary to treat with the French republic; and with Mr. Pinckney in a like commission to treat, if necessary, with the Spanish Government. The President has been careful, on this occasion, to guard effectually against any possible misconstructions in relation to yourself, by expressing, in his message to the Senate, his undiminished confidence in the ordinary representation of the United States, and by referring the advantages of the additional mission to considerations perfectly consistent therewith.

Mr. Monroe will be the bearer of the instructions under which you are jointly to negotiate. The object of them will be to procure a cession of New Orleans and the Floridas to the United States; and consequently the establishment of the Mississippi as the boundary between the United States and Louisiana. In order to draw the French Government into the measure, a sum of money will mark part of our propositions; to which will be added, such regulations of the commerce of that river, and of the others entering the Gulf of Mexico, as ought to be satisfactory to France. From a letter, received by the President from the respectable person alluded to in my last, it is inferred, with probability, that the French Government is not averse to treat on those grounds. And such a disposition must be strengthened by the circumstances of the present moment.

I have thought it proper to communicate thus much to you, without waiting for the departure of Mr. Monroe, who will not be able to sail for two weeks, or perhaps more. I need not suggest to you that, in disclosing this diplomatic arrangement to the French Government, and preparing the way for the object of it, the utmost care is to be used in repressing extravagant anticipations of the terms to be offered by the United States, particularly the sum of money to be thrown into the transaction. The ultimatum on this point will be settled before the departure of Mr. Monroe, and will be communicated by him. The sum hinted at in the letter to the President above referred to, is —— livres. If less will not do we are prepared to meet it; but it is hoped that less will do, and the prospect of accommodation will concur with other motives in postponing the expedition to Louisiana. For the present I barely remark, that a proposition made to Congress with closed doors is under consideration, which, if agreed to, will authorise the payment of about ten millions of livres, under arrangement of time and place that may be so convenient to the French Government as to invite a prompt as well as favorable decision of the case. The sum to which the proposition is limited, and which will probably not be effectually concealed, may, at the same time, assist in keeping down the pecuniary expectations of the French cabinet.

I have the honor to be, &c.

JAMES MADISON.

ROBERT R. LIVINGSTON, Esq. *&c.*

Extract:—Mr. Madison, Secretary of State, to Mr. Charles Pinckney, American minister at Madrid.

DEPARTMENT OF STATE, *January* 18, 1803.

[After informing Mr. Pinckney, as well as Mr. Livingston, of the reasons which had induced the mission of Mr. Monroe, this letter proceeds as follows:]

The President has been careful on this occasion to guard effectually against any misconstruction, in relation to yourself, by expressing, in his message to the Senate, his undiminished confidence in the ordinary representation of the United States, and by referring the advantages of the additional mission to considerations perfectly consistent therewith.

Mr. Monroe will be the bearer of the instructions under which you are to negotiate. The object of them will be, to procure a cession of New Orleans and the Floridas of the United States, and consequently, the establishment of the Mississippi as the boundary between the United States and Louisiana. In order to draw the French Government into the measure, a sum of money will make part of our propositions; to which will be added such regulations of the commerce of that river, and of the others entering the Gulf of Mexico as ought to be satisfactory to France. From a letter received by the President from a respectable person, it is inferred, with probability, that the French Government is not averse to treat on those grounds; and such a disposition must be strengthened by the circumstances of the present moment.

Though it is probable that this mission will be completed at Paris, if its objects are at all attainable, yet it was necessary to apprise you thus far of what is contemplated, both for your own satisfaction, and that you may be prepared to co-operate on the occasion, as circumstances may demand. Mr. Monroe will not be able to sail for two weeks.

Robert R. Livingston, minister to France, to James Madison, Secretary of State.

PARIS, *January* 24, 1803.

SIR:

I have just now heard of an opportunity from Havre. I am doubtful whether my letter will arrive in time for it. I therefore confine myself to inform you that General Bernadotte is named minister to the United States, in the place of Otto, who will be employed here. General Bernadotte is brother-in-law to Joseph Bonaparte, is a very respectable man, and has the character of a decided republican. I have endeavoured to impress upon him the necessity of making some arrangements relative to the debt previous to his departure, which he has much at heart.

But neither he nor any body else can influence the councils of the First Consul. You can hardly conceive any thing more timid than all about him are: they dare not be known to have a sentiment of their own, or to have expressed one to any body. But I must defer writing to you more at large on this subject, as well as a full communication of a very delicate step that I have hazarded, which promised success for some time, but from which I, at present, hope for no important result. The minister informs me that the expedition to Louisiana will sail shortly. General Bernadotte will go in about three weeks. He will have full powers to settle every thing. I asked the minister, what confidence you can have in any new offer to treat, when the last treaty is unexecuted; and if he had not better send out General Benadotte with a treaty in his hand, than only with powers that will be suspected; and how he can make arrangements upon the debts which must depend upon the Legislature? He answers this by saying, they want information as to right of deposite, &c. As to the debt, I have no hope that they have any intention to pay it, or even to fund it. From the disposition which I know to be entertained by some that go out with Victor, I have no doubt that they will provoke an Indian war, by paying them nothing; and that in their solicitude to acquire wealth, they will act over again the tyranny of St. Domingo. It will be necessary, therefore, to take the position that will best guard you against the effects of these evils. As to myself, I am left wholly without any precise instruction how to act, or what to offer. Enclosed are two memoirs lately sent in, with as little effect as those that have gone before them; though I have reason to think that the minister wishes well to my project for Louisiana, but the First Consul is immoveable. I confess to you I see very little use for a minister here, where there is but one will; and that will governed by no object but personal security and personal ambition: were it left to my discretion, I should bring matters to some positive issue, or leave them, which would be the only means of bringing them to an issue. I am, &c.

ROBERT R. LIVINGSTON.

Honorable JAMES MADISON, &c.

No. 4.

Mr. Livingston to —— ——.

DECEMBER 24, 1802.*

SIR:

I cannot but feel the utmost anxiety to know whether my project, which you had the goodness to submit to the inspection of the First Consul, is likely to meet with his concurrence. Upon ordinary occasions I should consider the delay of a few weeks as of little moment; but there are circumstances which render every day important in what relates to the United States and France. In the twelve months that I have been here, I have not been so happy as to receive a conclusive answer to any one business that I have had to transact with the minister. Congress are now in session; they will infer from every paper submitted to them by the President, that the French Government are disposed to show them but little attention. The obscurity that covers the designs of France in Louisiana (for not the least light can I, officially, obtain on the subject,) will double their apprehensions; this, added to the clamors of ruined creditors, and the extreme severity with which some of their citizens have been treated in St. Domingo, and the extraordinary decisions of the Council of Prizes, &c. will leave a fair field for the intrigues of the enemies of France, and even enlist the best patriots of America on their side. At this moment Britain comes forward and pays, with the most scrupulous attention, every demand, and proposes to settle her southwestern line with the United States. In doing this she is anxious to come down to a navigable part of the Mississippi, so as to communicate with Canada by that channel. It is obvious that she can have no interest in this, but such as looks to the future possession of the mouth of that river: a project that she would naturally form the moment she saw Louisiana pass into the hands of her rival. I am sorry to say it is one that she will find no difficulty in executing, unless prevented by the United States: for France is too far to protect a young colony from an established one, and the numerous savages, provincial troops, and others, that Canada will afford. While the conduct of France speaks a language so painful to the feelings of the American Government, there is too much reason to believe that there will be little solicitude in so forming their limits as to cover her possessions. I am anxious, sir, to know our prospects. If they should be such as I flatter myself the mutual interests of France and the United States would lead to, I would wish to have it in my power to arrest in Mr. King's hands any conclusion on the subject of our western bounds. In case my project should be honored with the approbation of the First Consul, it will be essential to the security of the possessions of France and the peace of that country, to remove the British boundary as high up the river as possible, so as to prevent any communication with Canada, by the rivers that fall on the one side into the lakes, and, on the other, into the Mississippi. If this business is obstructed only by the non-conclusion of the treaty with Spain for the Floridas, one may still go between us for New Orleans and the territory above the Arkansas river, with a condition annexed, in case the treaty with the Floridas should succeed agreeably to the wishes of France. Should the treaty with Spain fall through, every reason of policy should induce France, either to relinquish her designs on Louisiana altogether, or to cover her frontier by a cession to the United States; since, without a single port in the Gulf, it will be impossible to protect their colony; and all the expense incurred by the attempt will ultimately redound to the advantage of Britain, who will not fail to attack them with advantage both by sea and land.

The treaty I propose might also form a basis for the immediate discharge of the debts due to our citizens; in the doing of which, advantageous arrangements may be made, and, at the same time, the funds of France be considerably raised: provided such secrecy is observed in the whole of this transaction as will prevent the debts being the object of speculation. I know, sir, a distinction has been taken between debts due from the former Government and that which now happily prevails in France. But, sir, if this distinction is just it does not apply to the demands of the United States. They are specifically assumed by the new Government, when they made the object of the treaty, and an equivalent has already been paid the present Government by that of the United States: so that they stand upon a different ground from that of the debts of other nations having demands on France: and they not only have to plead their justice, and the circumstances under which they were contracted, but the pledged faith of the existing Government.

I cannot, sir, but be solicitous to know that what I have hitherto taken the liberty to write to you has passed into no hands but those of the First Consul, or some other member of your own family, as I fear my communications out of the ordinary channel might be ill taken where I am solicitous to stand well.

I have the honor to be, sir, with the most profound consideration, your most obedient servant,

R. R. LIVINGSTON.

[Referred to in Mr. Livingston's despatch of January 24, 1803.]

Mr. Livingston to the Minister of Exterior Relations.

The undersigned Minister Plenipotentiary of the United States, to His Excellency the Minister of Exterior Relations. †

SIR:

I have so often had occasion to mention to you the claims of American citizens upon the French Government, and, with so little effect, that I feel pain whenever I am compelled to touch upon that subject. But, sir, I never had reason to doubt, both from the tenor of your note, and conversations, that it would become a question whether these debts, just in themselves, and solemnly confirmed by a treaty, should become the subject of liquidation. The Board of Accounts accordingly proceeded to liquidate and give certificates for about one-quarter of the whole amount. Upon the debt so liquidated the American merchant was enabled to raise the small sums necessary for his support, till arrangements were made (which they never permitted themselves to doubt would be finally

* It does not appear with certainty by what despatch this memoir was communicated.

† The date of this paper does not appear from the copy transmitted by the minister to the Department of State.

done) for their discharge. But, sir, even of this support they are now deprived: for though the Board has proceeded to liquidate more of their claims, the gentleman at the head of the Department refuses to give the usual certificates; under what pretence I am at a loss to conceive. I am told he considers the treaty as applying to debts contracted during the present Government, when in fact no such debts existed at the time of the treaty, nor is there a word in the treaty which authorizes such construction; the whole treaty referring to matters that had passed not only under the Government that had preceded the present, but under that which preceded the Revolution. Upon what other principle has the United States, with the strictest good faith, paid the debt contracted under Louis XVI. and those which the existing Government demanded under the late Convention for injuries sustained under the late Directors?

It is time, sir, that matters should be brought to some issue; that the citizens of the United States and their Government should know how far the treaty is binding upon France: and what construction ought to be given to it, for, hitherto, it has only served as a means to surprise their good faith, and to involve both the Government and the people of the United States in fresh expenses.

I have the honor to renew to your excellency the assurances of my high consideration.

R. R. LIVINGSTON.

[Referred to in Mr. Livingston's despatch of 24th January.]

Robert R. Livingston, Minister Plenipotentiary of the United States of America, to the Minister of Exterior Relations.

PARIS, *January* 10, 1803.

SIR:

I have just learned through a channel, which, though not official, is such as leaves me no doubt of its authenticity, that the Governor of New Orleans has denied the citizens of the United States a right of depot there, under the pretence that the provision for that purpose in the treaty has expired. You are not ignorant, sir, of the value that the Western inhabitants of the United States place upon that right, nor of the spirit with which they will defend it; a spirit to which the Government must yield, even if they could themselves be indifferent to the object. It is peculiarly unhappy, sir, that this circumstance should have happened at the very moment that France is about to possess that country; since, taken in connexion with the silence of the French Government, as to its intention, it will (I very much fear) give room to jealous and suspicious persons to suppose that the court of Spain has, in this instance, acted in concurrence with that of France; though, sir, I do too much justice to the integrity of France to believe that she would approve of a breach of treaty, and render their first entrance into our vicinity an act of hostility; yet it certainly is of a nature to call the immediate attention of France to the several matters which I had the honor to mention to you, the neglect of which has excited the liveliest sensation in the United States. I therefore avail myself of this opportunity and the permission you gave me to offer you the outline of a treaty that I presume will afford the most obvious benefits to France, and strengthen the connexion which every enlightened American wishes to subsist between her and the United States.

Presuming that the Floridas are in the hands of France, and unless they are Louisiana can never be worth her possessing, because it affords no ports for its own protection, I shall predicate what I have to offer upon that presumption.

France can have but three objects in the possession of Louisiana and Florida: The first is the command of the Gulf: Second, the supply of her Islands: Third, an outlet for her people, if (which however appears to me a very distant expectation) her European population should be too great for her territory. The first of these will be effectually secured by the possession of West Florida, which includes the Bay of St. Esprit and Pensacola, together with the town and harbor of St. Augustine. There are no other ports of the smallest importance east of the Mississippi. The second will be better effected by confining their establishment to some reasonable limits on the sea-coast, or within a moderate distance from it, than by scattering their capital and inhabitants over an extensive territory, which will have a tendency to render them savage and independent, and compel France to keep up a very expensive establishment to protect them from the incursions of savages.

This country must either be settled by foreigners, or by emigrants from France. In the first case no nation in Europe can retain them in a state of dependence: because they will, when settled some hundred miles from the sea, be absolutely inaccessible to their power. In the second, the emigration will be such a drain to the wealth and population of France, as will inflict as deep a wound to her agriculture and manufactures as that felt by her on the revocation of the edict of Nantz; or by Spain, on the expulsion of the Moors; and, after all, the day on which they will be independent will arrive whenever they shall have sufficient wealth and strength no longer to need her aid.

Having treated this subject more at large in a paper which you have had the goodness to read, I will not dwell upon it here; but propose what it appears to be the true policy of France to adopt, as effecting all her objects, and at the same time conciliating the affections of the United States, giving a permanency to her establishments, which she can in no other way hope for. First, let France cede to the United States so much of Louisiana as lays above the mouth of the river Arkansas. By this a barrier will be placed between the colony of France and Canada, from which she may, otherwise, be attacked with the greatest facility, and driven out before she can derive any aid from Europe. Let her retain the country lying on the west of the Mississippi and below the Arkansas river; a country capable of supporting fifteen millions of inhabitants. By this, she will place a barrier between the United States and Mexico, if (which I hope will never be the case) they should have the wild idea of carrying their arms into that country; and at the same time be at hand to protect the Spanish establishments against the ambitious views of any European power. Let her possess East Florida as far as the river Perdido, with all the ports on the Gulf, and cede West Florida, New Orleans, and the territory on the west bank of the Mississippi, to the United States. This cession will be only valuable to the latter from its giving them the mouths of the river Mobile, and other small rivers, which penetrate their territory, and in calming their apprehensions relative to the Mississippi. The land ceded, if we except a narrow strip on the bank of the river, will, for the most part, consist of barren sands and sunken marshes; while that retained by France on the west side of the Mississippi includes the great bulk of the settlements and a rich and fertile country. It may be supposed that New Orleans is a place of some moment; it will be so to the United States, but not to France, because Fort Leon, on the opposite bank, affords a much more advantageous station; has equal advantages as a harbor; is higher, healthier, and more defensible; and, as the great bulk of the settlements must necessarily be on that side, the capital must be transplanted there, even if France continued in possession of New Orleans, which is a small town built of wood, and upon which all the expenses that France should make in public buildings, &c. would ultimately be thrown away when the capital was removed.

The right of depot which the United States claim, and will never relinquish, must be the source of continual disputes and animosities between the two nations, and ultimately lead the United States to aid any foreign Power in the expulsion of France from that colony. Independent of this, as the present commercial capital of New Orleans is mostly American, it will be instantly removed to Natchez; to which the United States can give such advantages as to render New Orleans of little importance.

Upon any other plan, sir, it needs but little foresight to predict that the whole of this establishment must pass into the hands of Great Britain; who has, at the same time, the command of the sea, and a martial colony containing every means of attack. While the fleets block up the seaports, she can, without the smallest difficulty, attack New Orleans from Canada with fifteen or twenty thousand men, and a host of savages.

France, by grasping at a desert and an insignificant town, and thereby throwing the weight of the United States into the scale of Britain, will render her mistress of the new world. By the possession of Louisiana and Trinidad the colonies of Spain will lie at her mercy. By expelling France from Florida and possessing the ports on the Gulf, she will command the islands. The East and the West Indies will pour their commodities into her ports; and the precious metals of Mexico, combined with the treasures of Hindostan, enable her to purchase nations whose aid she may require in confirming her power.

Though it would comport with the true policy, and the magnanimity of France, gratuitously to offer these terms to the United States, yet they are not unwilling to purchase them at a price suited to their value, and to their own circumstances; in the hope that France will at the same time satisfy her distressed citizens the debts which they have a right by so many titles to demand.

These short hints, I flatter myself, will serve to draw your attention to the subject; in which case I am satisfied that many other reasons for the adoption of this plan will suggest themselves to your reflection; reasons on which I do not, from a respect to your time, think it necessary to enlarge. I would only observe that Congress are now in session; that if no treaty is concluded before they rise, or if a minister should go only with powers to treat, without being the bearer of any thing conclusive, he will have to encounter unnumbered suspicions and jealousies; and when he opens the negotiation, he will have to contend with all the intrigues of the court that is most interested in preventing the completion of objects so hostile to its views. Many things are ratified when a treaty is formed, that would be obstacles to the formation of one in a popular Government.

Accept, sir, the assurances of my high consideration.

R. R. LIVINGSTON.

James Madison, Secretary of State, to Rufus King, minister to England.

DEPARTMENT OF STATE, *January* 29, 1803.

SIR:

My letter of the 23d ult., with a postscript of the 3d of this month, communicated the information which had been received at those dates relating to the violation at New Orleans of our treaty with Spain; together with what had then passed between the House of Representatives and the Executive on the subject. I now enclose a subsequent resolution of that branch of the Legislature. Such of the debates connected with it as took place with open doors will be seen in the newspapers. In those debates, as well as in indications from the press, you will perceive, as you would readily suppose, that the cession of Louisiana to France has been associated as a ground of much solicitude with the affair at New Orleans. Such, indeed, has been the impulse given to the public mind by these events that every branch of the Government has felt the obligation of taking the measures most likely, not only to re-establish our present rights, but to promote arrangements by which they may be enlarged and more effectually secured. In deliberating on this subject, it has appeared to the President that the importance of the crisis called for the experiment of an extraordinary mission, carrying with it the weight attached to such a measure, as well as the advantage of a more thorough knowledge of the views of the Government and of the sensibility of the public, than could be otherwise conveyed. He has accordingly selected for this service, with the approbation of the Senate, Mr. Monroe, formerly our minister plenipotentiary at Paris, and lately Governor of Virginia, who will be joined with Mr. Livingston in a commission extraordinary to treat with the French republic; and with Mr. Pinckney in a like commission to treat, if necessary, with the Spanish Government.

Mr. Monroe is expected here to-morrow, and he will probably sail shortly afterwards from New York.

These communications will enable you to meet the British minister in conversation on the subject stated in your letter of May 7th, 1802. The United States are disposed to live in amity with their neighbors, whoever they may be, as long as their neighbors shall duly respect their rights; but it is equally their determination to maintain their rights against those who may not respect them; premising, where the occasion may require, the peaceable modes of obtaining satisfaction for wrongs, and endeavoring, by friendly arrangements and provident stipulations, to guard against the controversies most likely to occur.

Whatever may be the result of the present mission extraordinary, nothing certainly will be admitted into it not consistent with our prior engagements. The United States and Great Britain have agreed, each for itself, to the free and common navigation by the other of the river Mississippi; each being left, at the same time, to a separate adjustment with other nations of questions between them relative to the same subject. This being the necessary meaning of our treaties with Great Britain, and the course pursued under them, a difference of opinion seems to be precluded. Any such difference would be matter of real regret: for it is not only our purpose to maintain the best faith with that nation, but our desire to cherish a mutual confidence and cordiality, which events may render highly important to both nations.

Your successor has not yet been named, and it is now possible that the time you may have fixed for leaving England will arrive before any arrangements for the vacancy can have their effect. Should this be the case, the President, sensible of the inconveniency to which you might be subjected by an unexpected detention, thinks it would not be reasonable to claim it of you. It may be hoped that the endeavors to prevent an interval in the legation will be successful; and, as it cannot be more than a very short one, no great evil can well happen from it.

I have the honor, &c.

JAMES MADISON.

RUFUS KING, Esq., &c.

R. R. Livingston to James Madison.

PARIS, *February* 5, 1803.

DEAR SIR:

Not knowing where to direct the enclosed, I submit it to your care. The bearer of this to Nantz waits; so that I can write you nothing, but that the Louisiana armament is still ice bound. The Floridas not *yet* ceded, owing, I believe, to some difficulty about Parma, and the solicitude of the Emperor of Russia to provide for the King of Sardinia. Spain is however prepared to make the cession, and I presume it will be done. I have precise answers from you to none of my inquiries; and am much at a loss how to act.

I have much to say, but am not allowed to enlarge. You shall hear from me by the first safe conveyance.

I am, dear sir, with the highest esteem and respect, your most obedient humble servant,

R. R. LIVINGSTON.

HON. JAMES MADISON, *Secretary of State.*

James Madison, Secretary of State, to Charles Pinckney and James Monroe.

DEPARTMENT OF STATE, *February* 17, 1803.

SIR:

You will be herewith furnished with a joint commission to treat with His Catholic Majesty, and with a letter of credence to him. For the object of the commission, and as a guide to your negotiations, I refer you to the instructions given in relation to the French Government. Whatever portion of the arrangements contemplated may be found to depend not on the French, but on the Spanish Government, is to be sought from the latter, on the like terms as if they had depended on the former.

The scale of value applied to the distinct territories in question will deserve particular attention; so will the provision for paying our citizens who have claims on Spain out of the sums stipulated as the price of her territorial cessions. Among these claims it will be important to include, not only those within the description contained in the convention signed by Mr. Pinckney in August last, but such as may be founded on unlawful acts committed within Spanish responsibility by other than Spanish subjects, and on acts committed by Spanish subjects, within the Spanish colonies, inconsistent with true equity, though not with the forms of law.

Your particular attention will also be due, in case a cession should not be obtained, to an enlargement of our right of deposite at New Orleans, to the establishment of suitable deposites at the mouths of the rivers, passing from the United States through the Floridas, as well as to the free navigation of those rivers by citizens of the United States. Useful hints on these subjects may be found in the letter of which a copy is annexed from the consul of the United States at New Orleans.

I refer for another object which will deserve your attention, to the letter from the Department of State of the 27th of November, to the minister plenipotentiary of the United States, which urges the necessity of some provision by the Governments of Europe having American colonies, by which the irregular and injurious proceedings of colonial officers towards the United States may be more effectually controlled, or more expeditiously corrected, than by crossing the Atlantic with representations on such occasions. Such a provision is not more due to our just expectations than to the interests which those Governments have in maintaining the amicable relations which subsist with the United States. In the same letter, notice was given that the Spanish Government would be held responsible for whatever damages might be sustained by our citizens in consequence of the violation of the treaty by the Intendant at New Orleans. It will be proper to obtain from that Government a stipulation that will provide for such contingent damages. In case the convention, already on foot, should be open for such an article, it may be therein inserted. Should that opportunity not exist, it will be necessary to authorize, by a supplemental article, the commissioners appointed under that convention, to award the indemnifications.

I have the honor, &c.

JAMES MADISON.

JAMES MONROE, &c.

R. R. Livingston to the Secretary of State.

PARIS, *February* 18, 1803.

DEAR SIR:

I have been honored by yours of the —— November. I am pleased to find that you are satisfied with my applications to the Government on the subject of the debt: I am only sorry that those applications have hitherto been unsuccessful, and, as far as appears, will continue to be, unless some motive more efficacious than that of justice, or national faith or credit, is held out. To enter into the financial arrangements of people in power here would lead me into a very delicate discussion, which would not tend to any advantage proportioned to the risk it might subject me to. I still think that if any thing is done to satisfy our citizens, it must be by some advantageous offer on the part of our Government. You will find some of my ideas on that subject sketched in my former letters.

As you have intimated the propriety of opening some other channel of communication with the First Consul than through the minister, this I have effectually done, so as to have got several unofficial communications under his eye, and to have learnt his sentiments thereon. I can have a personal conference with him when I choose, having made arrangements for the purpose; but I defer it for two reasons: First, I have never yet had any specific instructions from you how to act or what to offer. To meet him merely to talk of the justice of our claims, and of our rights on the Mississippi, would be only to say ungracious truths, and excite prejudices which may render a future conference more difficult; and second, because it is one of the traits of his character when he has once fully avowed a sentiment not easily to change it. I have, therefore, thought it best to address myself officially to the minister, and unofficially to the only man supposed to have any sort of influence over him. I have accordingly put into his hands some notes containing plain truth mixed with that species of personal attention which I know to be most pleasing. The delicate subject of these notes makes me unwilling to send them unless I can find time to put them in cipher, which I fear will not be the case by this conveyance; you will, however, have them in the first letter I write to the President, which will be by this or the next conveyance. I do not mention the channel I allude to, because I wish it only to be known to yourself and the President, and my last letter to him has sufficiently explained it. The only basis on which I think it possible to do any thing here is to connect our claims with our offers to purchase the Floridas. Upon this subject my notes turn. I have first endeavored to show how little advantage France is likely to make from these colonies; the temptation they offer to Britain to attack them by sea and from Canada; the effect the conquest of them by Britain would have upon the islands; and the monopoly which that conquest would give to a rival Power of the trade of the West as well as of the East Indies. I have dwelt upon the importance of a friendly intercourse between them and us, both as it respects their commerce and the security of their islands; and I have proposed to them the relinquishment of New Orleans and West Florida, as far as the river Perdido, together with all the territory lying to the north of the Arkansas, under an idea that it was necessary to interpose us between them and Canada, as the only means of preventing an attack from that quarter. I did not speak of East Florida because I found they consider the navigation of the Gulf as very important; for this I proposed an indefinite sum, not wishing to mention any till I should receive your instructions, that it should be a condition of this treaty that the American debt should be inscribed on their five per cent. stock. I knew it would be vain to render them our creditors by deducting this out of our payment; because actual money would alone have any effect in carrying the plan through; and even *that must be managed* with some circumspection, or no plan will succeed. These propositions, with certain accompaniments, were well received, and were some days under the First Consul's consideration; when it was thought a better bargain might be made on the spot; and I was told that General Bernadotte would have full power to treat on this subject in America on the basis on which I had placed it. My answer to this information you will find in the enclosed note. I am now lying on my oars in hopes of something explicit from you. I consider the object of immense importance; and this, perhaps, the favorable moment to press it: because the affairs of the islands are yet very doubtful, and the armament is still blocked up by the ice in Holland; though as we now have a thaw here I fear they will not be so much longer. My plan is much relished by the person through whom it was proposed. General Bernadotte sees the awkward situation in which he will be placed if he goes out while our demands remain unsatisfied. But no body dares to offer an opinion when that of the First Consul has been expressed. And, at present, a very unexpected difficulty has arisen. I told you that Parma would be offered for the Floridas, and that General Bournonville was sent to negotiate the business. It was never doubted a moment here that it would be effected; this I learned from Talleyrand and the Spanish ambassador. They [intimated] that the treaty would be signed the day the King returned from Barcelona; and their information accorded with that which Lord Whitworth had received. I learn now from the Spanish ambassador that the thing has met with some difficulty, as he says, not because of any aversion in the court to make the cession, but of some difference between the Prince of Peace and General Bournonville. I believe, however, that this is not the sole cause; but that Spain begins to see that, in receiving Parma, she will receive nothing; as it will be rendered subservient to another arrangement, as I hinted in my last. You will consider this rather as a conjecture than as any thing I am perfectly founded in relating. The essential fact for us is that the Floridas are not yet ceded. Mr. Dazara yesterday told me that he began to have his doubts whether they would be: but France is fully impressed with the nullity of her possession in Louisiana unless she has some port in the Gulf. Indeed the minister told me yesterday that there were no difficulties of any moment. I presume that she will, ultimately, find some way to cut the gordian knot; and I cannot but sincerely wish that you may have availed yourselves of the pretence Spain has given you to take possession. It will be best to treat with the subject in our hands: but, at all events, tell me what to do if they should go into the hands of France; and fix the sum you are willing to give in case they should listen anew to my proposition; for as to Bernadotte doing any thing with you, I have no great faith. I pray you again to give me some instructions; for I may be acting contrary to your intentions: and I should be very sorry to do any thing that you may find it proper to disavow. I am not satisfied, from examining my instructions, and commission, that I am empowered to do any thing but the common routine of business. As I did not receive this till I was going off I had no opportunity of objecting to them. I find that I have no precise diplomatic character, not even an envoy ordinary or extraordinary; though it had been usual for the United States to grant this latter grade to gentlemen of less standing than myself.

But this by the by: which I should not have mentioned if I did not find that it is not quite so agreeable here, as Bernadotte is a man of high rank, and would have wished, like his brother generals, to have gone out with a more elevated rank, but which they cannot give while the United States only retain a minister plenipotentiary here. It is proper that I should say a few words on General Bernadotte; he is one of the old Jacobin party; and has been much looked up to by them; but being brother-in-law to Joseph Bonaparte, he is favorably connected; but has not ceased to be an object of some jealousy. And I believe you may consider his present mission as an honorable banishment. He proposes only to stay a few months in America. I have had many conversations with him. His dispositions are just such as I would wish with respect to us; but his temper is warm and fiery, and you will have to flatter his pride, and that of his nation, if you would stand well with him.

In several conversations that I have had with Lord Whitworth I find that Britain is very averse to the projected exchange for the Floridas; and he thinks that, if effected, it will be taken up very warmly by the nation. Mr. King, however, in an answer this day received to some questions I have put on that subject, thinks differently. I find that the sentiments of the two nations, with respect to each other, have totally changed from what they were a year ago; they at present, mortally hate each other; and nothing but the want of allies keeps Britain from breaking out. You will find in one of the *Moniteurs* I have sent you, a curious journal of Sebastiani, which has been evidently published to prepare this nation for some new operation in Egypt: it is extremely offensive to the British. I have a letter from Mr. Graham, who is far from being satisfied with the conduct of the Spanish Court; who act like this in saying nothing on the subject of their treaty with France, and who have passed a law prohibiting any American vessel to enter their ports till they have performed a quarantine in some foreign port.

I mentioned to you my wish to be empowered to recognize the Italian Republic; to be accredited to the Consul, as has been done by most of those Powers who wish to please him; and as this is a compliment without expense, it might not be amiss to pay it, particularly as we shall have some commercial connexion with the Italian States.

From the best accounts I can receive from Holland the armament will be detained there till about the last of March, so that you will not have them in New Orleans till June; a precious interval, of which you may think it prudent to avail yourselves.

I broke off here that I might have an explicit conversation with the minister founded upon the newspaper intelligence from our country; for I have had no other since the date of your letter of —— November. I endeavoured to impress him strongly with the idea of our determination never to suffer our rights on the Mississippi to be impeded; and of the little value that that country would be to them in the production of a revenue; of the almost certainty of war between them and the savages in case their stipends were withheld; the pain it must give the First Consul to be the means of the destruction of the white inhabitants, whom it would be impossible to defend; and upon the benefits that would result to the commerce and manufactures of France from a friendly connexion with us. These seemed to make an impression upon him; and he promised to represent them strongly to the First Consul to-morrow; but added, that however my other plans might be received, I must consider the purchase of the country as out of the question; intimating that a sale was below their dignity; so that I fear my hopes, founded on their necessities, are frustrated.

I am, dear sir, with the most respectful consideration, your obedient humble servant.

ROBERT R. LIVINGSTON.

The Hon. JAMES MADISON, *Secretary of State.*

[The following, Nos. 2 and 3, are supposed to be the memoirs referred to in Mr. Livingston's despatch of the 18th February.]

No. 2.

To ————

I am sensible, sir, that I have already taxed your patience in the memoirs that I have submitted to your attention: but, sir, (pardon the frankness with which I speak) the critical moment is arrived which rivets the connexion of the United States to France, or binds a young and growing people for ages hereafter to her mortal and inveterate enemy.

How highly I estimate the alliance of France, and how much I believe the happiness of both nations may be promoted by it, not only appears from the whole of my political conduct, but has been stated in an essay upon the relative maritime power of France and Britain, which, as I have learned, has been honored by the First Consul's attention.

The United States have at present but two possible causes of difference with France—the debt due to her citizens, and the possession of Louisiana. The first of these France is not only bound to pay by the laws of justice, but by the solemn stipulations of a treaty which has been observed with the utmost good faith by the United States, who have advanced large sums in consequence, without suffering themselves to doubt that it would meet with equal attention on the part of France. Give me leave to add, sir, that your signature was considered as a guarantee of that treaty by the people of the United States, who had long since learned to estimate the candor and integrity of your character.

My present object, sir, is to show, in a very few words, that Louisiana affords France not only the means of discharging their debt, and promoting the other object which I took the liberty to hint at before, but even of placing her colony of Louisiana in a better situation, should it be her wish to retain that colony, than she would do by listening to no compromise with the United States.

The object of France in forming this colony is to supply her islands; to afford an outlet for such of her population as she thinks she can spare from home. But not to scatter her people over an immense wilderness, where they will be lost for her and to the world; or to fill her territory with inhabitants that would withdraw their allegiance the moment they found themselves in a situation so to do; which will certainly be the case if these, or if any but the natives of France are permitted to settle it.

It is, then, the interest of France to limit her territory, and to render it as compact as possible, without placing it at such a distance from the sea as to put it totally out of her control. While, with the remainder of the territory, she fulfils other important objects, and, above all, builds her future connexion with the United States upon mutual interests, and that strict and solemn regard for treaties which can alone lull the apprehensions that her power excites, and to which, more than to the force of her arms, Rome was indebted for the dominion of the world.

The produce of Louisiana must be conveyed by the Mississippi; and there are no ports for her marine to the west of Pensacola. If, therefore, France should possess Pensacola, and all the ports to the east of it, she will have the complete command of the Gulf. And if she possesses the free navigation of the Mississippi, and all Louisiana lying to the west of that river, and south of the river Arkansas, comprehending a tract nearly as large as the ancient Government of France, she will have more territory than will suffice to supply all the wants of her marine, and West India colonies, with such articles as that country can produce.

Louisiana, within these limits, can support a population of fifteen millions of people. You will judge, sir, whether it would be possible for France to retain more than that number in subjection; or whether it would be good policy to extend her population beyond the number she can govern.

The settlers to the north of the river Arkansas would be too far from the sea to fear any force from France. A distant colony must be of moderate size, compactly settled, and not remote from the sea, or the parent State will soon lose all control over it. The interest of France, then, requires that her colony in Louisiana should not exceed the limits I mention, and the separation of this territory from that lying to the east of the river Perdido would afford an additional security to France for the possession of both, not only as it would break the connexion of the colonies, but as their interest would be totally different, the last possessing little valuable land, (for both East and West Flo-

rida are barren tracts,) would be military posts and commercial entrepots; from which the trade would be carried on to and from the Mississippi in small vessels; while that with France would, on account of her safe and commodious harbors, center in East Florida.

The inhabitants of this country would be deeply interested in a continuance of their connexion with the mother country. While the interposition of West Florida, in the hands of the United States, would prevent any coercion on the part of the inhabitants of Louisiana, if they should at any time be disposed to revolt, East Florida, on the contrary, while loyal to France, would, by means of her navy, have a powerful control on the colony of Louisiana.

The example of England should have some weight. The Dutch possessed New York; England, for the sake of uniting her colonies, purchased it from Holland. Had it been left in the hands of the Dutch, that union, which has lost the whole to Britain, would have been prevented.

The colonies of Louisiana and East Florida, within the limits proposed, being thus secured, the remainder of the Spanish cession is only valuable as it enables France to pursue other great objects, to wit: the payment of the debt in conformity to her treaty; and the conciliation of an ally which may on so many important occasions be useful to her; and the one of no less magnitude to which I have in my last note the honor to allude.

The United States possess the east side of the Mississippi, from its source to the thirty-first degree of north latitude. It would be very interesting to them to acquire the possession of the remainder of the east bank of that river to its mouth, and that narrow strip of land which lies between the thirty-first degree of latitude and the sea, as far as the river Perdido; not on account of the value of the land, for, except a very small quantity on the banks of the river, it is for the most part a sandy barren, or a sunken marsh; but because it would give them the mouths of those rivers which run through their territory, and afford an outlet to the sea.

To the cession of this country but one possible objection can be raised on the part of France; it may attach a value to New Orleans which it by no means merits. The fact is, that to France, who has the choice of fixing her capital on either side of the river, New Orleans has no circumstance to recommend it. It is placed on the naked bank; it has no port, basin, or quay, for shipping; has no fortification of any strength; and is incapable of being rendered a good military position; and the houses are only of wood, subject to continual accidents. This situation was fixed first by France on account of its being on the Florida side of the river where the settlements commenced: but as it was soon found that the lands of the west side of the river were much richer, the principal part of the population is now there. The bank opposite to New Orleans is higher and better calculated for a town: it already has a strong post in Fort Leon, the most commanding position in that country; and the harbor, or rather the road, is in all things equal to that of New Orleans. As a Government house and barracks, stores, &c. must be built either at New Orleans or at Fort Leon, there can be no doubt, even if France retains both, that the latter ought to have the preference, since a regular and handsome capital could be laid out there, and in a healthier and stronger situation than at New Orleans.

It is highly probable that, in this case, the superiority it would have in point of health, the advantages of the Government, and, above all, the free trade with France and her islands, would render it in three years more populous than New Orleans now is. The French merchants would sell their houses in the one to the Americans, and establish themselves in the other. Should France retain the whole of the Spanish cession on both sides of the river, she will find it absolutely necessary to remove her capital to the west side. The river for three months is impassable from the violence of the inundation, and the trees that it brings down with it. As the bulk of the colony is on the west side of the river, it must necessarily draw its capital after it, or submit to be cut off from it during this period. A town will therefore rise at Fort Leon, where the richest establishments are already formed, which must increase with the population of the country.

The difficulty of removing the capital from New Orleans will increase as its buildings become more numerous, and its population greater. It is, therefore, in every event the true interest of France to commence the establishment of a capital on a regular plan on the west side of the river, where it must ultimately be, rather than expend money upon the old town of New Orleans, which they will find too much insulated for the capital of Louisiana.

Permit me, sir, to examine the subject in a point of view, which I conceive is important not only to France and the United States, but to every maritime power. It cannot be doubted that the peace between France and Britain has been too disadvantageous to the latter to be of long duration. Strong symptoms of an approaching rupture have already appeared; and the statesmen of both countries will begin to examine the points of attack and defence, and the acquisitions that afford the most permanent advantages. The Cape, Malta, and Egypt, have already awakened the cupidity of Great Britain. Should she extend her views across the Atlantic (and what is to limit them?) the cession of Louisiana to France offers her the fairest pretence to invade that country, either from Canada or by the Atlantic.

She felt no reluctance in leaving them to Spain; but she will not quietly see them in the hands of France. She will strain every nerve to acquire them. By uniting them with Canada and Nova Scotia she encircles the United States; and, having the same manners, the same religion, the same language, and a number of partisans among her commercial inhabitants of the United States; having carefully removed every conflicting question, and even conciliated, by the liberality of her restitutions, those whom her conduct during the war had irritated; it will be difficult to say what will be the extent of her influence. But, independently of this circumstance, if Britain should unite Louisiana and West Florda to her other American possessions, no power in Europe will be able to oppose her force. The bay of *St. Esprit* will become another Gibraltar, from which she will ravage every island, and every continental possession of France, Spain, and Holland; she will monopolize the commodities of the West as she has already done those of the East Indies. Not a moment, sir, should be lost for placing a barrier between the settlements that France may wish to retain in Louisiana and Canada, by ceding to the United States the portion I have proposed above the Arkansas; and by the cession of New Orleans and West Florida, to take from them the first inducement to attack that country. France should exert all her resources and all her strength in the immediate fortification of Pensacola and the bay of *St. Esprit;* or, if she has not the means of doing it, she should leave them in the hands of Spain (if she can consent to leave her at peace) or to some other neutral nation. For I will venture to say that the acquisition of that country, by a nation who possesses Newfoundland, Nova Scotia, and Canada, with a powerful maritime force, will annihilate the external trade of every other nation in Europe; and that it would be the true interest even of Spain herself, rather to see her ports in Florida in the hands of the United States, who alone can defend them, than to keep them in her own, at the risk of having them wrested from her by Britain. Perhaps, in the present state of things, considering the superiority of the British navy at this moment, the great capital that it will require to reinstate the French islands, and her continental possessions in the East Indies and in America, the wisest measure would be, not only to make the cession I have asked, but to hypothecate the whole of East Florida for a term of years, for such part of the American debt as may remain unsatisfied.

But this is a mere hasty, undigested idea, rather intended to turn your attention to this subject, than as matter sufficiently matured to take the form of a proposition. I cannot, sir, conclude this note without turning your attention to the present feelings of the people of all parties in the United States with respect to France. The total silence of the French Government on the subject of their intention as to the navigation of the Mississippi, and their rights of *entrepot* at New Orleans, secured to them by the most solemn treaty with Spain; the mystery with which all the arrangements of France for taking possession of that country are concealed from the minister of the United States, notwithstanding his repeated notes to the Minister of Exterior Relations on the subject; have excited the most lively apprehensions of designs unfriendly to their commerce and their rights. The total neglect of every measure that leads to a security for their debt, notwithstanding the provisions of the treaty, and the ruin of numbers of their citizens by this; and the very extraordinary decisions which have, in several instances, taken place in the Council of Prizes, for which I have been able to receive not merely no redress but even no answer; contrasted with the good faith, displayed by their own Government with respect to France, with the scrupulous attention that Great Britain has paid to repair, by the most liberal conduct, the abuses she has permitted herself to commit during the war, leads to a belief that France limits her rights by her power; and insensibly disposes them to

alliances, both offensive and defensive, which it has heretofore been their policy to avoid. Can it possibly be the interest of France, sir, to drive the United States into these alliances, while she forms colonies, and retains islands in their neighborhood? Can she look with contempt upon an enterprising and hardy nation who possesses means of defence at home, and for a maritime force which will render her respectable abroad? The immense power of France has rendered her an object of jealousy to the old world; while the inhabitants of the new felt no other sensations than those of admiration and respect.

In Europe, France only knows secret enemies and hollow friends. In America, she has grateful allies. Let her not, sir, for the bubble of the day, cast them off; but let her avail herself of the advantages she has acquired, to bind them to her. Should she, relying on her own strength, never need their aid, she still will find a consolation in reflecting that the sacrifices (if such they may be called) she makes, are sacrifices at the altar of justice and national faith. She will cheaply purchase the esteem of men and the favor of Heaven by the surrender of a distant wilderness, which can neither add to her wealth nor to her strength.

R. R. L.

No. 3.

JANUARY 7, 1802.*

To ——.

In a conversation which I yesterday had with General Bernadotte, I find that some idea is at present entertained by the First Consul of treating at Washington of the several matters I had the honor to mention to you. I should be extremely pleased at this arrangement, because I should see in it those advantages to my country which are always derived from carrying on a negotiation at home, where the views of the Government are clearly known, where they can avail themselves of every light and information, while the minister with whom they treat is isolated, and must rely only on his own resources and those he draws from suspicious channels. But, sir, these are circumstances which, in the present instance, appear to me to counterbalance those advantages, and which render it peculiarly the interest of France and the United States to come to a more immediate arrangement of several matters that interest them in this negotiation.

I cannot conceal from you, sir, that both the Government and the people of the United States are at present in such a state of mind as to be filled with doubts and jealousies with respect to the views and dispositions of France. Many among her firmest friends are ruined by the inexecution of that article of the treaty which provides for the payment of their debts; many by hasty measures at St. Domingo, and the disregard, in some instances, of the common principles of the law of nations in the decisions of the Council of Prizes. The silence of the French and Spanish Governments on the subject of their intentions relative to the navigation of the Mississippi and the right of *entrepot* at New Orleans, has given just grounds of alarm. But, sir, a circumstance has just come to my knowledge, though not officially, yet in such a way as leaves me little room to doubt of its authenticity, which cannot fail to drive the United States into some violent measure. "On the 20th of October, the Governor of New Orleans issued a proclamation, in which, speaking of the Americans, he says they will not in future be permitted to make a deposite of their cargo in New Orleans, in conformity to the twenty-second article of their treaty of 27th October, 1795, *which has expired.*" I have examined the treaty: there is no pretence for this construction of it; and, as the right has been regularly exercised till now, it will be generally believed in the United States that this construction could only have been suggested by a wish on the part of France to get rid of the provisions of the treaty before she took possession. Now, sir, I will frankly confess to you that the United States will rather hazard their very existence than suffer the Mississippi to be shut against them. Of this you will easily be convinced when you learn that, when their numbers were but half of what they now are, and their means of defence infinitely less, their instructions to their ministers that made the first treaty with Great Britain were, by no means to sign a treaty without securing the free navigation of that river. You will not, therefore, be surprised if this step of Spain should wind up the American people and Government to so high a pitch of resentment as shall lead them to a close and intimate connexion with Britain, and perhaps to an immediate rupture with Spain.

If, under these circumstances, an ambassador should arrive in America, without being the bearer of a treaty which terminates their differences, and should propose to enter upon a treaty with the American Government, they will naturally ask, why has our minister been able to effect nothing in fourteen months? Why have our debts remained unpaid? Why has he received no sort of satisfaction on any subject on which he has addressed himself to the Government? And why does France now, at this late day, prefer making a treaty in America to concluding one at home? While, at the same time, she is sending out large armies to the islands, and possessing herself of Louisiana and the Floridas. Is it not to paralyze those measures of security that common prudence would suggest to the United States? Is it not to stop the treaty which we are about to make relative to our western boundary with Great Britain? Is it not to give France time to arrange her affairs in the islands, to strengthen her ports in America? Some months will elapse before the treaty is made, and many more before it is ratified. What security have we that this treaty, when made, will meet the approbation of the First Consul, when time has made a change in circumstances? These, sir, and a thousand other doubts, will arise in the minds of the citizens of the United States, and they will be blown up into certainties by the agents of Britain, who are to be found in all our commercial towns.

There is no doubt that the Government of the United States will receive with attention the French ambassador; that they will listen to his propositions; and will treat with him with pleasure upon the basis I have mentioned. But they will not, on that account, cease to consider the conclusion as very distant, or relinquish any measure that they may deem it wise to pursue, in case no treaty was proposed. Treating under these circumstances, I fear that there will be much less ground to hope a cordial and friendly intercourse than if the earliest moment was embraced, and the ambassador of France was the bearer of a treaty already completed.

There are other considerations, sir, which I believe will have some weight with the First Consul, if suggested to him. The terms I have proposed as the basis of a treaty, are precisely those which would be most repugnant to the interests of Britain. By interposing the United States between Canada and the French establishments on the Mississippi, her views upon a communication with the sea by that channel are completely cut off. By giving France the ports on the Gulf of Mexico, the British islands are held in check. By interposing the establishments of France between the United States and Mexico, by the only practicable route, the jealousies of Spain, with respect to the United States, will be calmed, and she will have in France an ally at hand to protect her from the ambitious views of Britain. At present, Britain feels little uneasiness about the possessions of France in Louisiana, because, believing that they will operate to render the United States enemies of France, they count upon their aid in dispossessing them, and in reaping the fruits of their labor. It will be extremely difficult, if a negotiation is set on foot in the United States to conduct it with such secrecy as to escape the vigilance of Britain. In a popular government, where she has many friends, it may not be difficult to prevent success. Nor will she hesitate to make important sacrifices to defeat this object.

There are other matters which, though less important, deserve consideration. France apprehends that the rebels in the islands are supplied with arms, &c. from the United States. I trust that apprehension has hitherto been unfounded. She may wish for laws pointed to this object. The party hostile to France, the persons jealous and suspicious of her views in their present state of irritation, may consider her islands as the point in which she is most vulnerable; and, while they decline any active part in support of the revolters, they may be unwilling to see them reduced to submission. The British influence will have room to operate on this subject. Laws pass very slowly, and there are many means of obstructing their passage. But a treaty is, in the United States, the most solemn of all laws. Any provision that we agree upon here must be binding. If, then, a treaty is formed here, the minister, instead of

* This date should, no doubt, be 1803.

having a law to solicit, in the face of a thousand intrigues and jealousies, will carry the law out with him, and will have only to watch over its execution.

All these, and many other reasons, which I will spare you the trouble of reading, suggest the propriety of finishing the treaty here, and that as speedily as possible. It is certain that more light can be acquired relative to that country at Paris, (if doubt should be entertained as to my assertions,) than any foreign minister could obtain at Washington.

I speak, sir, perhaps, with too much freedom on the views of your country and my own. But I speak with freedom, from a conviction of the integrity of my own intentions, and the absolute certainty that the measures I suggest are not less the interest of the one than of the other. As no chicanery, no crooked policy, will mingle itself in our treaty, one may be concluded in a week, if the Consul shall be pleased to name yourself or General Bernadotte, in whose candor and information I have great confidence. It would certainly be very grateful to him to be the bearer of a treaty which insures him the cordial and friendly reception in the United States that his mission and his merits entitle him to.

I am, sir, &c.

ROBERT R. LIVINGSTON.

James Madison, Secretary of State, to Robert R. Livingston, minister to France.

DEPARTMENT OF STATE, *February* 23, 1803.

SIR:

Since my last, which was of the 18th of January, I have received your several letters of the 11th and 14th of November 1802.

As you will receive this from the hands of Mr. Monroe, I refer to him for full information relative to our internal affairs generally, and, in particular, to the violation of our right of deposite at New Orleans, with the impressions and proceedings which have resulted from it.

In his hands, also, are the commission and instructions in which he is joined with yourself, to treat with the French Government for an enlargement of our rights and our security in the southwestern neighborhood of the United States. These documents, with the communications and explanations which Mr. Monroe will be able to add, will put you in full possession of the subject.

The negotiation to be opened will bring the disposition and views of the French Government to a test. If it should meet the negotiation in a proper spirit, and with a just estimate of the real interests of France, not only a favorable issue may be expected, but it will be proper for you to avail yourself of the occasion, to insist on a prompt and complete fulfilment of the convention, so long delayed on that side, but which was so readily and so liberally executed on ours; and on a fair discharge of the pecuniary engagements of every description, to the citizens of the United States.

The occasion may be proper, also, for obtaining satisfaction to Captains Rodgers and Davidson for the outrages committed on them in St. Domingo. The death of General Le Clerc will have lessened the influence of his connexion with the subject, in obstructing a just consideration of it.

A return to your representations on the subject of the French navigation laws, may be equally recommended by the occasion. Although the present session of Congress, like the last, will pass over without any countervailing regulations here, it cannot be doubted that the discriminations made by France, with a view to exclude our shipping from a fair share in the freight of our own productions, will, and can be effectually counteracted by the United States, if not corrected by herself. Should a disposition appear to take up the whole subject of commerce between the two countries, with a view to conventional regulations on just principles, the President authorizes you to express a like disposition in the Government of the United States. But he prefers for the discussions, this place to Paris, for the double reason that the requisite commercial information could be more readily gained here than there, and that a French negotiator might here be more easily and fully impressed with the importance of our commerce to France, than could be done at Paris. Mr. Otto, it is presumed, would not be an unfavorable minister for such a business; and may, if the French Government incline, bring with him the necessary authorities and instructions for entering upon it.

If, instead of these friendly sentiments and purposes, which may be improved into a solid and satisfactory adjustment of the mutual interests of the two nations, the French Government should betray a settled repugnance to just arrangements with the United States; and, above all, if it should manifest or betray a hostile spirit towards them, or be found to meditate projects inconsistent with their rights, and, consequently, leading to a rupture, not a moment is to be lost in forwarding the information, in order that the measures, both external and internal, adapted to such a state of things, may be seasonably taken.

I have the honor, &c.

JAMES MADISON.

R. R. LIVINGSTON, Esq., &c.

Extract:—Mr. Madison, Secretary of State, to James Monroe.

DEPARTMENT OF STATE, *March* 2, 1803.

SIR:

You will herewith receive two commissions with the correspondent instructions, in which you are associated as minister plenipotentiary and extraordinary to the French republic and to His Catholic Majesty; together with the respective letters of credence to those Governments.

Your mission to Madrid will depend on the event of that to Paris, and on the information there to be acquired. Should the entire cession in view be obtained from the French republic, as the assignees of Spain, it will not be necessary to resort to the Spanish Government. Should the whole or any part of the cession be found to depend, not on the French but on the Spanish Government, you will proceed to join Mr. Pinckney in the requisite negotiations with the latter. Although the United States are deeply interested in the complete success of your mission, the Floridas, or even either of them, without the island of New Orleans, on proportionate terms, will be a valuable acquisition.

I have the honor, &c.

JAMES MADISON.

JAMES MONROE, Esq., &c.

Mr. Livingston to Mr. Madison.

PARIS, *March* 3, 1803.

DEAR SIR:

You will receive, with this, duplicates of two letters which contain a general statement of our affairs here. This is merely to inform you that I have received your letter of the 18th of January, in which you notify me of Mr. Monroe's appointment. I shall do every thing in my power to pave the way for him; and sincerely wish his mission may be attended with the desired effect. It will, however, cut off one resource on which I greatly relied; because I had established a confidence which it will take Mr. Monroe some time to inspire. Enclosed is a letter addressed to the First Consul himself, and sent him before I heard of Mr. Monroe's appointment. The minister told me yes-

terday that I should have an answer to it in few days. What that answer will be I know not: but I have been indefatigable in my applications to every body who will probably be consulted on this subject. When I arrived here I found Louisiana a very favorite object. Some books were published representing it as a paradise. I think I have greatly aided in dispelling this mania; and, had the Floridas been granted, and the necessary powers given to me, I believe that something might have been effected; because at this moment there is not a man about the court but inclines to our ideas upon the subject. The Floridas are still in the hands of Spain. I have explained the cause in my last: and not knowing how far we might succeed in our negotiations, or what sacrifices you would make, I have thought it best to use every exertion with the Spanish ambassador and the British minister to obstruct that negotiation.

The person of whom you speak may be able to give you information as to the expedition; because he had passed as an important inhabitant of the island, and the General, &c. relied upon his aid in their money-making plans. I am much surprised, however, that he should talk of the designs of this court, the price, &c.; because these he must have derived from his imagination only; as he had no means of seeing any body here that could give him the least information on those subjects. I mention this that the President may not place any sort of reliance upon what he receives through that channel, except as it respects General Victor personally; who, I will venture to say, knows himself less about what passes here than you do: and even this information he must receive with some grains of allowance, as the gentleman has a pretty warm imagination, and is liable to be deceived.

The armament is still ice-bound in Holland.

I am, sir, &c.

ROB. R. LIVINGSTON.

Hon. JAMES MADISON, *Secretary of State.*

[Referred to in Mr. Livingston's despatch of March 3, 1803.]

Mr. Livingston to Citizen Bonaparte, First Consul of France and President of the Italian republic, dated

PARIS, *February* 27, 1803.

Citizen FIRST CONSUL and PRESIDENT:

Though I am satisfied that my notes to the Minister of Exterior Relations have been truly represented to you, yet as, in the immense variety of important objects that occupy your time and attention, they may have escaped your memory, I cannot justify myself to my Government without making every effort to bring them under your view; since I consider the object of them as too closely connected with that harmony which cannot be indifferent to two countries whose physical and political relations enable them to be mutually serviceable to each other. And I find that it has not been unusual, upon great occasions, for the ministers of foreign Powers to address themselves directly to you. This I prefer to do by letter, rather than by personal conference; as well because I considered it as more saving of your time, as because I feared that my imperfect knowledge of the French language would have prevented me from expressing myself with the clearness I might wish.

I pass over, citizen First Consul, a variety of circumstances of minor importance, and which, without being useful to France, serve to distress the commerce and the mercantile citizens of the United States, which have, at different times, been represented to the Minister for Foreign Affairs, and others of your ministers, without having hitherto met with the attention they merited. I presume, when a negotiation shall be set on foot for the arrangements on great points, these smaller ones will meet with little difficulty.

The claims of the American citizens against the Government of France, are so well founded that no administration that ever prevailed in France has refused to recognize them; and even after the debts of the citizens of France were reduced by the law of 24 Frimaire, year 6, the Government declared that those due to foreigners were not comprised in the regulation: for this obvious reason, doubtless, that they were not to be benefited by the revolution, and that those only would be justly charged with the expenses to whom the advantages were to result; and they accordingly reported, that a large sum should be applied to the discharge of the demands of foreigners; who were only deprived of the benefit of the report by the change that was afterwards effected in the constitution. In this report, France pursued the example of good faith set by the United States of America, who, in the fiscal arrangements, which necessity compelled them to adopt, respected the rights of foreigners, and paid their contracts, with the most scrupulous exactitude, in specie, while their own citizens were compelled to acquiesce in those arrangements which the general interest of their country (in whose prosperity they were benefited) rendered necessary.

If, sir, the validity of claims could be tested either by the advantages received by the debtor, or the loss sustained by the creditor, none can stand upon stronger ground than those of American citizens against France. They are chiefly founded upon contracts, for articles of the first necessity, furnished when they were most needed, and when the want of them would have plunged France in the utmost distress. They were furnished, too, at the greatest risk to the proprietor, and to so little comparative advantage to the furnisher, that those who, either from political motives, or from juster combination, carried similar commodities to Britain or neutral ports, have been enriched, while those whose enthusiasm in the cause of France led them to seek her harbors will, if strictly paid their capital and interest, be barely snatched from ruin. It was this predilection, too, in favor of France, that furnished Britain with a pretence to commit those depredations on our commerce, by which it so materially suffered, but which, indeed, ever attentive to the preservation of her interest in the United States, she is, of late, very amply compensating by full payment of principal, interest, and damages, for any illegal capture made during the war; while compensation for those which fell under that description in France have, in a great measure, been given up by the late convention; and that due for the remaining few, which ought to have been satisfied by that treaty, have been eluded by some very extraordinary decisions of the Council of Prizes, or by that delay which all the claims of American citizens have hitherto met with.

But, citizen First Consul, it is not now necessary to state the justice of American claims: this has been solemnly recognized by a treaty which expressly stipulates for their payment, and distinguishes the claims of American citizens from those of every other nation. This treaty had been carried into effect in the United States, the Government of which, not allowing themselves to doubt the good faith of France, paid into the hands of the agent of France, and upon his application, a very considerable sum of money, even before it could be strictly claimed under the treaty, and at the moment when her own citizens were entitled to a considerable balance from France: listening, in this transaction, only to those sentiments of good will which influence the conduct of the present Government of the United States towards France, and to her wish to aid her military operations.

There may be cases, citizen First Consul, in which the necessities of a nation may compel her to leave the obligations of a treaty unfulfilled; but, after the flattering picture which is daily exhibited of the prosperity of France, I trust that no such necessity exists here; but, were it otherwise, I am persuaded that you will think that the nation who pleads her necessities for the breach of her treaties cannot, with honor, avail herself of advantages to be drawn from those treaties.

France would never have permitted her minister to claim a payment under the treaty, if she had not determined also, on her part, to pay all that was due from her in virtue of it.

Your signature, citizen First Consul, the attention you manifested to remove ambiguities, by the form under which you were pleased to ratify it give a peculiar weight to the treaty, because they show that it was naturally examined by you, and not passed over in the hurry of other business. But, sir, the receiving money under it is such a consummation of the act, as would make it criminal in me to doubt your ultimate intention to fulfil it.

If, sir, justice, if good faith, and those considerations of magnanimity which influence great nations, urge the immediate fulfilment of the treaty, the wisdom of the provision which stipulates for the discharge of the debt is evinced by its being more consistent even with the pecuniary interest of France to make the fullest payment under it, than it would have been to have cancelled the debt by the treaty. How early, and how happily, soever the war may terminate in the islands, it will take many years before this capital is restored, and the waste of war repaired.

During the whole of this period very considerable supplies must be obtained from the United States. Let them stand at the moderate sum of twenty millions annually. This must be paid either in specie shipped from France, or by credits obtained in the United States. The interest of money, as applied to any improvement in agriculture or manufactures in France, is at least worth eight per cent.; the loss upon the French coin shipped to the United States, is not less than two and one-half per cent., the risk or insurance two and one-half, the time the money must be unemployed before it is shipped in its transit and in America, will average about six months; which makes, at the rate of eight per cent. interest, four per cent.: these different sums make the loss upon the shipment of money to America not less than nine per cent. This, upon twenty millions, is one million eight hundred thousand, whereas, the American debt, principal and interest, computing it at twenty millions, if funded, would only require one million to discharge the interest; and in case this debt was funded, it would be unnecessary to ship any money: for, in that case, the credit of France would be so firmly established, that money might be obtained in any part of America for Government bills, at the current rate of exchange, which is generally in favor of the commercial nations of Europe, but would, in no event, amount to more than three per cent.; upon which, supposing the bills were drawn at sixty days, France would receive an actual profit to more than this amount in the use of money in America, many months before it became payable in France.

But this consideration, citizen First Consul, is trifling when compared to the advantage France would derive from keeping her money at home, where it is so much needed to invigorate her commerce and manufactures, and from the facilities that payments made here to American merchants would afford, in the extension of their commerce with France; notwithstanding the loss that the American creditor would sustain by receiving stock instead of money, after so many years of delay, yet, accommodating themselves to the circumstances of the nation, they would readily acquiesce in accepting that species of payment, if none more advantageous can be conveniently offered by the Government. Nor can I, citizen First Consul, see but one possible objection to placing the American debt upon the five per cent. stock; the trifling interest can certainly be no consideration, unless the Government should apprehend a depression of the stock by the quantity of American debt that their necessities may induce them to throw into the market. But, sir, this may be easily guarded against, if some plan should be adopted, which, having a reference to Louisiana, may render the United States debtors to France for a greater amount than what is due to their citizens; in which case, I am prepared to enter into stipulations for such provisions as will prevent any possible depression of the French funds. Or if, citizen First Consul, you should not think it proper to treat upon the affairs of Louisiana, as having any reference to this object, still it will be easy (by compelling the American creditors to subscribe, in the name of some trustee that shall be appointed by their minister,) to prevent any sale of the stock they hold, under a limited price, or within a limited time.

The next object that has awakened the sensibilities of the United States is, the change that is about to take place in the situation of Louisiana, heightened, as they are, by the silence which the Governments of France and Spain have observed, and still observe, with respect to their treaty, and the rights that the United States claim, and have long exercised, at New Orleans. I have pressed the minister to some pointed declaration on the subject of our right of depot at New Orleans, on the limits as settled with Spain, and on the navigation of the Mississippi; for though it necessarily follows that those rights cannot be injured by a change of jurisdiction, yet it would have been highly satisfactory to the United States to have received some such assurances upon these subjects as would have shown that the treaty between them and Spain was clearly understood, and served to overawe such of the officers of Government as, emboldened by their distance from the sovereign, might act from their own impressions. A recent event, citizen First Consul, has demonstrated the extreme sensibility of the United States on this subject. The Intendant of New Orleans having thought it proper to withdraw the right of depot, secured to the citizens of the United States by the treaty of Madrid, a spirit of resentment has been manifested from one end of the Union to the other, and nothing but the interposition of the Spanish minister, the disavowal of the act by the Governor of New Orleans, and the extreme solicitude of the American Government to avoid every thing which might have a tendency to interrupt the harmony which at present so happily subsists between the United States and every Power in Europe, could have prevented an immediate recurrence to arms; nor am I now without apprehensions that, if nothing is done to calm their anxiety before the season for bringing down the produce of the country occurs, the Government will be compelled to follow the impulse of the people. Under these circumstances, citizen First Consul, it cannot appear improper, prizing, as I do, the connexion between our respective countries, to press for some such explicit and early declaration on the subject of our rights as will serve to calm the anxiety of the United States. Should the agents of France, who are to take possession of the colony, continue the regulations in the face of the treaty which they may find established by the Spanish Intendant, a fatal blow will be struck at the future peace and harmony of both countries. That I may not intrude too far upon your patience, I will merely take the liberty to transport such loose hints as you may possibly think might be improved into some arrangements, alike useful to France and the United States, should you deem it proper to appoint some person to treat with me on this subject. But, in the mean time, as the moments are precious, and the United States will suffer extremely in their commerce, if the officers of France, who are directed to take possession, should not be explicitly instructed to respect the right of navigation and depot claimed by the United States, I must earnestly solicit some treaty, explanatory of the terms on which France has received the cession of Louisiana from Spain, and recognizing the rights of the United States. Should you, citizen First Consul, voluntarily add, as an expression of your good will, provisionally, in case the cession of the Floridas should be completed, a grant to the United States of the free passage through the rivers Mobile and Pensacola, together with a right of depot at their mouths, you would, while you were serving the commerce of France, confer an obligation on the United States that would greatly tend to strengthen the bands of friendship between the allied nations. For though the commerce of these rivers is, at present, very insignificant, yet, at some future period, when the country settles, it may become more important; and, in the mean time, the cession would derive considerable value from the evidence it would afford to the United States of your friendly disposition.

That France will never derive any advantages from the colonization of New Orleans and the Floridas, is fairly to be presumed, from their having been possessed, for more than a century past, by three different nations. While the other colonies of these nations were increasing rapidly, these have always remained weak and languid, and an expensive burthen to the possessor. Even at this moment, with all the advantages that New Orleans has derived from foreign capital, and an accession of inhabitants from the United States, which has brought its free population to about seven thousand souls, the whole of the inhabitants east of the Mississippi does not more than double that number; and those, too, are, for the most part, poor and miserable; and there are physical reasons that must for ever render them inadequate to their own support, in the hands of any European nation. They are, however, important to the United States, because they contain the mouths of some of their rivers, which must make them the source of continual disputes. The interest that the United States attach, citizen First Consul, to your friendship, and the alliance of France, is the principal cause of their anxiety to procure your consent to their accession of that country, and of the sacrifices that they are willing to make to attain it. They consider it as the only possible ground of collision between nations whom so many other interests unite. I cannot, then, citizen First Consul, but express my doubt of any advantage to be derived to France from the retaining of that country in its whole extent; and I think I could show that her true interest would lead her to make such cessions out of them to the United States, as would at once afford supplies to her islands, without draining the money of France, and rivet the friendship of the United States, by removing all ground of jealousy relative to a country of little value in itself, and which will be perpetually exposed to the attacks of her natural enemy, as well from Canada as by sea.

Should this idea not be so fortunate as to meet your approbation, there are still a variety of views in which, by a partial cession, permanent commercial advantages may be acquired: but it would be to intrude too much upon your time to detail them here; deeming them more proper subjects for discussion, if you should think it proper to render them the objects of a treaty.

Permit me, citizen First Consul, before I conclude, to mention a circumstance which embraces the interest both of France and the United States, and that of humanity. The savages on the east side of the Mississippi are numerous and brave; considerable sums of money are annually expended by Spain in purchasing their friendship. Should

these supplies be withheld, through neglect or misapplication, a universal massacre of all the planters will ensue. Their detached situation renders it impossible to protect them. I am the more emboldened in making this observation, from the interest the United States have in turning your attention to this object; since, should this melancholy event take place, malignity, or those whose negligence or infidelity may have occasioned it, will not fail to impute t to the intrigues of the United States.

I pray you, citizen First Consul, to pardon the length of this letter, which you will have the goodness to attribute to my extreme anxiety to remove all causes of dispute between France and the country I represent, and to my conviction that some early and effectual arrangements are necessary to prevent those that already exist from growing to an alarming height. No evil can possibly arise from empowering the minister, or such other person as you shall please, to treat with me on the subject of New Orleans; since even the appointment itself will have a conciliatory appearance, and you, citizen First Consul, will govern the negotiation, in which, I trust, nothing will be proposed, on my part, that will not be equally beneficial to both France and the United States.

I have the honor, citizen First Consul, to remain, with the most profound respect and the highest consideration, your most obedient, humble servant,

ROBERT L. LIVINGSTON.

The Secretary of State to Messrs. Livingston and Monroe.

[GENERAL INSTRUCTIONS.]

GENTLEMEN: DEPARTMENT OF STATE, *March* 2, 1803.

You will herewith receive a commission and letters of credence, one of you as minister plenipotentiary, the other as minister extraordinary and plenipotentiary, to treat with the Government of the French republic on the subject of the Mississippi, and the territories eastward thereof, and without the limits of the United States. The object in view is to procure, by just and satisfactory arrangements, a cession to the United States of New Orleans and of West and East Florida, or as much thereof as the actual proprietor can be prevailed on to part with.

The French republic is understood to have become the proprietor, by a cession from Spain, in the year ——, of New Orleans, as part of Louisiana, if not of the Floridas also. If the Floridas should not have been then included in the cession, it is not improbable that they will have been since added to it.

It is foreseen that you may have considerable difficulty in overcoming the repugnance and the prejudices of the French Government against a transfer to the United States of so important a part of the acquisition. The apparent solicitude and exertions, amidst many embarrassing circumstances, to carry into effect the cession made to the French republic: the reserve so long used on this subject by the French Government, in its communications with the minister of the United States at Paris, and the declaration finally made by the French Minister of Foreign Relations, that it was meant to take possession before any overtures from the United States would be discussed, show the importance which is attached to the territories in question. On the other hand, as the United States have the strongest motives of interest, and of a pacific policy, to seek by just means the establishment of the Mississippi, down to its mouth, as their boundary, so there are considerations which urge on France a concurrence in so natural and so convenient an arrangement.

Notwithstanding the circumstances which have been thought to indicate, in the French Government, designs of unjust encroachment, and even direct hostility, on the United States, it is scarcely possible to reconcile a policy of that sort with any motives which can be presumed to sway either the Government or the nation. To say nothing of the assurances given both by the French minister at Paris, and by the Spanish minister at Madrid, that the cession by Spain to France was understood to carry with it all the conditions stipulated by the former to the United States, the manifest tendency of hostile measures against the United States to connect their councils and their colossal growth with the great and formidable rival of France, can neither escape her discernment, nor be disregarded by her prudence, and might alone be expected to produce very different views in the Government.

On the supposition that the French Government does not mean to force or to court war with the United States, but, on the contrary, that it sees the interest which France has in cultivating their neutrality and amity, the dangers to so desirable a relation between the two countries which lurk under a neighborhood modified as is that of Spain at present, must have great weight in recommending the change which you will have to propose. These dangers have been always sufficiently evident: and have, moreover, been repeatedly suggested by collisions between the stipulated rights or reasonable expectations of the United States and the Spanish jurisdiction at New Orleans. But they have been brought more strikingly into view by the late proceeding of the Intendant at that place. The sensibility and unanimity in our nation, which have appeared on this occasion, must convince France that friendship and peace with us must be precarious until the Mississippi shall be made the boundary between the United States and Louisiana; and consequently render the present moment favorable to the object with which you are charged.

The time chosen for the experiment is pointed out also by other important considerations. The instability of the peace of Europe, the attitude taken by Great Britain, the languishing state of the French finances, and the absolute necessity of either abandoning the West India Islands, or of sending thither large armaments at great expense, all contribute at the present crisis to prepare in the French Government a disposition to listen to an arrangement which will at once dry up one source of foreign controversy, and furnish some aid in struggling with internal embarrassments. It is to be added, that the overtures committed to you coincide in great measure with the ideas of the person through whom the letter of the President, of April 30, 1802, was conveyed to Mr. Livingston, and who is presumed to have gained some insight into the present sentiments of the French cabinet.

Among the considerations which have led the French Government into the project of regaining from Spain the province of Louisiana, and which you may find it necessary to meet in your discussions, the following suggest themselves as highly probable.

1st. A jealousy of the Atlantic States, as leaning to a coalition with Great Britain not consistent with neutrality and amity towards France, and a belief that, by holding the key to the commerce of the Mississippi, she will be able to command the interests and attachments of the Western portion of the United States, and thereby either control the Atlantic portion also, or, if that cannot be done, to seduce the former into a separate Government, and a close alliance with herself.

In each of these particulars, the calculation is founded in error.

It is not true that the Atlantic States lean towards any connexion with Great Britain inconsistent with their amicable relations to France. Their dispositions and their interests equally prescribe to them amity and impartiality to both of those nations. If a departure from this simple and salutary line of policy should take place, the causes of it will be found in the unjust or unfriendly conduct experienced from one or other of them. In general, it may be remarked, that there are as many points on which the interests and views of the United States and of Great Britain may not be thought to coincide, as can be discovered in relation to France. If less harmony and confidence should, therefore, prevail between France and the United States, than may be maintained between Great Britain and the United States, the difference will lie, not in the want of motives, drawn from the mutual advantage of the two nations, but in the want of favorable dispositions in the Governments of one or other of them. That the blame, in this respect, will not justly fall on the Government of the United States, is sufficiently demonstrated by the mission, and the objects with which you are now charged.

The French Government is not less mistaken, if it supposes that the Western part of the United States can be withdrawn from their present union with the Atlantic part into a separate Government, closely allied with France.

Our Western fellow-citizens are bound to the Union, not only by the ties of kindred and affection, which for a long time will derive strength from the stream of emigration peopling that region, but by two considerations which flow from clear and essential interests.

One of these considerations is, the passage through the Atlantic ports of the foreign merchandise consumed by the Western inhabitants, and the payments thence made to a treasury, in which they would lose their participation by erecting a separate Government. The bulky productions of the Western country may continue to pass down the Mississippi; but the difficulties of the ascending navigation of that river, however free it may be made, will cause the imports for consumption to pass through the Atlantic States. This is the course through which they are now received; nor will the impost to which they will be subject change the course, even if the passage up the Mississippi should be duty free. It will not equal the difference in the freight through the latter channels. It is true that mechanical and other improvements in the navigation of the Mississippi may lessen the labor and expense of ascending the stream; but it is not the least probable, that savings of this sort will keep pace with the improvements in canals and roads, by which the present course of imports will be favored. Let it be added, that the loss of the contributions thus made to a foreign treasury would be accompanied with the necessity of providing, by less convenient revenues, for the expense of a separate Government, and of the defensive precautions required by the change of situation.

The other of these considerations results from the insecurity to which the trade from the Mississippi would be exposed by such a revolution in the western part of the United States. A connexion of the Western people, as a separate State, with France, implies a connexion between the Atlantic States and Great Britain. It is found, from long experience, that France and Great Britain are nearly half their time at war. The case would be the same with their allies. During nearly one-half the time, therefore, the trade of the Western country from the Mississippi would have no protection but that of France, and would suffer all the interruptions which nations having the command of the sea could inflict on it.

It will be the more impossible for France to draw the Western country under her influence, by conciliatory regulations of the trade through the Mississippi; because regulations which would be regarded by her as liberal, and claiming returns of gratitude, would be viewed on the other side as falling short of justice. If this should not be at first the case, it soon would be so. The Western people believe, as do their Atlantic brethren, that they have a natural and indefeasible right to trade freely through the Mississippi. They are conscious of their power to enforce this right against any nation whatever. With these ideas in their minds, it is evident that France will not be able to excite either a sense of favor, or of fear, that would establish an ascendancy over them. On the contrary, it is more than probable, that the different views of their respective rights would quickly lead to disappointments and disgusts on both sides, and thence to collisions and controversies fatal to the harmony of the two nations. To guard against these consequences is a primary motive with the United States in wishing the arrangement proposed. As France has equal reasons to guard against them, she ought to feel an equal motive to concur in the arrangement.

Secondly. The advancement of the commerce of France, by an establishment on the Mississippi, has, doubtless, great weight with the Government in espousing this project.

The commerce through the Mississippi will consist, first, of that of the United States; second, of that of the adjacent territories to be acquired by France.

The first is now, and must for ages continue, the principal commerce. As far as the faculties of France will enable her to share in it, the article to be proposed to her, on the part of the United States, on that subject, promises every advantage she can desire. It is a fair calculation that, under the proposed arrangement, her commercial opportunities would be extended rather than diminished; inasmuch as our present right of deposite gives her the same competitors as she would then have, and the effect of the more rapid settlement of the Western country, consequent on that arrangement, would proportionally augment the mass of commerce to be shared by her.

The other portion of commerce, with the exception of the island of New Orleans, and the contiguous ports of West Florida, depends on the territory westward of the Mississippi. With respect to this portion, it will be little affected by the cession desired by the United States. The footing proposed for her commerce, on the shore to be ceded, gives it every advantage she could reasonably wish, during a period within which she will be able to provide every requisite establishment on the right shore, which, according to the best information, possesses the same facilities for such establishments as are found on the island of New Orleans itself. These circumstances essentially distinguish the situation of the French commerce in the Mississippi, after a cession of New Orleans to the United States, from the situation of the commerce of the United States, without such a cession; their right of deposite being so much more circumscribed, and their territory on the Mississippi not reaching low enough for a commercial establishment on the shore, within their present limits.

There remains to be considered the commerce of the ports in the Floridas. With respect to this branch the advantages which will be secured to France by the proposed arrangement ought to be satisfactory. She will here also derive a greater share from the increase which will be given, by a more rapid settlement of a fertile territory, to the exports and imports through those ports, than she would obtain from any restrictive use she could make of those ports as her own property. But this is not all. The United States have a just claim to the use of the rivers which pass from their territories through the Floridas. They found their claim on like principles with those which supported their claim to the use of the Mississippi. If the length of these rivers be not in the same proportion with that of the Mississippi, the difference is balanced by the circumstance that both banks in the former case belong to the United States.

With a view to permanent harmony between the two nations, a cession of the Floridas is particularly to be desired, as obviating serious controversies that might otherwise grow even out of the regulations, however liberal in the opinion of France, which she may establish at the mouths of those rivers. One of the rivers, the Mobile, is said to be at present navigable for four hundred miles above the thirty-first degree of north latitude, and the navigation may no doubt be opened still further. On all of them, the country within the boundary of the United States, though otherwise between that and the sea, is fertile. Settlements on it are beginning; and the people have already called on the Government to procure the proper outlets to foreign markets. The President, accordingly, gave, some time ago, the proper instructions to the minister of the United States at Madrid. In fact, our free communication with the sea through those channels is so natural, so reasonable, and so essential, that, eventually, it must take place; and in prudence, therefore, ought to be amicably and effectually adjusted without delay.

Third. A further object with France may be, to form a colonial establishment having a convenient relation to her West India Islands, and forming an independent source of supplies for them.

This object ought to weigh but little against the cession we wish to obtain, for two reasons: first, because the country which the cession will leave in her hands on the right side of the Mississippi is capable of employing more than all the faculties she can spare for such an object, and of yielding all the supplies which she could expect or wish from such an establishment: second, because in times of general peace she will be sure of receiving whatever supplies her islands may want, from the United States, and even through the Mississippi, if more convenient to her; because, in time of peace with the United States, though of war with Great Britain, the same sources will be open to her, whilst her own would be interrupted; and because in case of war with the United States, which is not likely to happen without a concurrent war with Great Britain, (the only case in which she could need a distinct fund of supplies,) the entire command of the sea, and of the trade through the Mississippi, would be against her, and would cut off the source in question. She would consequently never need the aid of her new colony, but when she could make little or no use of it.

There may be other objects with France in the projected acquisition; but they are probably such as would be either satisfied by a reservation to herself of the country on the right side of the Mississippi, or are of too subordinate a character to prevail against the plan of adjustment we have in view, in case other difficulties in the way of it can be overcome. The principles and outlines of this plan are as follows, viz:

ARTICLE 1. France cedes to the United States forever the territory east of the river Mississippi, comprehending the two Floridas, the island of New Orleans, and the islands lying to the north and east of that channel of the said river, which is commonly called the South Paos, together with all such other islands as appertain to either West or East Florida; France reserving to herself all her territory on the west side of the Mississippi.

ART. 2. The boundary between the territory ceded and reserved by France, shall be a continuation of that already defined above the thirty-first degree of north latitude, viz: the middle of the channel or bed of the river through the said South Paos to the sea. The navigation of the river Mississippi in its whole breadth from its source to the ocean, and in all its passages to and from the same shall be equally free and common to citizens of the United States and of the French republic.

ART. 3. The vessels and citizens of the French republic may exercise commerce to and at such places on their respective shores below the said thirty-first degree of north latitude as may be allowed for that use by the parties to their respective citizens and vessels. And it is agreed that no other nation shall be allowed to exercise commerce to or at the same or any other place on either shore, below the said thirty-first degree of latitude. For the term of ten years, to be computed from the exchange of the ratifications hereof, the citizens, vessels, and merchandises of the United States, and of France, shall be subject to no other duties on their respective shores below the said thirty-first degree of latitude, than are imposed on their own citizens, vessels, and merchandises. No duty whatever shall, after the expiration of ten years, be laid on articles the growth or manufacture of the United States, or of the ceded territory, exported through the Mississippi in French vessels; so long as such articles so exported in vessels of the United States shall be exempt from duty: nor shall French vessels exporting such articles even afterwards be subject to pay a higher duty than vessels of the United States.

ART. 4. The citizens of France may, for the term of ten years, deposit their effects at New Orleans, and at such other places on the ceded shore of the Mississippi, as are allowed for the commerce of the United States, without paying any other duty than a fair price for the hire of stores.

ART. 5. In the ports and commerce of West and East Florida, France shall never be on a worse footing than the most favored nation; and for the term of ten years her vessels and merchandise shall be subject therein to no higher duties than are paid by those of the United States. Articles of the growth or manufacture of the United States, and of the ceded territory, exported in French vessels from any port in the West or East Florida, shall be exempt from duty as long as vessels of the United States shall enjoy this exemption.

ART. 6. The United States, in consideration of the cession of territory made by this treaty, shall pay to France —— millions of livres tournois, in the manner following, viz: They shall pay —— millions of livres tournois immediately on the exchange of the ratifications hereof: they shall assume, in such order of priority as the Government of the United States may approve, the payment of claims which have been or may be acknowledged by the French republic to be due to American citizens, or so much thereof as, with the payment to be made on the exchange of ratifications, will not exceed the sum of ——; and in case a balance should remain due after such payment and assumption, the same shall be paid at the end of one year from the final liquidation of the claim hereby assumed, which shall be payable in three equal annual payments, the first of which is to take place one year after the exchange of ratifications, or they shall bear interest, at the rate of six per cent. per annum, from the dates of such intended payments, until they shall be discharged. All the above-mentioned payments shall be made at the Treasury of the United States, and at the rate of one dollar and ten cents for every six livres tournois.

ART. 7. To incorporate the inhabitants of the hereby ceded territory with the citizens of the United States on an equal footing, being a provision which cannot now be made, it is to be expected, from the character and policy of the United States, that such incorporation will take place without unnecessary delay. In the mean time they shall be secure in their persons and property, and in the free enjoyment of their religion.

Observations on the plan.

1st. As the cession to be made by France in this case must rest on the cession made to her by Spain, it might be proper that Spain should be a party to the transaction. The objections, however, to delay, require that nothing more be asked on our part than either an exhibition and recital of the treaty between France and Spain, or an engagement on the part of France, that the accession of Spain will be given. Nor will it be advisable to insist even on this much, if attended with difficulty or delay, unless there be ground to suppose that Spain will contest the validity of the transaction.

2d. The plan takes for granted, also, that the treaty of 1795, between the United States and Spain, is to lose none of its force in behalf of the former, by any transactions whatever between the latter and France. No change, it is evident, will be, or can be admitted to be produced in that treaty or in the arrangements carried into effect under it, further than it may be superseded by stipulations between the United States and France, who will stand in the place of Spain. It will not be amiss to insist on an express recognition of this by France as an effectual bar against pretexts of any sort, not compatible with the stipulations of Spain.

3d. The first of the articles proposed, in defining the cession, refers to the south pass of the Mississippi, and to the islands north and east of that channel. As this is the most navigable of the several channels, as well as the most direct course to the sea, it is expected that it will not be objected to. It is of the greater importance to make it the boundary, because several islands will be thereby acquired, one of which is said to command this channel, and to be already fortified. The article expressly includes also the islands appertaining to the Floridas. To this there can be no objection. The islands within six leagues of the shore are the subject of a British proclamation in the year 1763, subsequent to the cession of the Floridas to Great Britain by France, which is not known to have ever been called in question by either France or Spain.

The second article requires no particular observations.

Article three is one whose import may be expected to undergo the severest scutiny. The modification to be desired is that which, whilst it provides for the interests of the United States, will be acceptable to France, and will give no just ground of complaint and the least of discontent to Great Britain.

The present form of the article ought, and probably will be, satisfactory to France: first, because it secures to her all the commercial advantages in the river which she can well desire; secondly, because it leaves her free to contest the mere navigation of the river by Great Britain, without the consent of France.

The article, also, in its present form, violates no right of Great Britain, nor can she reasonably expect of the United States that they will contend, beyond their obligation, for her interest, at the expense of their own. As far as Great Britain can claim the use of the river under her treaties with us, or by virtue of contiguous territory, the silence of the article on that subject leaves the claim unaffected. As far again as she is entitled, under the treaty of 1794, to the use of our bank of the Mississippi above the thirty-first degree of north latitude, her title will be equally entire. The article stipulates against her only in its exclusion of her commerce from the bank to be ceded below our present limits. To this she cannot of right object. First, because the territory not belonging to the United States at the date of our treaty with her is not included in its stipulations. Secondly, because the privileges to be enjoyed by France are for a consideration which Great Britain has not given and cannot give. Thirdly, because the exclusion in this case being a condition on which the territory will be ceded and accepted, the right to communicate the privilege to Great Britain will never have been vested in the United States. But although these reasons fully justify the article in its relation to Great Britain, it will be advisable, before it be proposed, to feel the pulse of the French Government with respect to a stipulation, that each of the parties may, without the consent of the other, admit whomsoever it pleases to navigate the river and trade with their respective shores on the same terms, as in other parts of France and the United States, and as far as the disposition of that Government will concur, to vary the proposition accordingly. It is not probable that this concurrence will be given: but the trial to obtain it will not only manifest a friendly regard to the wishes of Great Britain, and, if successful, furnish a future price for privileges within her grant, but is a just attention to the interests of our Western fellow citizens, whose commerce will not otherwise be on an equal footing with that of the Atlantic States.

Should France not only refuse any such change in the article, but insist on a recognition of her right to exclude all nations other than the United States from navigating the Mississippi, it may be observed to her that a positive stipulation to that effect might subject us to the charge of intermeddling with and prejudging questions existing merely between her and Great Britain; that the silence of the article is sufficient; that, as Great Britain never asserted a claim on this subject against Spain, it is not to be presumed that she will assert it against France, on her taking the

place of Spain; that, if the claim should be asserted, the treaties between the United States and Great Britain will have no connexion with it, the United States having, in those treaties, given their separate consent only to the use of the river by Great Britain, leaving her to seek whatever other consent may be necessary.

If, notwithstanding such expostulations as these, France shall inflexibly insist on an express recognition to the above effect, it will be better to acquiesce in it, than to lose the opportunity of fixing an arrangement in other respects satisfactory; taking care to put the recognition into a form not inconsistent with our treaties with Great Britain, or with an explanatory article that may not improbably be desired by her.

In truth, it must be admitted, that France, holding one bank, may exclude from the use of the river any nation not more connected with it by territory than Great Britain is understood to be. As a river where both its banks are owned by one nation belongs exclusively to that nation, it is clear that, when the territory on one side is owned by one nation, and on the other side by another nation, the river belongs equally to both, in exclusion of all others. There are two modes by which an equal right may be exercised; the one by a negative in each on the use of the river by any other nation, except the joint proprietor: the other by allowing each to grant the use of the river to other nations, with the consent of the joint proprietor. The latter mode would be preferable to the United States. But if it be found absolutely inadmissible to France, the former must, in point of expediency, since it may in point of right, be admitted by the United States. Great Britain will have the less reason to be dissatisfied on this account, as she has never asserted against Spain a right of entering and navigating the Mississippi, nor has either she or the United States ever founded on the treaties between them a claim to the interposition of the other party in any respect, although the river has been constantly shut against Great Britain from the year 1783 to the present moment, and was not opened to the United States until 1795, the year of their treaty with Spain.

It is possible, also, that France may refuse to the United States the same commercial use of her stores, as she will require for herself on those ceded to the United States. In this case, it will be better to relinquish a reciprocity than to frustrate the negotiation. If the United States held in their own right the shore to be ceded to them, the commercial use of it allowed to France would render a reciprocal use of her shore by the United States an indispensable condition. But as France may, if she chooses, reserve to herself the commercial use of the ceded shore as a condition of the cession, the claim of the United States to the like use of her shore would not be supported by the principle of reciprocity, and may, therefore, without violating that principle, be waved in the transaction.

The article limits to ten years the equality of French citizens, vessels, and merchandises, with those of the United States: should a longer period be insisted on, it may be yielded. The limitation may even be struck out, if made essential by France; but a limitation in this case is so desirable, that it is to be particularly pressed, and the shorter the period the better.

Art. 4. The right of deposite, provided for in this article, will accommodate the commerce of France to and from her own side of the river, until an emporium shall be established on that side, which it is well known will admit of a convenient one. The right is limited to ten years, because such an establishment may within that period be formed by her; should a longer period be required, it may be allowed, especially as the use of such a deposite would probably fall within the general regulations of our commerce there. At the same time, as it will be better that it should rest on our own regulations than on a stipulation, it will be proper to insert a limitation of time, if France can be induced to acquiesce in it.

Art. 5. This article makes a reasonable provision for the commerce of France in the ports of West and East Florida. If the limitation to ten years of its being on the same footing with that of the United States should form an insuperable objection, the term may be enlarged; but it is much to be wished that the privilege may not in this case be made perpetual.

Art. 6. The pecuniary consideration to be offered for the territories in question is stated in the sixth article: you will of course favor the United States as much as possible, both in the amount and modifications of the payments. There is some reason to believe that the gross sum expressed in the article has occurred to the French Government, and is as much as will be finally insisted on: it is possible that less may be accepted, and the negotiation ought to be adapted to that supposition. Should a greater sum be made on ultimatum on the part of France, the President has made up his mind to go as far as fifty millions of livres tournois, rather than lose the main object. Every struggle, however, is to be made against such an augmentation of the price, that will consist with an ultimate acquiescence in it.

The payment to be made immediately on the exchange of ratifications is left blank; because it cannot be foreseen either what the gross sum or the assumed debts will be, or how far a reduction of the gross sum may be influenced by the anticipated payments provided for by the act of Congress herewith communicated, and by the authorization of the President and Secretary of the Treasury endorsed thereon. This provision has been made with a view to enable you to take advantage of the urgency of the French Government for money, which may be such as to overcome their repugnance to part with what we want, and to induce them to part with it on lower terms, in case a payment can be made before the exchange of ratifications. The letter from the Secretary of the Treasury to the Secretary of State, of which a copy is herewith enclosed, will explain the manner in which this advance of the ten millions of livres, or so much thereof as may be necessary, will be raised most conveniently for the United States. It only remains here to point out the condition or event on which the advance may be made. It will be essential that the convention be ratified by the French Government before any such advance be made; and it may be further required, in addition to the stipulation to transfer possession of the ceded territory as soon as possible, that the orders for the purpose, from the competent source, may be actually and immediately put into your hands. It will be proper, also, to provide for the repayment of the advances, in the event of a refusal of the United States to ratify the convention.

It is apprehended that the French Government will feel no repugnance to our designating the classes of claims and debts, which, embracing more equitable considerations than the rest, we may believe entitled to a priority of payment. It is probable, therefore, that the clause of the sixth article, referring it to our discretion, may be safely insisted upon. We think the following classification such as ought to be adopted by ourselves:

First. Claims under the fourth article of the convention of September, 1800.

Secondly. Forced contracts or sales imposed upon our citizens by French authorities; and,

Thirdly. Voluntary contracts which have been suffered to remain unfulfilled by them.

Where our citizens have become creditors of the French Government in consequence of agencies or appointments derived from it, the United States are under no particular obligation to patronize their claims, and, therefore, no sacrifice of any sort, in their behalf, ought to be made in the arrangement. As far as this class of claimants can be embraced without embarrassing the negotiation, or influencing in any respect the demands or expectations of the French Government, it will not be improper to admit them into the provision. It is not probable, however, that such a deduction, from the sum ultimately to be received by the French Government, will be permitted, without some equivalent accommodation to its interests, at the expense of the United States.

The claims of Mr. Beaumarchais, and several other French individuals, on our Government, founded upon antiquated or irrelevant grounds, although they may be attempted to be included in this negotiation, have no connexion with it. The American Government is distinguished for its just regard to the rights of foreigners, and does not require those of individuals to become subjects of treaty in order to be admitted. Besides, their discussion involves a variety of minute topics, with which you may fairly declare yourselves to be unacquainted. Should it appear, however, in the course of the negotiation, that so much stress is laid on this point, that, without some accommodation, your success will be endangered, it will be allowable to bind the United States for the payment of one million of livres tournois to the representatives of Beaumarchais, heretofore deducted from his accounts against them; the French Government declaring the same never to have been advanced to him on account of the United States.

Article 7 is suggested by the respect due to the rights of the people inhabiting the ceded territory, and by the delay which may be found in constituting them a regular and integral portion of the Union. A full respect for their rights might require their consent to the act of cession; and if the French Government should be disposed to concur in any proper mode of obtaining it, the provision would be honorable to both nations. There is no doubt that the inhabitants would readily agree to the proposed transfer of their allegiance.

It is hoped that the idea of a guaranty of the country reserved to France may not be brought into the negotiation. Should France propose such a stipulation, it will be expedient to evade it, if possible, as more likely to be a source of disagreeable questions between the parties, concerning the actual *casus fœderis*, than of real advantage to France. It is not in the least probable that Louisiana, in the hands of that nation, will be attacked by any other, whilst it is in the relations to the United States on which the guaranty would be founded; whereas, nothing is more probable than some difference of opinion as to the circumstances and the degree of danger necessary to put the stipulations in force. There will be the less reason in the demand of such an article, as the United States would set little value on a guaranty of any part of their territory; and, consequently, there would be no just reciprocity in it. Should France, notwithstanding these considerations, make a guaranty an essential point, it will be better to accede to it than to abandon the object of the negotiation; mitigating the evil as much as possible, by requiring, for the *casus fœderis*, a great and manifest danger threatened to the territory guarantied, and by substituting for an indefinite succor, or even a definite succor, in military force, a fixed sum of money payable at the treasury of the United States. It is difficult to name the proper sum which is in no posture of the business to be exceeded, but it can scarcely be presumed that more than about —— dollars, to be paid annually during the existence of the danger, will be insisted on. Should it be unavoidable to stipulate troops in place of money, it will be prudent to settle the details with as much precision as possible, that there may be no room for controversy, either with France or with her enemy, on the fulfilment of the stipulation.

The instructions, thus far given, suppose that France may be willing to cede to the United States the whole of the island of New Orleans, and both the Floridas. As she may be inclined to dispose of a part or parts, and of such only, it is proper for you to know that the Floridas, together, are estimated at one-fourth the value of the whole island of New Orleans, and East Florida at one-half that of West Florida. In case of a partial cession, it is expected that the regulations of every other kind, so far as they are onerous to the United States, will be more favorably modified.

Should France refuse to cede the whole of the island, as large a portion as she can be prevailed on to part with may be accepted; should no considerable portion of it be attainable, it will still be of vast importance to get a jurisdiction over space enough for a large commercial town, and its appurtenances, on the bank of the river, and as little remote from the mouth of the river as may be. A right to choose the place would be better than a designation of it in the treaty. Should it be impossible to procure a complete jurisdiction over any convenient spot whatever, it will only remain to explain and improve the present right of deposite, by adding thereto the express privilege of holding real estate for commercial purposes, of providing hospitals, of having consuls residing there, and other agents who may be authorized to authenticate and deliver all documents requisite for vessels belonging to, and engaged in, the trade of the United States, to and from the place of deposite. The United States cannot remain satisfied, nor the Western people be kept patient, under the restrictions which the existing treaty with Spain authorizes.

Should a cession of the Floridas not be attainable, your attention will also be due to the establishment of suitable deposites at the mouths of the rivers passing from the United States through the Floridas, as well as of the free navigation of those rivers by citizens of the United States. What has been above suggested in relation to the Mississippi, and the deposites on its banks, is applicable to the other rivers; and additional hints relative to them all may be derived from the letter, of which a copy is enclosed, from the consul at New Orleans.

It has been long manifest that, whilst the injuries to the United States, so frequently occurring from the colonial officers scattered over our hemisphere and in our neighborhood, can only be repaired by a resort to their respective Governments in Europe, it will be impossible to guard against the most serious inconveniences. The late events at New Orleans strongly manifest the necessity of placing a power somewhere nearer to us capable of correcting and controlling the mischievous proceedings of such officers towards our citizens; without which, a few individuals, not always among the wisest or best of men, may at any time threaten the good understanding of the two nations. The distance between the United States and the old continent, and the mortifying delays of explanations and negotiations across the Atlantic on emergencies in our neighborhood, render such a provision indispensable; and it cannot be long before all the Governments of Europe, having American colonies, must see the necessity of making it. This object, therefore, will likewise claim your special attention.

It only remains to suggest, that, considering the possibility of some intermediate violences between citizens of the United States and the French or Spaniards, in consequence of the interruption of our right of deposite, and the probability that considerable damages will have been occasioned by that measure to citizens of the United States, it will be proper that indemnification in the latter case be provided for, and that in the former it shall not be taken on either side as a ground or pretext for hostilities.

These instructions, though as full as they could be conveniently made, will necessarily leave much to your discretion. For the proper exercise of it, the President relies on your information, your judgment, and your fidelity to the interests of your country.

JAMES MADISON.

Extract:—James Madison, Secretary of State, to Charles Pinckney, minister to Spain.

DEPARTMENT OF STATE, *March* 8, 1803.

SIR:

My last letter was of January 18. Yours since received are of the 6th and 28th of November.

Our latest authentic information from New Orleans is of January 20. At that date the edict of the Intendant against our right of deposite had not been revoked, although the letters to him and the Governor from the Spanish minister here had been previously received. And it appears that the first outrage had been followed by orders of the most rigid tenor against every hospitable intercourse between our citizens navigating the river and the Spanish inhabitants.

This continuation of the obstruction to our trade, and the approach of the season for carrying down the Mississippi the exports of the Western country, have had the natural effect of increasing the Western irritation, and emboldening the advocates for an immediate redress by arms. Among the papers enclosed, you will find the propositions moved in the Senate by Mr. Ross, of Pennsylvania. They were debated at considerable length, and with much ardor, and, on the question, had eleven votes in their favor against fourteen. The resolutions moved by Mr. Breckenridge, and which have passed into a law, will, with the law itself, be also found among the enclosed papers.

These proceedings ought more and more to convince the Spanish Government that it must not only maintain good faith with the United States, but must add, to this pledge of peace, some provident and effectual arrangement, as heretofore urged, for controlling or correcting the wrongs of Spanish officers in America, without the necessity of crossing the Atlantic for the purpose. The same proceedings will show, at the same time, that, with proper dispositions and arrangements on the part of Spain, she may reckon with confidence on harmony and friendship with this country. Notwithstanding the deep stroke made at our rights and our interests, and the opportunity given for self redress, in a summary manner, a love of peace, a respect for the just usages of nations, and a reliance on the voluntary justice of the Spanish Government, have given a preference to remonstrance, as the first appeal on the occasion, and to negotiation as a source of adequate provisions for perpetuating the good understanding between the two nations; the measures taken on the proposition of Mr. Breckenridge being merely those of ordinary precaution, and precisely similar to those which accompanied the mission of Mr. Jay to Great Britain in 1794. Should the deposite, however, not be restored in time for the arrival of the spring craft, a new crisis will occur, which it is presumed that the Spanish Government will have been stimulated to prevent, by the very heavy claims of indemnification to which it would be otherwise fairly subjected. The Marquis de Casa Yrujo does not yet despair of receiving from New Orleans favorable answers to his letters; but the remedy seems now to be more reasonably expected from Madrid. If the attention of the Spanish Government should not have been sufficiently quickened by the first

notice of the proceeding, from its own officers, we hope that the energy of your interpositions will have overcome its tardy habits, and have produced an instant despatch of the necessary orders.

Mr. Monroe was to sail from New York to Havre de Grace yesterday. He carries with him the instructions in which you are joined with him, as well as those which include Mr. Livingston.

The convention signed with Spain in August, though laid before the Senate at an early day, had no question taken on it till the close of the session. It was then postponed till the next session, which is to commence in November. More than a majority, but less than two-thirds, which the constitution requires, would have acquiesced in the instrument in its present form; trusting to the success of further negotiations for supplying its defects, particularly the omission of the claims founded on French irregularities. But it is understood that it would have been a mere acquiescence; no doubt being entertained that Spain is bound to satisfy the omitted as well as the included claims. In explaining, therefore, the course taken by the Senate, which mingles respect for the Spanish Government with a cautious regard to our own rights, you will avail yourself of the opportunity of pressing the reasonableness and the sound policy of remodelling the convention in such a manner as to do full justice. I need not repeat the observations heretofore made on the Spanish responsibility for the conduct of French citizens within Spanish jurisdiction; but it may be of use to refer you to the enclosed copy of a royal order, issued by the Spanish Government, in 1799, which will enable you to remind them of their own view of the subject at that time. In this document it is expressly declared that the French consular jurisdiction was not admitted, and that French consuls, in Spanish ports, were in the same condition as those of every other nation. After such a declaration against the authority of French consuls, the Spanish Government would be chargeable with no less disrespect to the French republic than to itself, in saying that Spain was not left at liberty to prevent an exercise of the usurped authority; and, if at liberty, she is indisputably answerable for the consequences of not preventing it.

With sentiments, &c.

JAMES MADISON.

CHARLES PINCKNEY, ESQ.,

R. R. Livingston to James Madison, Secretary of State.

PARIS, *March* 11, 1803.

DEAR SIR:

I have a few days since written to you, transmitting a letter addressed to the First Consul: for though I had numerous notes and observations under his eye, in an informal way, yet I have reason to fear that what I wrote to the minister, particularly on the subject of the debt, had not reached him; besides that, I believed that he could not pass over a more direct address to him personally. I found, upon conversing with some of the ministers here, that they considered my direct address as improper, and likely to offend the minister, if not the consul. But our situation was such as to require something decisive; and as I daily found the dispositions of M. Talleyrand were friendly to our views, I promised the minister to write, and offered to submit my letter to him before I sent it. He was pleased with this mark of confidence, and promised not only to deliver it, but to support my application. When I showed him the letter he seemed to think that all relating to the debt was hopeless. I, however, could not abandon this important object, but immediately, upon sending it, took care to have that part of it supported by consul Le Brun, who has the principal direction of the affairs of finance, with whom I am upon a very friendly footing, and between whom and my friend Marbois there is a family connexion, strengthened by the marriage of their children. I have the pleasure to enclose you the answer to that letter; you will find in it such strong and such satisfactory assurances on the subject of the debt, as I think gives us the firmest prospects of its speedy payment. I have thought it necessary to communicate this to the Americans here, in order to prevent their parting with their claims at an insignificant price. I have, also, as I knew that this account would reach America by private conveyances, before you could communicate it, thought it proper to mention it generally to one of my friends, with directions to speak of it publicly, in order to prevent the creditors from suffering by the speculations of those who were in the secret.

I told you that M. Talleyrand had assured me that no sale would be heard of. You will find a passage in the note which was doubtless intended to convey that idea in very strong terms. As I know it to be the fixed determination of this Government to treat only in America, I have nothing more to do on this subject than to endeavor to get the right of depôt left upon the footing it was till your negotiations are concluded. This I shall endeavor to effect. If, upon the arrival of Mr. Monroe, he can suggest any thing better, I shall heartily concur with him. In treating with General Bernadotte, you will have every possible advantage. The nearer he views the object, the less he will value it. His dispositions are as friendly as possible to our Government and country; and his ideas relative to our connexion, and the little importance of Louisiana, exactly such as I would wish. My conversations with him on that subject were frequent and interesting; as well as with Mr. Adet, who is much in his confidence, and who thinks exactly as I do. The great object that he will be instructed to keep in view will be, I think, from what I learn here, to keep the British out of the river, and to secure as much as possible of the carrying trade to France. Dupont de Nemours has shown me a plan that he gave to consul Le Brun, of which I send you a copy. I have endeavored to convince those who may be consulted of its impracticability. The reasons are too obvious to make it necessary for me to state them to you. I have hinted at making the island of New Orleans an independent State, under the Government of Spain, France, and the United States, with a right of depôt to each, subject to a duty on imports of one and a half per cent. in lieu of storage, wharfage, &c., suggesting the advantages that France would derive from being the only manufacturing nation of the three. The advantages of this to our carrying trade (while it left our revenue untouched) are obvious. And in such a treaty, arrangements might be made extremely advantageous to the Western people. The new nation must always feel its dependence upon us, and, of course, respect our rights. I should not have thought it worth while to mention this, had it not been that I gave an unsigned and informal sketch of it to Joseph Bonaparte: it may possibly be given to General Bernadotte. If, as I begin to believe, they do not get the Floridas, they will put the less value on New Orleans.

Things every day look more towards a rupture between this country and Britain: and, though the politicians think otherwise, I believe a war not very distant. The stocks here have been sixty-five; they are now sixty-one. This, however, is an artificial operation; money being employed by the Government to keep them up. Their real price would be about fifty-seven.

I am, dear sir, with the highest consideration, your most obedient humble servant,

ROBERT R. LIVINGSTON.

The Hon. JAMES MADISON, *Secretary of State.*

[Enclosed in Mr. Livingston's despatch of March 11, 1803.]

M. Talleyrand to Mr. Livingston.

MONSIEUR:

PARIS, *ce* 19 *Ventose, an* 11.

Le Premier Consul, en me remettant le mémoire que vous lui avez présenté, m'a donné l'ordre de vous assurer qu'il avait pris en grande considération les objets que vous y traitez, et les diverses demandes que vous lui avez adressées.

Il s'est, en même temps, fait faire un rapport sur toutes les affaires qui ont tiré à ces demandes, et sur les clauses de la dernière convention entre la France et les Etats Unis, à lequel vous le référez. L'intention du Premier Consul (et il m'a chargé de vous le déclarer) est, que cette convention, dans toutes ses clauses, soit ponctuellement et scrupuleusement exécutée.

Les reflexions qui, dans vôtre mémoire, se rapportent aux difficultés de cette exécution par rapport à la France, ne s'appliquent, avec aucune espèce de fondement, ni aux dispositions du Gouvernement de la république, ni à la situation de ses finances. Le Premier Consul est persuadé, que les présomptions qui vous ont abusé sur ce point vous ont été inspirées par une inquiétude de bienveillance; mais ces présomptions ne s'accordent point avec les faits. Il n'y a point d'embarras de finances en France. Le Gouvernement Français a le moyen autant que la volonté d'être juste; et si trouva-t-il dans une position où l'acquit de ses engagemens serait pour lui une obligation pénible à remplir, il saurait s'élever au-dessus des difficultés, et satisfaire à tout ce qui serait légitimement réclamé.

Quant au fait des dettes Américaines, dont vous donnez l'evaluation dans le mémoire addressé au Premier Consul, je dois vous avouer qu'il est tout-à-fait nouveau pour nous, que, par aucune appréciation, elles puissent s'élever à la somme de vingt millions. Le Premier Consul me charge à vous demander un état exact, constant, complet, et vérifié, de ces dettes. La parfaite confiance que vous lui avez inspirée ne lui permet pas de douter que vous mettez dans l'examen des élémens qui doivent former cet état tout le discernement de vôtre esprit, et toute la franchise de vôtre caractère. Vous devez être persuadé, Monsieur, que, d'après un tel état, tout sera promptement et exactement soldé.

Quant à la deuxième question que vous avez traitée dans vôtre mémoire, ce qui est rélative à la Louisiane, le Premier Consul eut désiré que vous en eussiez fait l'objet d'un office distinct et isolé. Des affaires d'une aussi différente nature ne doivent point se rapprocher, et encore moins se confondre. Il est tout-à-fait contre les maximes du Gouvernement de la république de mêler ensemble les rapports importans et délicats de la politique avec des calculs de solde et des intérets d'argent.

Toutefois le Premier Consul, appréciant les motifs qui vous ont fait insister sur l'explication des nouveaux rapports qui peuvent exister entre les deux républiques, me charge de vous informer, que, prévenu de l'intérêt, prématuré, peut-être, mais au fond naturel et plausible, que les Etats Unis semblent mettre à cette discussion, il a pris le parti d'envoyer sur le champ un ministre plénipotentiaire en Amérique, pour qu'il put le plutôt possible lui faire un rapport, qui le mit en mesure de tout éclaircir avant de prendre sa détermination sur cet objet.

Du reste dans cette circonstance, comme dans toutes celles où il pourra se présenter un objet de discussion entre les deux Gouvernemens, le Premier Consul désire que je vous donne, sur ces dispositions, à l'égard des Etats Unis, les assurances les plus positives et les plus formelles que son attachement pour vôtre république, son estime et sa considération personelle pour le Premier Magistrat qui la gouverne, sont des sentimens nationaux, que, comme Français, et comme chef du peuple le plus constamment, le plus anciennement ami de la nation Américaine, il aime à professer, et dont il se fera toujours une douce obligation de vous donner des preuves.

En me félicitant d'être, dans ce moment, l'organe des sentimens du Premier Consul, permettez que je vous renouvelle, monsieur, l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

Son Excellence Mons. LIVINGSTON,
Ministre Plénipotentiaire des Etats Unis de l'Amérique.

[TRANSLATION.]

Mr. Talleyrand to Mr. Livingston.

PARIS, *Ventose, an* 11, (*February* 19,) 1803.

SIR:

The First Consul, in placing in my hands the memoir which you have presented to him, has ordered me to assure you that he has taken into serious consideration the objects you have had in view, and the various demands which you have presented.

He has, at the same time, caused a report to be made on all the subjects which may arise in consequence of these demands, and on the clauses of the convention between France and the United States, to which you refer. It is the intention of the First Consul (and he has charged me to make it known to you) that this convention shall be executed, in every particular, with scrupulous exactness.

The reflections contained in your memoir, in relation to the difficulties which, on the part of France, may attend its execution, do not apply, with the least foundation, either to the dispositions of the Government of the French republic, or to the state of her finances. The First Consul is persuaded that the impressions by which you have on this point been misled, have been occasioned by your friendly solicitude; but these impressions are not supported by facts. No embarrassment exists in the finances of France. The French Government has the means as well as the inclination to be just: and if it should be placed in a position in which the discharge of its obligations would be attended with difficulties, it will know how to surmount these obstacles, and satisfy every claim that can be justly demanded.

As to the American debts, of which you have given an estimate, in the memoir addressed to the First Consul, I ought to apprize you that it is entirely new to us that they can be raised, by any valuation whatever, to the sum of twenty millions. The First Consul charges me to request of you an exact, full, certain, and verified statement of these debts. The perfect confidence with which you have inspired him will not permit him to doubt that in the examination of the particulars, which will form this statement, you will exercise your accustomed acuteness of mind and frankness of character. You may rest assured, sir, that, upon being furnished with such a statement, every claim will be promptly and fully discharged.

As to the second question in your memoir, which relates to Louisiana, the First Consul would have preferred its having been the subject of a separate note. Affairs so different in their nature ought to be kept as much as possible apart, and should certainly not be united. It is entirely opposed to the maxims of Government, adopted by the republic, to mingle important and delicate political relations with calculations of account and mere pecuniary interests.

The First Consul, always appreciating the motives which have induced you to insist on an explanation of the new relations which ought to exist between the two republics, has charged me to inform you, that, aware of the solicitude, perhaps premature, but, in reality, natural and plausible, which the United States have manifested in this discussion, has come to the determination to send immediately to the United States a minister plenipotentiary, who will communicate on every point the information necessary to a final decision.

Under these circumstances, as well as in all others presenting topics for discussion between the two Governments, the First Consul desires that you shall give, on the subject of his dispositions towards the United States, the most positive and formal assurances, that attachment for your republic, and esteem and personal consideration for its present Chief Magistrate, are national sentiments which, as a Frenchman, and as the chief of a people, the ancient and uniform friend of the American nation, he loves to profess, and of which he will always be under the pleasing obligation to furnish unequivocal proofs.

While I felicitate myself upon being, at this time, the medium by which these sentiments of the First Consul are expressed, allow me, sir, to renew the assurance of my high consideration.

CHARLES MAU. TALLEYRAND.

His Excellency R. R. LIVINGSTON, *Minister Plenipotentiary of the United States of America.*

An extract of a note from Mr. Dupont de Nemours to the Consul Le Brun.

"Je vois plusieurs moyens de finir le débat, et je désire que ce soit, en nous procurant le commerce, à peu près exclusif de ces cinq Etats de l'ouest particulièrement interessés dans la question. Le premier, et le plus simple, me parait de déclarer la Nouvelle Orleans port franc pour les deux nations, Espagnole et Francaise, à l'entrée et à la sortie par l'embouchure du Mississippi, et pour les Etats Unis à l'entrée par le haut, et à la sortie par le bas du fleuve. La navigation démeurant libre aux trois nations dans tous son cours, sous la condition expresse que les Etats Unis exempteront de tout droit les marchandises Françaises ou Espagnoles entrant sur leur territoire par le Mississippi ou l'Ohio.

"De cette manière nous aurions conquis pour nos manufactures, nos étoffes, notre quincaillerie, nos verres à vitre, et à boire, et en bouteilles; le debit de nos vins, de nos vinaigres, de nos huiles, de nos fruits secs, tout les commerce de ces cinq Etats de l'ouest, et tout celui des nouveaux Etats qui se propagent si vite dans ce pays.

"Les produits des manufactures Anglaises n'y pouvant parvenir que par terre, et chargés en outre de 12 ou 15 per cent. de droites, seraient par le fait exclus de la concurrence. Ce serait frapper nos ennemis dans leur endroit sensible, et confirmer, avec avantage, l'amitié de nos amis. Ce serait nous assurer que l'intérieur de l'Amérique, depuis les Apalaches jusq'aux hautes montagnes, qui sont au dela des lacs, ne sera défriché ni peuplé qu'au profit de notre commerce."

[TRANSLATION.]

"I see many ways of terminating this contest, and I desire that, whatever it may be, while favoring our commerce, it may exclude as much as possible the commerce of the five States of the West which are most interested in this question. The first, and most simple, appears to be this: to declare New Orleans a free port for the two nations, France and Spain, whose commerce shall enter and depart through the delta of the Mississippi; and that the United States shall only enter from above, and depart by the same embouchure of the river. The navigation remaining free to the three nations throughout its whole course, on the express condition that the United States shall exempt from every species of duty French or Spanish merchandise entering their territory by the Mississippi or Ohio.

In this manner, we shall have conquered, for the benefit of our manufactures, our silks, ironmongery, and glass of every description, and for the consumption of our wines, vinegar, oil, and dried fruits, all the commerce of the five States of the West, as well as of the new States, which in this country multiply so rapidly.

"The products of the English manufactories not being admitted, except by land, and then burthened with a duty of twelve or fifteen per cent., will, in reality, be excluded from competition with those of France. Thus will our enemies be struck in the part most susceptible of injury, while the good will of our friends will be advantageously confirmed. This will give us the assurance that the interior of America, from the Alleghany on the one side, to the elevated mountains beyond the lakes on the other, will only be populated and supplied by means of the manufacturing industry, the agricultural prosperity, and the commercial riches of France."

Extract:—Robert R. Livingston to the President of the United States.

DEAR SIR: PARIS, *March* 12, 1803.

I have delayed replying to your friendly letter by Madame Brougniart, in the hope of having something important to communicate; but, in the mean time, have been so full in my letter to the Secretary of State that I have left myself little to say on the subject of my public affairs. I can only tell you, generally, that we have been gaining ground here for some time past; and although some propositions which I had an opportunity to make to Joseph Bonaparte to be submitted to the Consul's inspection were not agreed to, yet the matter and the manner left a favorable impression, and I meant to renew the subject on the same grounds.

My letter to the First Consul, which you will find couched in pretty strong terms, and such as are not usual here, and, so far as it related to the claims, repugnant to the minister's sentiments, has been attended with happy effects, as you will find by the answer transmitted herewith to the Secretary of State. I think it impossible, after this, for him to go back; and I have accordingly given information to the American creditors of the state of their affairs that they may not be speculated upon.

With respect to a negotiation for Louisiana, I think nothing will be effected here. I have done every thing I can, through the Spanish ambassador, to obstruct the bargain for the Floridas, and I have great hope that it will not be soon concluded. The ambassador tells me that the Consul often complains to him of the delay that business meets with: and, while Spain keeps the Floridas, Louisiana will be considered here as an object of little moment, as they are absolutely without ports in the Gulf, and so far facilitate your negotiations with General Bernadotte. I have had many interesting conversations with him, and have nothing to complain of. Remember, however, neither to wound his pride nor that of his nation; both being extremely irritable.

Mr. Madison has never told me whether he has received two little essays, calculated, the one to raise our importance in the views of this Government as a naval Power; and the other to disgust them with Louisiana, preparatory to our future negotiations. They were both read with considerable attention by the First Consul, having had them translated for that purpose.

I broke off this part of my letter to attend Madame Bonaparte's drawing-room, where a circumstance happened of sufficient importance to merit your attention. * * * * * * After the First Consul had gone the circuit of one room, he turned to me, and made some of the common inquiries usual on these occasions. He afterwards returned, and entered into a further conversation. When he quitted me, he passed most of the other ministers merely with a bow, went up to Lord Whitworth, and, after the first civilities, said: "I find, my lord, your nation want war again." L. W. "No, sir, we are very desirous of peace." First Consul: "You have just finished a war of fifteen years." L. W. "It is true, sir, and that war was fifteen years too long." Consul: "But you want another war of fifteen years." L. W. "Pardon me, sir, we are very desirous of peace." Consul: "*I must either have Malta or war.*" L. W. "I am not prepared, sir, to speak on that subject; and I can only assure you, citizen First Consul, that we wish for peace." The prefect of the palace then came up to the Consul, and informed him that there were ladies in the next room, and asked him to go in. He made no reply, but, bowing hastily to the company, retired immediately to his cabinet, without entering the other room. Lord Whitworth came up to me, and repeated the conversation as I now give you. I asked Lord Whitworth whether there were any pending negotiations relative to Malta. He told me that there were; that the conduct of France having convinced them that they still had views upon Egypt, and the guaranties to which they were entitled, with respect to Malta, not having been executed, they thought they could not surrender it with safety. But what brought on the business to-day was, a message from the King of Great Britain to the Parliament on the 1st, which has just been received here, speaking with distrust of the armaments in the French ports, and, in fact, preparing them for war. This you will have sooner by the way of England, than this letter. It is, then, highly probable that a new rupture will take place, since it is hardly possible that the First Consul would commit himself so publicly, unless his determination had been taken. I am fearful that this may again throw some impediment in the way of our claims, which I believed in so prosperous a train. In other views it may serve us, and I shall give all my attention to avail myself of circumstances as they arise; in which I hope shortly to receive the assistance of Mr. Monroe.

I must pray you, sir, to furnish Mr. Madison with such an extract from this letter as ought to be on his file of correspondence with me; since the fear of losing the opportunity, and the necessity of the greater activity at this interesting moment, will deprive me of the pleasure of writing further to him by this conveyance.

I am, &c. ROBERT R. LIVINGSTON.

Mr. King to the Secretary of State.

LONDON, *March* 17, 1803.

SIR:

War seems more and more probable; indeed, it appears to me inevitable. Holland will be involved, and Spain and Portugal must obey the commands of France. The day after the King's message to Parliament was communicated to the French Government, Bonaparte delivered to Lord Whitworth a paper (a copy of which I have seen) stating:

1. That the expedition preparing in the Dutch ports was, as all the world knew, destined for America; but, in consequence of the message, that it had been recalled and would not proceed.
2. That if the armament announced in the message be not satisfactorily explained, or, if it take place, France would march twenty thousand men into Holland.
3. That the forces debarked in the ports of Holland would be reinforced, and assembled on the coast of Flanders.
4. That the French army will be immediately put on a war establishment.
5. That camps would be formed on the coast between Dunkirk and Boulogne.
6. That an army would enter Switzerland.
7. That an army would march into Italy, and occupy Tarento. And,
8. That England must not expect, under the cover of an armament, to avoid the execution of the treaty of Amiens.

The greatest activity continues to prevail in the military and naval departments. It is understood that the squadrons in the West and East Indies and in the Mediterranean will not immediately require reinforcement, and that a respectable fleet will soon appear in the channel and on the coast of Ireland. The regular army on foot in Great Britain (exclusive of the forces in Ireland, Egypt, Malta, Gibraltar, and the colonies,) consists of twenty-seven thousand infantry, and twelve thousand cavalry; and will be reinforced immediately by thirty-seven thousand of the militia, which have been called out.

I do not hear of Mr. Monroe's arrival, though I learn from Mr. Livingston that he is daily expected in France. Mr. Merry is preparing to embark for the United States, and is pressed by his Government to be ready to leave England in the first week of April.

With perfect respect and esteem, I have the honor to be, sir, your obedient and humble servant,

RUFUS KING.

Mr. Livingston to Mr. Madison.

PARIS, *March* 18, 1803.

SIR:

I sent despatches a few days ago to Havre, in expectation of their going by a vessel which left that place for Philadelphia, but they arrived too late. Duplicates were sent to go by a vessel bound to New York. You will, therefore, I fear, have originals and duplicates by the same vessel. This compels me to send triplicates by this conveyance. You will see that, on the subject of New Orleans, the answer to my letter is very unsatisfactory. I, at first, intended to let the matter rest till Mr. Monroe arrived; but, on reflection, I dreaded the consequences of delay, if France should take possession, and continue the policy of Spain; and, as the moment was critical, and the time of Mr. Monroe's arrival uncertain, I sent in the enclosed note, and am doing all that I can to get a speedy and favorable answer.

On the subject of the debts, I have already met with a great deal of trouble in procuring the necessary information, and this is not to be wondered at. I hope to get through with it, strengthened as I am by the First Consul's engagement.

I cannot but wish, sir, that my fellow-citizens should not be led to believe, from Mr. Monroe's appointment, that I had been negligent of their interests, or too delicate on any of the great points entrusted to my care. I trust that a communication of my notes to some of them would show that I had gone as far as it was possible for me to go, and perhaps further than my instructions would justify.

We are here all in a bustle, not knowing whether we are to have war or peace. In England, they expect war certainly. Here they are very anxious to avoid it; and I, who have hitherto believed that a rupture would happen, begin, from some circumstances I heard last night, at consul Le Brun's, to believe the storm will pass over. But this is by no means certain; because it is possible that England will rise in her terms as France recedes. Peace will, in no event, last long. I frankly confess, that, though I believe a war would be extremely dangerous for Great Britain, yet I think her ruin inevitable if France continues ten years at peace.

MARCH 19.

Nothing decisive, as yet, on the subject of war or peace. The idea of peace seems to gain ground; and, in fact, war is so much dreaded by all the neighbors of France, that they will make every effort to maintain peace, lest they should be drawn into the vortex. I shall call this morning on the minister, in order to enforce upon him the subject of my note.

I have the honor to be, &c.

ROBT. R. LIVINGSTON.

[The following is the note referred to in Mr. Livingston's despatch of the 18th of March.]

Mr. Livingston, Minister Plenipotentiary of the United States of America, to His Excellency the Minister for Exterior Relations of the French republic.

PARIS, *March* 16, 1803.

SIR:

I have received, with great sensibility, your note containing the First Consul's reply to that I had the honor to present to him on the subject of the American claims. The sentiments are such as would naturally be entertained by an enlightened statesman, who, after advancing his country to the highest pinnacle of military glory and national prospects, had determined to give permanency to that prosperity, by establishing it upon the firm basis of religion, good faith, justice, and national credit. On this subject, sir, I have no doubts; and I am satisfied that, when the claims are brought forward, they will, as you have the goodness to declare, be promptly and fully satisfied. But, sir, as this will form the subject of a future note, I shall beg leave to proceed to the consideration of a question in the highest degree interesting to the harmony of France and the United States, and which, I am sorry to say, is of a nature too pressing to admit of any delay.

The First Consul has done me the honor, through you, to inform me that he proposes to send a minister to the United States, to acquire such information as he may deem necessary previous to his taking any measures relative to the situation in which the acquisition of Louisiana will place France with respect to the United States. If, sir, the question related to the formation of a new treaty, I should find no objection to this measure. On the contrary, I should readily acquiesce in it, as that which would be best calculated to render the treaty mutually advantageous. But, sir, it is not a new treaty for which we now press, (though one mutually advantageous might be made,) but the recognition of an old one, by which the United States have acquired rights, that no change in the circumstances of the country obliges them to relinquish, and which they never will relinquish but with their political existence. By their treaty with Spain, their right to the navigation of the Mississippi is recognised, and a right of depôt granted, with a provision, on the part of the King of Spain, to revoke this right, if, within three years, he found it prejudicial to his interests; in which case, he is to assign another equivalent establishment. The King of Spain has never revoked that right; but, after having made the experiment of its effects upon his interests for three years, he has

continued it. The United States have, by this continuance, acquired a permanent and irrevocable right to a depôt at New Orleans; nor can that right now be called in question, either by Spain or by any other nation to whom she may transfer her title. Even the assignment of another equivalent establishment cannot, at this day, be forced upon the United States, without their consent. The time allowed to Spain has passed, and she has preferred to have the depôt at New Orleans to placing it elsewhere; and I will venture to say, that, in so doing, she has acted wisely. For New Orleans derives its whole value from its being the market for American produce, and their principal port of entry; and, if this consideration was important to Spain, it is infinitely more so to France, the produce of whose agriculture and manufactures will then find a ready exchange for the raw materials of the United States. Under these circumstances, at the very moment that Spain is about to relinquish the possession of that country to France, she violates her treaty without any apparent interest, and leaves the country with a stain upon her character.

In what situation, sir, are we now placed? An armament is on the point of sailing for New Orleans; the port has been shut by the order of Spain; the French commandant will find it shut. Will he think himself authorized to open it? If not, it must remain shut till the envoy of France shall have arrived in America, and made the necessary inquiries, and transmitted the result of those inquiries to the First Consul. In the meanwhile, all the produce of five States is left to rot upon their hands. There is only one season in which the navigation of the Mississippi is practicable. This season must necessarily pass before the envoy of France can arrive and make his report. Is it supposable, sir, that the people of the United States will tranquilly wait the progress of negotiations when the ruin of themselves and their families will be attendant on the delay? Be assured, sir, that, even were it possible that the Government of the United States could be insensible of their sufferings, they would find it as easy to prevent the Mississippi from rolling its waters into the ocean, as to control the impulse of the people to do themselves justice. If, sir, in pursuance of the treaties that France has made with the Porte, she had established valuable *comptoirs* upon the Black Sea, and, subsequent to this, the Dardanelles were ceded to the Emperor, would France suffer him to shut up the passage, and ruin their merchants, till a new treaty had been negotiated for an object that she already possessed? Sir, I will venture to say, that, were a fleet to shut up the mouths of the Chesapeake, Delaware, and Hudson, it would create less sensation in the United States than the denial of the right of depôt at New Orleans has done. The people of the Western country were emigrants from the different States, in which they have left connexions deeply interested in their prosperity. This circumstance, combining with the just sense of national independence and national dignity, makes them extremely sensible to the injustice they have suffered. Nor is it without the utmost difficulty that they have been restrained from breaking out into acts of immediate hostility against Spain, by the prudent measures of Government, and by the hope that the mission of a minister, who will bring with him a conviction of their feelings on this subject, will procure them the most immediate and express recognition of their rights by France, in whose justice and good faith they hope to find a resource against the breach of faith by the officers of Spain. I cannot but flatter myself, sir, that the answer which the First Consul has been pleased to honor me with, has a reference only to such new treaties as it may be for the mutual interest of both countries early to negotiate. But that relative to the rights the United States already possess, in virtue of existing treaties with Spain, he is ready to afford me those explicit and formal assurances which are necessary to calm the emotions which have been so unwisely excited in the United States. I can never bring myself to believe, sir, that the First Consul will, by deferring for a moment the recognition of a right that admits of no discussion, break all those ties which bind the United States to France, obliterate the sense of past obligations, change every political relation that it has been, and still is, the earnest wish of the United States to preserve, and force them to connect their interests with those of a rival Power; and this, too, for an object of no real moment in itself. Louisiana is, and ever must be, from physical causes, a miserable country in the hands of a European Power. Nor can any principle of sound policy dictate to France (even if bound by no treaty) a change in the circumstances of New Orleans, that should exclude the citizens of the United States from that right of depôt to which alone it must be indebted for its prosperity. I feel a pleasure in declaring, sir, that the people and Government of the United States will receive the highest satisfaction from the assurances that the First Consul has empowered you to make to me of his attachment to them; and will reflect with pleasure on his having called to mind, that, amidst the changes that both nations have undergone, they have been mutually forward in tendering their alliance to each other. Nor will it be less flattering to the President to have acquired, as a magistrate and as a man, the esteem of a chief who has merited and obtained that of the world. But these occurrences add to my pain when I reflect on occurrences that may lay the foundation for future enmities; and I trust, sir, that they will serve as an apology for any thing that may appear harsh in this note. For, if ever there was a moment in which it becomes a minister to speak with freedom, it is when he feels that the dearest interests of his country are at stake, and has reason to hope that a knowledge of the truth may prevent the breach of relations between nations that esteem and respect each other, and the calamities that humanity may feel in such breach.

I pray your excellency to receive my thanks for the interesting manner in which you have made the communications of the First Consul, and my assurances of the highest consideration.

ROBT. R. LIVINGSTON.

Mr. Livingston to the Secretary of State.

DEAR SIR: PARIS, *March* 24, 1803.

The question of war yet remains undetermined. My letters from Mr. King of the 18th leave me to believe, as well as my persuasion of the present system of politics in England, that war will come soon. Here there is an earnest and sincere desire to avoid it, as well in the Government as the people. I enclosed, in my last, a note to the minister. Some days after, I called on him. He told me that an answer was prepared, and that every thing should be arranged; and I have no doubt the answer contained all those assurances which I have been so long soliciting. Unfortunately, despatches arrived at that moment from Mr. Pichon, informing them that the appointment of Mr. Monroe had tranquillized every thing. Conceiving, then, that they might safely wait his arrival, they determined to see whether the storm would not blow over; in which case, they will treat to more advantage. They accordingly substituted, for the first note, which, as the minister told me, arranged every thing, the enclosed No. 1, which contains nothing. To this I put in the note No. 2, which I suppose will produce no effect if the war does not happen. Last night I received another note, No. 3, complaining of our supplying the blacks at St. Domingo: to this I returned the answer No. 4.

I have had a great deal of conversation with General Bernadotte, and communicated my two notes to him. I gave them to him to show to the gentleman I have mentioned, and endeavored to convince him that he was personally interested; that the specific declarations I require should be given before he goes out, which will be in a few days. Upon the whole, I think every thing is prepared for Mr. Monroe. I cannot but hope that something may be effected, though I fear Dupont de Nemours has given them, with the best intentions, ideas that we shall find it hard to eradicate, and impossible to yield to.

Florida is not yet ceded, nor, as I hope, very likely to be so. The armament in Holland, designed for Louisiana, is stopped for the present, in consequence of the state of things here.

I am, dear sir, with the highest consideration, your most obedient, humble servant,

ROBT. R. LIVINGSTON.

The Hon. JAMES MADISON, *Secretary of State.*

[Referred to in Mr. Livingston's despatch of March 24, 1803.]

No. 1.

M. Talleyrand to Mr. Livingston, dated

MONSIEUR: PARIS, 1 *Germinal, an* 11, (*March* 21, 1803.)

Je vois, avec plaisir, par les dernières lettres de la legation Française aux Etats Unis, que l'esprit de fermentation élévée dans ce pays au sujet de la Louisiane, a été ramenée par la sagesse de vôtre Gouvernement, et la juste confiance qu'il inspire, à cet état de calme qui est le seul propre aux discussions, et qui, dans les rapports de sentimens et d'intérêt existans entre les deux peuples, ne peut que les conduire à s'entendre sur de simples difficultés de circonstance, et à resserrer de plus en plus les liens de leur mutuelle union. Je dois vous avouer, monsieur, que, dans cet éclat qu'on a donné, il y a peu de temps aux affaires rélatives à la Louisiane; il a été difficile de reconnaître les anciens sentimens d'attachement et de confiance que la France a toujours ambitionné d'inspirer aux peuples des Etats Unis, et qui, depuis le premier moment de leur existence comme nation indépendante et souveraine, a toujours placé chez elle les rapports politiques de la France au-dessus de toute autre espèce de relations politiques.

Qu'a, donc, pu avoir de désagréable pour la nation Américaine, sous le rapport du commerce, et sous celui de la politique, le voisinage de la France? La république Française, a-t-elle jamais montré le désir d'arrêter la prospérité des Etats Unis, et porter atteinte à ce qu'elle a droit d'exercer d'influence, d'affaiblir ses moyens de sûreté, et de mettre obstacle aux progrès de son commerce? Vôtre Gouvernement, monsieur, doit être très persuadé que le Premier Consul porte à la nation Américaine la même affection dont la France a été de tout temps animée, et qu'il met au nombre des avantages que nous devons retirer de la possession de la Louisiane celui d'avoir à sa disposition de nouveaux moyens de convaincre le Gouvernement et le peuple des Etats Unis de ses bonnes et amicales dispositions à leur égard.

Je dois, Monsieur, pour le moment présent, me borner à vous faire cette déclaration, qui doit suffire aux inquiétudes que vous m'exprimez dans vos dernières lettres. Le sujet n'en est pas établi sur des informations assez étendues pour autoriser une explication détaillée. En m'annonçant, d'ailleurs, le départ prochain de M. Monroe, nommé ministre extraordinaire pour discuter cet objet, vous me donnez à conclure que vôtre Gouvernement désire que ce ministre soit attendu et écouté, parceque toute matière susceptible de contradiction soit complétement et définitivement discutée. En attendant, monsieur, le Premier Consul me charge d'assurer vôtre Gouvernement, que, bien qu'il ne pense pas que nôtre nouvelle position à la Louisiane puisse être un objet de solicitude, ni apporter le moindre dommage aux Etats Unis, il accueillera le ministre extraordinaire que Monsieur le Président lui envoye avec le plus grand plaisir, et qu'il espère que sa mission se terminera à la satisfaction des deux états.

Je profite, en même temps, monsieur, de cette occasion, pour vous renouveller l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

[TRANSLATION.]

Mr. Talleyrand to Mr. Livingston.

SIR: PARIS, *March* 21, 1803.

I see, with pleasure, by the last letters from the French legation in the United States, that the excitement which had been raised on the subject of Louisiana has been allayed by the wisdom of your Government, and the just confidence which it inspires, to that state of tranquillity which is alone proper for discussion, and which, in the existing relations between the two nations, cannot fail to lead to suitable explanations on difficulties arising from contingent circumstances, and draw still closer the bands by which they are mutually united. I ought to acknowledge, sir, that, in the publicity recently given to the proceedings respecting Louisiana, it is difficult to recognise the ancient sentiments of attachment and confidence with which France has always been desirous to inspire the people of the United States, and by which, from the first moment of their existence as an independent and sovereign nation, she has been induced to consider her concerns with the United States as among the most important of her political relations.

On what account, then, either political or commercial, can the American nation view the proximity of France with so unfriendly an eye? Has the French republic ever evinced a desire to arrest the prosperity of the United States, assume an influence to which she had no right, weaken her means of safety or annoyance, or place an obstacle in the way of their expanding commerce? Your Government, sir, ought to be persuaded that the First Consul entertains for the American nation the same affection with which France has been at all times animated; and that, among the advantages which he expects to derive from the possession of Louisiana, he estimates the additional means which will be at his command, to convince the Government and people of the United States of his uniformly liberal and friendly sentiments.

I ought, sir, at the present time, to confine myself to this declaration, which alone should be sufficient to quiet the apprehensions expressed in your last letters. The subject itself does not rest on that accurate and extensive information which alone could authorize a more detailed explanation. In announcing to me, moreover, the speedy departure of Mr. Monroe, who has been appointed a minister extraordinary to discuss this matter, you give me reason to conclude that your Government desires that this minister should be received and heard; because every point susceptible of contradiction should be completely and definitively discussed. In the mean time, the First Consul charges me to assure your Government, that, although he does not think that his new position in relation to Louisiana ought to be the subject of just inquietude, or can occasion the least injury to the United States, he will yet receive with the greatest pleasure the minister extraordinary whom the President is about to send, and that he hopes his mission will terminate in a way to give mutual satisfaction to both nations.

At the same time, sir, I avail myself of this occasion to renew the assurance of my high consideration.

CH. MAU. TALLEYRAND.

No. 2.

Robert R. Livingston to the Minister of Exterior Relations.

PARIS, 20 *Ventose, an* 11, (*March* 11, 1803.*)

SIR:

I acknowledge that I feel some mortification in finding that the note with which you honored me yesterday contains nothing more decisive upon the interesting subject that I have submitted to your consideration; and still more that you should think the sensibility that the inhabitants of the United States have manifested upon the change in the situation of Louisiana repugnant to the sentiments of friendship which the former conduct of France ought to inspire. I should be deficient, sir, in that frankness which has always made a basis of my communications with you, if I should conceal that the vicinity of a nation, whose political situation puts it out of her power to injure the United States, was less alarming than that of an active, powerful, and enterprising people, whom a variety of

* There seems to be some mistake either in the date of this letter, (11th March,) or in that of the preceding letter, (21st March,) to which this is an answer. The originals have been followed.

circumstances might lead, in the common course of events, to painful discussions: and you will, sir, readily admit that the profound secrecy that the Government of France has always observed in whatever related to Louisiana was ill calculated to allay those alarms. To this moment, the treaty to which they might have expected to be parties is concealed from them: and while explications are given to another Power upon the destination of the armaments in which the United States were most interested, not the most distant hint is afforded to the minister of the United States, nor is he informed, except through the medium of another court, of the present arrangement with respect to that armament.

Under these circumstances, sir, how painful soever it may be to manifest a distrust of a nation to whom they have formerly been indebted, and to whom, in return, they have manifested their gratitude, it would be to discover an ignorance of the change that was about to take place in their situation, and a blameable indifference to their most important interest, if they did not demand those securities to which they are entitled for the performance of engagements that France has assumed by putting herself in the place of Spain. I would earnestly hope, sir, that the information you have received from the legation of France in the United States, was more correct than that which induces me to fear that, seeing in your note a determination to postpone to the latest moment those arrangements which they will conceive need only to have been mentioned to have been taken, they will resort to those precautionary remedies which prudence justifies, and which their situation in the present state of Europe most peculiarly demands.

The United States, sir, have vested me with full powers to receive and make those arrangements; and, in the appointment of Mr. Monroe, *jointly with me*, as minister extraordinary to the First Consul, it was by no means their intention, considering the variety of accidents which may postpone or prevent his arrival, to defer receiving from the Government of France those explicit confirmations of the treaty of Madrid which must precede every arrangement which it might be thought proper hereafter to enter into.

A treaty, sir, is the work of time; and it can hardly be presumed that an ardent and intelligent people should wait the slow progress of negotiations for the attainment of objects that admit of no dispute, and see with indifference France strengthen herself in their vicinity, while she declines to acknowledge the validity of a treaty which, in their opinion, she has virtually adopted. It is not, sir, to negotiate for this acknowledgment that an additional minister is sent; for this, as I have before had the honor to inform your excellency, is not considered in the United States as susceptible of controversy: but it was with a view to such further arrangements as might be rendered necessary, in case (as was generally presumed) the Floridas should be added to the acquisitions of France. It was that he might be the bearer of the strong sentiments of the people upon the late measures of Spain, and show to France the inutility of these acquisitions, and the sentiments of distrust that they would naturally excite between her and the United States.

Having thus, sir, frankly stated the evils that may result to both countries from the indecision of France on a question that admits of no dispute, I can only lament the inefficacy of my representation, and hasten to submit your note to the inspection of my Government. From which, taken in connexion with the general politics of Europe and America, they will naturally draw their own conclusions. And I merely wish that the measures, which it is at their option to adopt, may be such as will not tend less to their future harmony with France than to their own security.

The President will receive great pleasure from your assurances of the attachment of the First Consul to the Government and people of the United States; and will felicitate himself upon having fixed upon one so perfectly acceptable to the First Consul in the person of his additional minister, as to ensure him the agreeable reception which you so politely promise him.

I avail myself, sir, of this occasion, to renew to you the assurances of my high consideration,

R. R. LIVINGSTON.

His Excellency the Minister of Exterior Relations.

Mr. King to the Secretary of State.

London, *April* 2, 1803.

Sir:

Nothing further has occurred since the date of my last: no answer has yet been given to the note of the French ambassador, which declines all discussion respecting Malta. Lord Hawkesbury's answer will probably be delivered to-day; it will, without doubt, persist in the determination communicated in his first note, and may disclose new and additional reasons in its support. If, as is said to be the case, the First Consul has lately made an overture to Russia for a partition of the Turkish empire, the fact may be urged on this occasion, notwithstanding the refusal of Russia to listen to the proposal.

I still continue to believe the war unavoidable, in which England can have no expectation of a single ally. The system of Russia is pacific, with less attachment, however, to France than to England; Austria is not yet recovered from the blows by which she was driven from the contest; and Prussia will be inclined to adhere to her past policy. Although Denmark and Sweden have been much dissatisfied with England, France, contrary to her usual policy, has done nothing to secure their confidence; while England has been endeavoring to re-establish her ancient friendship with these States. For this purpose, she has given assurances that what is called the two Swedish convoys shall be restored or paid for: the first, which consisted of seventeen vessels, was condemned, and the envoy of Sweden has given in his claim of compensation, which amounts to sixty thousand pounds sterling; the claim for the second, consisting of twenty-one vessels, and which I think is not yet condemned, will be about ninety thousand pounds sterling. By cultivating the friendship of these Powers, England expects, with the good will of Russia, to keep the Baltic open against the efforts that France will again make to close it. Portugal will be compelled to exclude the English trade; and Spain, with all Italy, must obey the orders that shall be given them.

I have sought occasions both with ministers and other leading men since the discussions with France, to inculcate the disadvantage which England has heretofore brought upon herself by the system of warfare she has been accustomed to pursue, and which has been chiefly directed against the colonies of her enemy, which, after being acquired at the expense of much blood and treasure, in addition to the vexation of the commerce of neutral nations, have been commonly restored, enriched by English capital, at the conclusion of peace. Instead of a warfare liable to these objections, and which has moreover furnished an opportunity to France to appear as the friend and protector of neutral States, a system might be suggested that would not only avoid these disadvantages, but which would materially contribute to the future prosperity of Great Britain. No neutral commerce would be interrupted by it; on the contrary, it would serve to increase and extend it; and, when the object was once attained, no treaty of peace could restore things to their former state.

This conversation has been every where understood and well received; and it is my firm belief, if the war breaks out, that Great Britain will immediately attempt the emancipation and independence of South America.

In a late conversation with Mr. Addington, he observed to me, if the war happen, it would, perhaps, be one of their first steps to occupy New Orleans. I interrupted him by saying, I hoped the measure would be well weighed before it should be attempted; that, true it was, we could not see with indifference that country in the hands of France; but it was equally true, that it would be contrary to our views, and with much concern, that we should see it in the possession of England: we had no objection to Spain continuing to possess it; they were quiet neighbors, and we looked forward without impatience to events which, in the ordinary course of things, must, at no distant day, annex this country to the United States. Mr. Addington desired me to be assured that England would not accept the country, were all agreed to give it to her; that, were she to occupy it, it would not be to keep it, but to prevent another Power from obtaining it; and, in his opinion, this end would be best effected by its belonging to the United States. I expressed my acquiescence in the last part of his remark, but observed, that, if the

country should be occupied by England it would be suspected to be in concert with the United States, and might involve us in misunderstandings with another Power, with which we desired to live in peace. He said, if you can obtain it, well, but if not, we ought to prevent its going into the hands of France; though, you may be assured, continued Mr. Addington, that nothing shall be done injurious to the interests of the United States. Here the conversation ended.

I have lately received your letter of January 29th; and as soon as Lord Hawkesbury shall have named a time to receive me, which I have requested him to do, I will explain to him, in conversation, the President's views relative to the Mississippi.

Considering the critical state of affairs, it is much to be wished that my successor may arrive before my departure. I shall delay taking my leave to the last moment; and should the posture of affairs, in my opinion, require it, I will risk the expense of detaining my vessel even beyond the time in which I have engaged to embark: in any event, I shall not leave London before the last week of the present month.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Robert R. Livingston to the Hon. James Madison, Secretary of State.

DEAR SIR: PARIS, *April* 11, 1803.

My notes will tell you how far I have officially pressed the Government on the subject of Louisiana. I have omitted no means, in conversation, of eradicating their prejudices in its favor; and I informed you that I had reason to think that I had been successful with all, unless it was the First Consul, to whom I addressed myself in the letter and essays that you have seen, and which were attentively read by him, as well as several informal notes to his brother. I had reason to think that he began to waver; but we had nothing to offer but money, and commercial advantages: of the latter, I did not think myself entitled to be liberal; and of the first, I found in them a certain degree of reluctance to treat, as derogatory to the dignity of the Government. The affair of New Orleans gave me two very important strings to touch: I endeavored to convince the Government that the United States would avail themselves of the breach of the treaty to possess themselves of New Orleans and the Floridas; that Britain would never suffer Spain to grant the Floridas to France, even were she so disposed, but would immediately seize upon them as soon as the transfer was made; that, without the Floridas, Louisiana would be indefensible, as it possesses not one port even for frigates; and I showed the effect of suffering that important country to fall into the hands of the British, both as it affected our country, and the naval force of all Europe. These reasons, with the probability of war, have had, I trust, the desired effect. M. Talleyrand asked me this day, when pressing the subject, whether we wished to have the whole of Louisiana. I told him no; that our wishes extended only to New Orleans and the Floridas; that the policy of France, however, should dictate (as I had shown in an official note) to give us the country abov the river Arkansas, in order to place a barrier between them and Canada. He said, that if they gave New Orleans the rest would be of little value; and that he would wish to know "what we would give for the whole." I told him it was a subject I had not thought of; but that I supposed we should not object to twenty millions, provided our citizens were paid. He told me that this was too low an offer; and that he would be glad if I would reflect upon it and tell him to-morrow. I told him that, as Mr. Monroe would be in town in two days, I would delay my further offer until I had the pleasure of introducing him. He added, that he did not speak from authority, but that the idea had struck him. I have reason, however, to think that this resolution was taken in council on Saturday. On Friday, I received Mr. Ross's motion: I immediately sent it to M. Talleyrand, with an informal note expressive of my fears that it would be carried into effect: and requesting that General Bernadotte might not go till something effectual was done. I also translated it, and gave it to General Bernadotte, and pressed upon him the necessity of asking express instructions, in case he should find the island in possession of the Americans. He went immediately to Joseph Bonaparte. These, I believe, were exciting causes to the train we are now in, and which I flatter myself we shall be able, on the arrival of Mr. Monroe, to pursue to effect. I think, from every appearance, that war is very near at hand; and, under these circumstances, I have endeavored to impress the Government that not a moment should be lost, lest Britain should anticipate us. I have used every exertion with the Spanish ambassador and Lord Whitworth, to prevent the transfer of the Floridas; and wrote to Mr. Graham, in Mr. Pinckney's absence, to give every attention to that object, and to avail himself of the coolness which subsisted between the French ambassador and the Prince of Peace. This has retarded the negotiation; and, unless they get Florida, I have convinced them Louisiana is worth little. I would rather have confined our views to smaller objects; and I think that, if we succeed, it would be good policy to exchange the west bank of the Mississippi with Spain for the Floridas, reserving New Orleans. Perhaps, however, I am too sanguine in my expectations: we will not, therefore, dispose of the skin till we have killed the bear.

I have written to Mr. King, pressing him to stay until a successor is appointed. The moment is so critical that we cannot justify being without a minister in England, and he is a very useful one.

I believe you may calculate that Britain will not give up Malta, and that France will not leave it in her hands by consent; and, of course, hostilities must commence, or Britain be kept, at immense expense, in her present warlike attitude, while France expends nothing. This she cannot submit to, and must, therefore, strike the first stroke, which this country wishes, in order to render the war more popular here. France has marched troops into Holland, and those of Victor are embarking, but I think will not sail, or, if they do, will be intercepted by England, who will probably think they are designed for the islands, which is very probable.

Mr. Monroe arrived on the 1st at Havre. I expect him here in two days at furthest from this date. His passage was twenty-nine days.

I shall see the minister again to-morrow, in order to sound him more fully before we offer any thing formal on Mr. Monroe's arrival.

I wished and proposed that General Bernadotte should wait until something was done, having formally notified the minister that Mr. Monroe had arrived. But I could not prevail upon him to make any alteration. He said that Mr. Bernadotte, having received his despatches, was to be considered by him as gone.

You will receive this by Mr. Petrie, his secretary, who waits here until to-morrow.

I am, dear sir, with the most respectful consideration,

Your most obedient humble servant,

R. R. LIVINGSTON.

P. S. 12th. Orders are gone this day to stop the sailing of vessels from the French ports: war is inevitable: my conjecture as to their determination to sell is well founded; Mr. Monroe is just arrived here.

HON. JAMES MADISON, *Secretary of State.*

Mr. Livingston to Mr. Madison, Secretary of State of the United States.

DEAR SIR: PARIS, *April* 13, 1803, *midnight.*

I have just come from the Minister of the Treasury. Our conversation was so important, that I think it necessary to write it, while the impressions are strong upon my mind; and the rather, as I fear that I shall not have the time to copy and send this letter, if I defer it till morning.

By my letter of yesterday, you learned that the minister had asked me whether I would agree to purchase Louisiana, &c.; on the 12th, I called upon him to press this matter further. He then thought proper to declare that his

proposition was only personal, but still requested me to make an offer; and, upon my declining to do so, as I expected Mr. Monroe the next day, he shrugged up his shoulders, and changed the conversation. Not willing, however, to lose si ht of it, I told him I had been long endeavoring to bring him to some point; but, unfortunately, without effect: that I wished merely to have the negotiation opened by any proposition on his part; and, with that view, had written him a note which contained that request, grounded upon my apprehension of the consequence of sending out General Bernadotte without enabling him to say a treaty was begun. He told me he would answer my note, but that he must do it evasively, because Louisiana was not theirs. I smiled at this assertion, and told him that I had seen the treaty recognising it; that I knew the Consul had appointed officers to govern the country; and that he had himself told me that General Victor was to take possession; that, in a note written by the express order of the First Consul, he had told me that General Bernadotte was to treat relative to it in the United States, &c. He still persisted that they had it in contemplation to obtain it, but had it not. I told him that I was very well pleased to understand this from him, because, if so, we should not commit ourselves with them in taking it from Spain, to whom, by his account, it still belonged; and that, as we had just cause of complaint against her, if Mr. Monroe concurred in opinion with me, we should negotiate no further on the subject, but advise our Government to take possession. He seemed alarmed at the boldness of the measure, and told me he would answer my note, but that it would be evasively. I told him I should receive with pleasure any communication from him, but that we were not disposed to trifle; that the times were critical, and though I did not know what instructions Mr. Monroe might bring, I was perfectly satisfied that they would require a precise and prompt notice; that I was very fearful, from the little progress I had made, that my Government would consider me as a very indolent negotiator. He laughed, and told me that he would give me a certificate that I was the most importunate he had yet met with.

There was something so extraordinary in all this, that I did not detail it to you till I found some clue to the labyrinth, which I have done, as you will find before I finish this letter; and the rather, as I was almost certain that I could rely upon the intelligence I had received of the resolution to dispose of this country.

This day Mr. Monroe passed with we in examining my papers; and while he and several other gentlemen were at dinner with me, I observed the Minister of the Treasury walking in my garden. I sent out Colonel Livingston to him; he told him he would return when we had dined. While we were taking coffee he came in; and, after being some time in the room, we strolled into the next room, when he told me he heard that I had been at his house two days before, when he was at St. Cloud; that he thought I might have something particular to say to him, and had taken the first opportunity to call on me. I saw that this was meant as an opening to one of those free conversations which I had frequently had with him. I accordingly began on the subject of the debt, and related to him the extraordinary conduct of the minister, &c. He told me that this led to something important, that had been cursorily mentioned to him at St. Cloud; but, as my house was full of company, he thought I had better call upon him any time before eleven that night. He went away, and, a little after, when Mr. Monroe took leave, I followed him. He told me that he wished me to repeat what I had said relative to M. Talleyrand's requesting a proposition from me as to the purchase of Louisiana. I did so; and concluded with the extreme absurdity of his evasions of that day, and stated the consequence of any delay on this subject, as it would enable Britain to take possession, who would readily relinquish it to us. He said that this proceeded upon a supposition of her making so successful a war as to be enabled to retain her conquests. I told him that it was probable that the same idea might suggest itself to the United States; in which case, it would be their interest to contribute to render her successful; and I asked whether it was prudent to throw us into her scale? This led to long discussions of no moment to repeat. We returned to the point: he said, that what I had told him led him to think that what the Consul had said to him on Sunday, at St. Cloud, (the day on which, as I told you, the determination had been taken to sell,) had more of earnest than he thought at the time; that the Consul had asked him what news from England? As he knew he read the papers attentively, he told him that he had seen in the London papers the proposition for raising fifty thousand men to take New Orleans. The Consul said he had seen it too, and had also seen that something was said about two millions of dollars being disposed among the people about him, to bribe them, &c.; and then left him. That afterwards, when walking in the garden, the Consul came again to him, and spoke to him about the troubles that were excited in America, and inquired how far I was satisfied with his last note. Here some civil things were introduced, for which I presume I am more indebted to the minister's politeness than to his veracity; so let them sleep. He (Marbois) then took occasion to mention his sorrow that any cause of difference should exist between our countries. The Consul told him, in reply, "Well, you have the charge of the Treasury; let them give you one hundred millions of Francs, and pay their own claims, and take the whole country." Seeing, by my looks, that I was surprised at so extravagant a demand, he added that he considered the demand as exorbitant, and had told the First Consul that the thing was impossible; that we had not the means of raising that. The Consul told him we might borrow it. I now plainly saw the whole business: first, the Consul was disposed to sell; next, he distrusted Talleyrand, on account of the business of the supposed intention to bribe, and meant to put the negotiation into the hands of Marbois, whose character for integrity is established. I told him that the United States were anxious to preserve peace with France; that, for that reason, they wished to remove them to the west side of the Mississippi; that we would be perfectly satisfied with New Orleans and the Floridas, and had no disposition to extend across the river; that, of course, we would not give any great sum for the purchase; that he was right in his idea of the extreme exorbitancy of the demand, which would not fall short of one hundred and twenty-five millions; that, however, we would be ready to purchase, provided the sum was reduced to reasonable limits. He then pressed me to name the sum. I told him that this was not worth while, because, as he only treated the inquiry as a matter of curiosity, any declarations of mine would have no effect. If a negotiation was to be opened, we should (Mr. Monroe and myself) make the offer after mature reflection. This compelled him to declare, that, though he was not authorized expressly to make the inquiry from me, yet, that, if I could mention any sum that came near the mark, that could be accepted, he would communicate it to the First Consul. I told him that we had no sort of authority to go to a sum that bore any proportion to what he mentioned; but that, as he himself considered the demand as too high, he would oblige me by telling me what he thought would be reasonable. He replied that, if we would name sixty millions, and take upon us the American claims, to the amount of twenty more, he would try how far this would be accepted. I told him that it was vain to ask any thing that was so greatly beyond our means; that true policy would dictate to the First Consul not to press such a demand; that he must know that it would render the present Government unpopular, and have a tendency, at the next election, to throw the power into the hands of men who were most hostile to a connexion with France; and that this would probably happen in the midst of a war. I asked him whether the few millions acquired at this expense would not be too dearly bought? He frankly confessed that he was of my sentiments; but that he feared the Consul would not relax. I asked him to press this argument upon him, together with the danger of seeing the country pass into the hands of Britain. I told him that he had seen the ardor of the Americans to take it by force, and the difficulty with which they were restrained by the prudence of the President; that he must easily see how much the hands of the war party would be strengthened, when they learned that France was upon the eve of a rupture with England. He admitted the weight of all this: "But," says he, "you know the temper of a youthful conqueror; every thing he does is rapid as lightning; we have only to speak to him as an opportunity presents itself, perhaps in a crowd, when he bears no contradiction. When I am alone with him, I can speak more freely, and he attends; but this opportunity seldom happens, and is always accidental. Try, then, if you cannot come up to my mark. Consider the extent of the country, the exclusive navigation of the river, and the importance of having no neighbors to dispute you, no war to dread." I told him that I considered all these as important considerations, but there was a point beyond which we could not go, and that fell far short of the sum he mentioned.

I asked him, in case of a purchase, whether they would stipulate that France would never possess the Floridas, and that she would aid us to procure them, and relinquish all right that she might have to them. He told me that she would go thus far. I added, that I would now say nothing more on the subject, but that I would converse with Mr. Monroe; and that I was sure to find him disposed to do every thing that was reasonable, or could be expected, to remove every cause of difference between the two countries. That, however, if any negotiation should go on, I would wish that the First Consul would depute somebody to treat with us, who had more leisure than the Minister

for Foreign Affairs. I said this to see whether my conjectures relative to him were well founded. He told me that as the First Consul knew our personal friendship, he having several times had occasion to speak of me and my family, and the principles that we held, he believed that there would be no difficulty, when this negotiation was somewhat advanced, to have the management of it put into his hands. He earnestly pressed me to make some proposition that was so near the First Consul's as to admit his mentioning it to him. I told him that I would consult Mr. Monroe, but that neither he nor I could accede to his ideas on the subject. Thus, sir, you see a negotiation is fairly opened, and upon grounds which I confess I prefer to all other commercial privileges; and always to some a simple money transaction is infinitely preferable. As to the quantum, I have yet made up no opinion. The field opened to us is infinitely larger than our instructions contemplated; the revenue increasing, and the land more than adequate to sink the capital, should we even go the sum proposed by Marbois; nay, I persuade myself, that the whole sum may be raised by the sale of the territory west of the Mississippi, with the right of sovereignty, to some Power in Europe, whose vicinity we should not fear. I speak now without reflection, and without having seen Mr. Monroe, as it was midnight when I left the Treasury Office, and is now near three o'clock. It is so very important that you should be apprised that a negotiation is actually opened, even before Mr. Monroe has been presented, in order to calm the tumult which the news of war will renew, that I have lost no time in communicating it. We shall do all we can to cheapen the purchase; but my present sentiment is that we shall buy. Mr. Monroe will be presented to the minister to-morrow, when we shall press for as early an audience as possible from the First Consul. I think it will be necessary to put in some proposition to-morrow: the Consul goes in a few days to Brussels, and every moment is precious.

I am, dear sir, with the most respectful consideration, your most obedient, humble servant,

ROBT. R. LIVINGSTON.

Mr. Livingston to Mr. Madison.

PARIS, *April* 17, 1803.

SIR:

Mr. Petrie having been detained, I have an opportunity to give you a relation of what has passed since my letter of the 13th. On the 14th I called upon Mr. Monroe, to present him to the minister, who had, upon my application, fixed three o'clock that day for his reception. Before we went we examined our commission, in which there are two circumstances with which I am not quite satisfied; one, indeed, of little moment, because it only respects me personally; and the other very important, as it may, if things should take a turn favorable to France, defeat all we may do, even at the moment of signing. The first is, that I have not the same rank in the commission with Mr. Monroe. It is important that I should be thought to stand as well with our Government as any other person. If so, my age, and the stations I have held, entitled me not to have had any person placed above me in the line I have filled. The second is, that the commission contains power only to treat for lands on the east side of the Mississippi. You will recollect that I have been long preparing this Government to yield us the country above the Arkansas, because I saw the effect of their holding and giving encouragement to settle it would draw off a prodigious population from our side of the river, and from such a connexion between the inhabitants of the Western country and these new settlers, who would be their relations and friends, as would be extremely dangerous. In my private negotiations with Joseph Bonaparte, I had urged every reason that I could think of to induce them to give us the country: and those reasons have had their effect. I am, therefore, surprised that our commission should have entirely lost sight of that object. Mr. Monroe, however, agrees with me that we will proceed as well as we can; and, as we left no copy of the commission, it may possibly escape unnoticed, though it will operate to our prejudice if our negotiation should not please at home. It is absolutely necessary, my dear sir, to repose confidence in ministers who are placed so far from the seat of Government. You will recollect that I have been absolutely without powers to the present moment; and that though I have hazarded many things upon a presumption that I should have them, none have been received till now, and now they are unfortunately too limited.

But to proceed. On waiting upon the minister, we found M. Marbois there, who told me that he had come to communicate to the minister what had passed between us, and that he greatly regretted the not being able to bring us to such an offer as he might mention to the First Consul. I told him that it was unnecessary to repeat what would compel us to limit our offers to a much more moderate sum, as I had already detailed them at large; and he knew they exceeded our means. We were very graciously received by the minister, whom I pressed to obtain as early a day as possible for the reception of Mr. Monroe, as time pressed, and we were anxious to conclude our business, for reasons arising out of the present disturbed state of America. He told me he would speak to the First Consul that night on the subject; and that he hoped some person would be appointed to treat with us, even before Mr. Monroe was presented. After a little general conversation, he took leave, in expectation that Mr. Monroe would be presented this day, (Sunday,) being a day of reception for the civil officers of the Government. The next day, Mr. Monroe and myself, after spending some time in consultation, determined to offer fifty millions, including our debts: we presumed it would be best only to mention forty in the first instance. This I accordingly did, in a conference I had on the 15th with M. Marbois. He expressed great sorrow that we could not go beyond that sum, because he was sure that it would not be accepted, and that perhaps the whole business would be defeated, which he the more feared, as he had just received a note from the minister, indicative of the Consul's not being quite pleased that he had so greatly lowered his original proposition. He said that he saw our situation, and he knew that there was a point beyond which we could not go with safety to ourselves or the President; but he wished us to advance to that point. He said that he would, if I wished, go that very day to St. Cloud, and let me know the result. I reminded him of the Consul's promise to pay the debt. I placed in the strongest light his personal obligation on this subject: and desired him to urge it as an additional reason to conclude an agreement which would facilitate the means of doing it. The next morning, which was yesterday, I again called to see him. He told me that he had been to St. Cloud; that the Consul received his proposition very coldly; and that I might consider the business as no longer in his hands, since he had given him no further powers; that he had urged the Consul's promise relative to the debt, which he admitted; but said, at the same time, he did not think it had exceeded three millions, though my letter expressly mentioned twenty. He expressed great sorrow upon the occasion; and advised me to press M. Talleyrand to present Mr. Monroe the next day, (that is, this day;) that he hoped that, if the Consul saw me, as he had a very particular esteem for me, he would renew the subject with me himself.

I went to Mr. Monroe, and carried him to the minister, who had not returned from St. Cloud; and afterwards went again, but could not see him. I dined with the Second Consul yesterday; and in the evening M. Marbois came in. I took him aside, and asked him if any thing further had passed: he said not; but, that as he was to go to St. Cloud the next day, it was possible that the Consul might touch upon the subject again; and that, if he did not, I might consider the plan as relinquished: and that, if I had any further proposition to make, it would be well to state it. I then told him, that on further conversation with Mr. Monroe, we had resolved to go to the greatest possible length, and that we would give fifty millions. He said he had very little hopes that any thing short of his propositions would succeed; but that he would make the best use of the arguments I had furnished him with, if an opportunity was offered; and if nothing was done the next day, I might conclude that the Consul had changed his sentiments: that, having given the kingdom of Etruria, whose revenues were twenty-five millions, in exchange for this country, it was natural that the First Consul should estimate it beyond its real value.

Thus we stand at present, resolving to rest a few days upon our oars; in the mean time, I shall press the payment of the debt, as an excitement to forward the other business.

No notice has been given of Mr. Monroe's reception; and I am not without my fears that he will not be received before the usual diplomatic day, which will not be till the 15th, and, before that time, the Consul will probably go upon his tour to Flanders. Mr. Monroe having been compelled, when here, to be well with the party then upper-

most, and who are now detested by the present ruler, it will be some time before they know how to estimate his worth; and Talleyrand has, I find, imbibed personal prejudice against him, that will induce him to throw every possible obstruction in his way, that he can do consistently with their own views.

I shall attend to the other subjects of your letter at the first moment of leisure. At present, I think it would be improper to touch upon less important matter, which may either divert the attention or irritate.

I am sorry you have not thought it proper to attend to my request as to the Italian Republic. It has, I believe, been acknowledged by all the Powers of Europe except Great Britain. Compliments that cost nothing should, I think, always be paid, where you have points to carry.

Be so obliging, in answering my letters, as to notice any project I throw out; because it is not enough to have them passed over in silence, as that leaves me in doubt; whereas, the approbation or rejection of them precisely would inform me of your sentiments, and enable me to act accordingly.

I am, dear sir, with much esteem and respect, your most obedient, humble servant,

R. R. LIVINGSTON.

Mr. Madison to Messrs. Livingston and Monroe.

DEPARTMENT OF STATE, *April* 18, 1803.

GENTLEMEN:

A month having elapsed since the departure of Mr. Monroe, it may be presumed that, by the time this reaches you, communications will have passed with the French Government, sufficiently explaining its views towards the United States, and preparing the way for the ulterior instructions which the President thinks proper should now be given.

In case a convention and arrangement with France should have resulted from the negotiations with which you are charged; or, in case such should not have been the result—but no doubt should be left that the French Government means to respect duly our rights, and to cultivate sincerely peace and friendship with the United States—it will be expedient for you to make such communications to the British Government, as will assure it that nothing has been done inconsistent with our good faith, and as will prevent a diminution of the good understanding which subsists between the two countries.

If the French Government, instead of friendly arrangements or views, should be found to meditate hostilities, or to have formed projects which will constrain the United States to resort to hostilities, such communications are then to be held with the British Government, as will sound its dispositions, and invite its concurrence in the war. Your own prudence will suggest that the communications be so made, as, on one hand, not to precipitate France into hostile operations, and, on the other, not to lead Great Britain from the supposition that war depends on the choice of the United States, and that their choice of war will depend on her participation in it. If war is to be the result, it is manifestly desirable that it be delayed until the certainty of this result can be known, and the legislative and other provisions can be made here; and also of great importance, that the certainty should not be known to Great Britain, who might take advantage of the posture of things to press on the United States disagreeable conditions of her entering into the war.

It will probably be most convenient, in exchanging ideas with the British Government, to make use of its public minister at Paris, as less likely to alarm and stimulate the French Government, and to raise the pretensions of the British Government, than the repairing of either of you to London, which might be viewed by both as a signal of rupture. The latter course, however, may possibly be rendered most eligible by the pressure of the crisis.

Notwithstanding the just repugnance of this country to a coalition of any sort with the belligerent politics of Europe, the advantages to be derived from the co-operation of Great Britain in a war of the United States, at this period, against France and her allies, are too obvious and too important to be renounced. And notwithstanding the apparent disinclination of the British councils to a renewal of hostilities with France, it will probably yield to the various motives which will be felt to have the United States in the scale of Britain against France, and particularly for the immediate purpose of defeating a project of the latter, which has evidently created much solicitude in the British Government.

The price which she may attach to her co-operation cannot be foreseen, and, therefore, cannot be the subject of full and precise instructions. It may be expected that she will insist at least on a stipulation that neither of the parties shall make peace or truce without the consent of the other; and as such an article cannot be deemed unreasonable, and will secure us against the possibility of her being detached, in the course of the war, by seducing overtures from France, it will not be proper to raise difficulties on that account. It may be useful, however, to draw from her a definition, as far as the case will admit, of the objects contemplated by her, that whenever, with ours, they may be attainable by peace, she may be duly pressed to listen to it. Such an explanation will be the more reasonable, as the objects of the United States will be so fair and so well known.

It is equally probable, that a stipulation of commercial advantages in the Mississippi, beyond those secured by existing treaties, will be required. On this point, it may be answered at once, that Great Britain shall enjoy a free trade with all the ports to be acquired by the United States, on the terms allowed to the most favored nations in the ports, generally, of the United States. If made an essential condition, you may admit, that in the ports to be acquired within the Mississippi, the trade of her subjects shall be on the same footing for a term of about ten years with that of our own citizens. But the United States are not to be bound to the exclusion of the trade of any particular nations or nation.

Should a mutual guaranty of the existing possessions, or of the conquests to be made by the parties, be proposed, it must be explicitly rejected, as of no value to the United States, and as entangling them in the frequent wars of that nation with other Powers, and very possibly in disputes with that nation itself.

The anxiety which Great Britain has shown to extend her domain to the Mississippi, the uncertain extent of her claims from north to south, beyond the western limits of the United States, and the attention she has paid to the northwest coast of America, make it probable that she will connect with a war on this occasion, a pretension to the acquisition of the country on the west side of the Mississippi, understood to be ceded by Spain to France, or at least of that portion of it lying between that river and the Missouri. The evils involved in such an extension of her possessions in our neighborhood, and in such a hold on the Mississippi, are obvious. The acquisition is the more objectionable, as it would be extremely displeasing to our Western citizens, and as its evident bearing on South America might be expected to arouse all the jealousies of France and Spain, and to prolong the war, on which the event would depend. Should this pretension, therefore, be pressed, it must be resisted as altogether repugnant to the sentiments and to the sound policy of the United States. But it may be agreed, in alleviation of any disappointment of Great Britain, that France shall not be allowed to retain or acquire any part of the territory, from which she herself would be precluded.

The moment the prospect of war shall require the precaution, you will not omit to give confidential notice to our public ministers and consuls, and to our naval commanders in the Mediterranean, that our commerce and public ships may be as little exposed to the danger as possible. It may, under certain circumstances, be proper to notify the danger immediately to the collectors in the principal ports of the United States.

A separate letter to you is enclosed, authorizing you to enter into such communications and conferences with British ministers as may possibly be required by the conduct of France. The letter is made a separate one, that it may be used with the effect, but without the formality, of a commission. It is hoped that sound calculations of interest, as well as a sense of right, in the French Government, will prevent the necessity of using the authority expressed in this letter. In a contrary state of things, the President relies on your own information, to be gained on the spot, and on your best discretion, to open with advantage the communications with the British Government, and to proportion the degree of an understanding with it to the indications of an approaching war with France. Of these indications, also, you will be best able to judge. It will only be observed to you, that, if France should avow or evince a determination to deny to the United States the free navigation of the Mississippi, your consultations

with Great Britain may be held on the ground that war is inevitable. Should the navigation not be disputed, and the deposite alone be denied, it will be prudent to adapt your consultations to the possibility that Congress may distinguish between the two cases, and make a question how far the latter right may call for an instant resort to arms, or how far a procrastination of that remedy may be suggested and justified by the prospect of a more favorable conjuncture.

These instructions have thus far supposed that Great Britain and France are at peace, and that neither of them intend at present to interrupt it. Should war have actually commenced, or its approach be certain, France will, no doubt, be the more apt to concur in friendly accommodations with us, and Great Britain the more desirous of engaging us on her side. You will, of course, avail yourselves of this posture of things, for avoiding the necessity of recurring to Great Britain, or, if the necessity cannot be avoided, for fashioning her disposition to arrangements which may be the least inconvenient to the United States. Whatever connexion, indeed, may be eventually formed with Great Britain in reference to war, the policy of the United States requires that it be as little entangling as the nature of the case will permit.

Our latest authentic information from New Orleans is of the 25th February. At that date the port had been opened for provisions carried down the Mississippi, subject to a duty of six per cent. if consumed in the province, and an additional duty, if exported; with a restriction, in the latter case, to Spanish bottoms, and to the external ports permitted by Spain to her colonial trade. A second letter, written by the Spanish minister here, has been received by the Intendant, but without effect. On the 10th of March his interposition was repeated in a form which you will find, by his translated communication to the Department of State, in one of the enclosed papers, was meant to be absolutely effectual. You will find in the same paper the translation of a letter from the French chargé d'affaires here to the Governor of Louisiana, written with a co-operating view. A provisional letter to any French agents who might have arrived, had been previously written by him, in consequence of a note from this Department, founded on a document published at New Orleans, showing that orders had been given by the Spanish Government for the surrender of the province to France; and he has of late addressed a third letter on the subject to the Prefect said to have arrived at New Orleans. It does not appear, however, from any accounts received, that Louisiana has yet changed hands.

What the result of the several measures taken for restoring the right of deposite will be, remains to be seen. A representation on the subject was made by Mr. Graham, in the absence of Mr. Pinckney, to the Spanish Government, on the 3d of February. No answer had been received on the 8th; but Mr. Graham was led by circumstances to make no particular inference from the delay. The silence of the French Government to Mr. Livingston's representation, as stated in his letter of the —— day of —— is a very unfavorable indication. It might have been expected, from the assurances given, of an intention to observe the treaty between Spain and the United States, and to cultivate the friendship of the latter, that the occasion would have been seized for evincing the sincerity of the French Government; and it may still be expected that no interposition that may be required by the actual state of things will be withheld, if peace and friendship with the United States be really the objects of that Government. Of this, the mission of Mr. Monroe, and the steps taken by you on his arrival, will doubtless have impressed the proper convictions.

During this suspense of the rightful commerce of our Western citizens, their conduct has been, and continues to be, highly exemplary. With the just sensibility produced by the wrongs done them, they have united a patient confidence in the measures and views of their Government. The justice of this observation will be confirmed to you by manifestations contained in the Western newspapers, herewith enclosed; and, if duly appreciated, will not lessen the force of prudential as well as of other motives, for correcting past, and avoiding future trespasses on American rights.

April 20th.—The letter from the Marquis d'Yrujo, of which you will find a translated copy in the enclosed newspaper of this date, was yesterday received. The letters to which it refers, as containing orders for the re-establishment of our deposite at New Orleans, were immediately forwarded. They will arrive in time, we hope, to mitigate considerably the losses from the misconduct of the Spanish Intendant; and they are the more acceptable, as they are an evidence of the respect, in the Government of Spain, for our rights and our friendship.

From the allusion in this communication from the Spanish minister to a future agreement between the two Governments, on the subject of an equivalent deposite, it would seem that the Spanish Government regards the cession to France as either no longer in force, or not soon to be carried into execution. However this may be, it will not be allowed, any more than the result of our remonstrance to Spain on the violation of our rights, to slacken the negotiations for the greater security and the enlargement of these rights. Whether the French or the Spaniards, or both, are to be our neighbors, the considerations which led to the measures, taken with respect to these important objects, still require that they should be pursued into all the success that may be attainable.

With sentiments of great respect, &c.

JAMES MADISON.

R. R. Livingston and James Monroe, Esqrs.

The Secretary of State to Messrs. Livingston and Monroe.

Department of State, *April* 18, 1803.

Gentlemen:

The reasonable and friendly views with which you have been instructed by the President to enter into negotiations with the French Government, justify him in expecting from them an issue favorable to the tranquillity and to the useful relations between the two countries. It is not forgotten, however, that these views, instead of being reciprocal, may find, on the part of France, a temper adverse to harmony, and schemes of ambition, requiring, on the part of the United States, as well as of others, the arrangements suggested by a provident regard to events. Among these arrangements, the President conceives that a common interest may recommend a candid understanding, and a closer connexion with Great Britain; and he presumes that the occasion may present itself to the British Government in the same light. He, accordingly, authorizes you, or either of you, in case the prospect of your discussion with the French Government should make it expedient, to open a confidential communication with ministers of the British Government, and to confer freely and fully on the precautions and provisions best adapted to the crisis, and in which that Government may be disposed to concur; transmitting to your own, without delay, the result of these consultations.

With sentiments of high respect, &c.

JAMES MADISON.

R. R. Livingston and James Monroe, Esqrs.

Extract:—Mr. King to the Secretary of State.

April 19, 1803.

In Lord Whitworth's last despatch, he says: "Two days ago General Bernadotte left Paris, on his mission to the United States, with assurances of the First Consul's sincere desire to cultivate the friendship of that country; and yesterday Mr. Monroe, the American envoy, arrived here." The United States, says his lordship, are likely to reap the first fruits of our disagreement with France; the settlement of their affairs being already so nearly finished that little remains to be done by Mr. Monroe, who is said to be destined to relieve Mr. King at London.

Extract of a letter from Mr. King, Minister Plenipotentiary of the United States in London to the Secretary of State.

LONDON, *April* 28, 1803.

"In a conference with Lord Hawkesbury on the 6th instant, I explained to him the object of the extraordinary mission of Mr. Monroe, pursuant to the tenor of your letter of the 29th of January, and I have the pleasure to inform you that his lordship received the communication in good part, suggested no doubt of our right to pursue separately and alone the objects we aim at, and appeared to be satisfied with the President's views on this important subject."

[TRANSLATION.]

Extract of a letter from Mr. Cevallos, Minister of State of his Catholic Majesty, to Charles Pinckney, Esq.

ARANJUEZ, *May* 4, 1803.

The system adopted by His Majesty not to dispossess himself of any portion of his States, deprives him of the pleasure of assenting to the cessions which the United States wish to obtain by purchase, as I have intimated for their information to the Marquis of Casa Yrujo.

By the retrocession made to France of Louisiana, this Power regains the said province with the limits it had, and saving the rights acquired by other Powers. *The United States can address themselves to the French Government to negotiate the acquisition of territories which may suit their interest.*

Mr. King to Messrs. Livingston and Monroe, ministers of the United States at Paris.

LONDON, *May* 7, 1803.

GENTLEMEN:

War seems to be quite inevitable, though it is possible that the offer of France to leave Malta in the hands of Russia, Austria, or Prussia, may create some hesitation, and, had it been early made would perhaps have prevented the present crisis. In case of war, it is the purpose of this Government to send an expedition to occupy New Orleans. If it be ceded to us, would it not be expedient openly or confidentially to communicate the fact here? I have reason to be satisfied that it would prevent the projected expedition. I shall remain here till the fourteenth, in hopes that I may receive your answer, which might be expedited by a courier, should the communication be deemed prudent.

Messrs. Livingston and Monroe to Mr. King.

PARIS, *May* —, 1803.

SIR:

We have the honor to inform you that a treaty (the 30th April) has been signed between the Minister Plenipotentiary of the French Government, and ourselves, by which the United States have obtained the full right to and sovereignty in and over New Orleans, and the whole of Louisiana, as Spain possessed the same. If, sir, you should find it necessary to make any communication to the British Government on this subject, you may likewise inform them that care has been taken so to frame the treaty as not to infringe upon any of the rights that Great Britain might claim in the navigation of the Mississippi.

Mr. Livingston to the Secretary of State.

PARIS, *May* 12, 1803.

SIR:

You have seen in my late letter the direct commencement of the negotiation previous to the arrival of Mr. Monroe, and, in our joint letter, its consummation. It will be matter of curiosity, at least to you, to be more intimately acquainted with the exciting causes which have been long operating, and which I have hinted at in my letters to the President, but which, from their extreme delicacy, I have not thought it proper to detail. As this goes with the treaty by a special and safe messenger, I will send you the papers I referred to in my letters to the President.

On my arrival, I found the credit and character of our nation very low. They were considered as interested speculators, whose god was money. The features of our statesmen, drawn from the caricatures in our newspapers, were viewed as real likenesses; and the democracy of America was believed to be the mad Jacobinism of France. The President was considered as among the most mad, because the head of the party; and it was not doubted that his minister to France partook of his phrensy. Some of my former friends were sent artfully to sound me on the subject of the existing Government here. As I had seen and heard enough to be satisfied that nothing short of the change that had taken place could have lessened the calamities of France, I answered them sincerely in such manner as to satisfy them that I meant to have no intrigues with its enemies; I carefully avoided all connexion with them; and, in consequence of this, began to acquire a degree of favor at court. As the attention to Great Britain began to diminish, for reasons which it will take me too much time to explain, and was gradually converted into aversion by the freedom with which the election of the First Consul to that dignity for life, and his other great measures, were treated in England, we of course grew more in favor; and if, in any instance, they relaxed from the extreme hauteur with which they treated all the foreign Powers, it was more particularly with us. They answered my notes politely though not satisfactorily; while they left those of many other ministers, who had demands upon them, unanswered. Among the most favorite projects of the First Consul, was the colonization of Louisiana. He saw in it a new Egypt; he saw in it a colony that was to counter-balance the eastern establishment of Britain; he saw in it a provision for his generals; and, what was more important in the then state of things, he saw in it a pretence for the ostracism of suspected enemies. To render the acquisition still more agreeable to the people, exaggerated accounts of its fertility, &c. were sold in every print shop. My first endeavor was to remove these impressions from the minds of the people most likely to be consulted, in which I was, generally speaking, very successful. But they all told me that it was a favorite project with the First Consul; nor would any of them hear of disposing of it by sale; yet so ignorant were they of the nature of their acquisition, that they never once suspected the Floridas were not included in their treaty, till they were convinced of the contrary by the inquiries they set on foot in consequence of my information. The Floridas, as you know, they endeavored to give in exchange for Parma; and in that negotiation set the price for which they would buy one, or sell the other, at forty millions of francs.

I endeavored, as far as possible, to obstruct that negotiation, and, at the same time, urged the absurdity of attempting to colonize Louisiana without ports in the Gulf. When I found impressions were made by these measures, I wrote the treatise I have sent you, entitled *Mémoire sur cette question: Est il avantageux à la France de prendre possession de la Louisiane?* As the First Consul had before read, with considerable attention, my notes on the relative naval force and commerce of France and England and the United States, (which I have also sent you,) and paid me some compliments upon it, I got this essay under his eyes through the same channel. It was read with attention; and, though I have reason to think it weakened his belief in the importance of Louisiana, yet, as he does not easily relinquish his plans, he still prosecuted them, though with much less ardor than he had before done. As I knew that his ministers seldom dared to interpose their opinions, it was necessary to apply directly to him,

through the only person who was supposed to have any influence with him: and who that was, you have seen in my private letters to the President. I will not hazard the repetition here. After breaking the subject in a conversation with this gentleman, I sent him the note No. 1. He received it very graciously. Reading it in my presence, he told me that, if I would permit him, he would show it to the First Consul. I made some hesitation, on account of the delicacy of the subject. He assured me that he would take care that I should not be committed by it. Some days after, he told me that the First Consul had read it with attention; that so far as it referred to personal objects, he could not listen to it: but that the general and public motives I had mentioned merited particular attention: that he approved my proposition, in part, but not to the extent I had proposed. I am satisfied that from this period they had determined to let us have New Orleans, and the territory above the Arkansas, in exchange for certain commercial advantages; and that, if they could have concluded with Spain, we should also have had West Florida: but that nothing could be done until that business was terminated. This note had the effect of removing, in the fullest degree, every doubt that could possibly have remained relative to my sentiments of the present Government; and certain circumstances in it led to a kind of personal consideration which I have ever since enjoyed here. Not willing, however, to let the impressions I have made wear off, I wrote the note No. 2, which was also read with attention by the First Consul: and I believe produced a determination to enter upon the subject as soon as matters were arranged with Spain. As I believed, from the First Consul having spoken on this subject to the Minister of Foreign Affairs, that the channel through which I submitted my observations was known to the latter, and of course could not be very pleasing to him; and as this was intimated to me by ———, who, in answer to my note No. 3, requested me to break the subject to the minister: you will have seen in my several notes, that I did not neglect to do so. But two causes suspended any absolute determination. First, the state of the negotiation with Spain relative to the Floridas: and next, my total want of power or instructions, which reduced me to the necessity of bringing forward nothing more specific; while I endeavored to pave the way for something conclusive when I should, as I had long hoped, receive them. The First Consul, too, had conceived an idea that, by taking possession of the country, he could more advantageously treat with our Government: and Mr. Talleyrand accordingly told me several times, in general terms, that every thing would be arranged: but that they must first take possession. After General Bernadotte was appointed, he assured me that he should have powers for this purpose: but as I had then received the newspaper account of the conduct of the Governor of New Orleans, I thought it would be a good ground for pressing something decisive, both with the minister, and through ———; with a view then to bring them to make some proposition here, or at least to give such discretionary powers as would facilitate your treaty with General Bernadotte. My notes to the minister you have. No. 4. is a copy of my letter to ———, which was also submitted to the First Consul, and produced nothing more than a verbal promise that all would be arranged when proper information could be received through General Bernadotte.

I have no doubt that it has long been their intention to make the arrangements I proposed, in exchange for commercial advantages. A sale has always been disrelished, as I was constantly told by Marbois and Talleyrand; and, as is clearly to be inferred from the Consul's note, in answer to my letter. What, however, I believe, principally drove them to this measure, was the promise which the First Consul had hastily made me to pay our debt fully and promptly; and which he found himself in no situation to fulfil, and yet knew not how to elude, as I pressed it at every turn, and spoke of it to Talleyrand and all the Consul's friends, assured them that I had communicated it not only to the Government, but to the creditors, with the declaration that they might firmly rely on it, as no one could believe that a man of the Consul's character, a sovereign and a soldier, could break his word. I told the Minister of the Treasury, that, as I owed it to myself to justify what I had said, I thought myself bound to publish my letter to the First Consul, with his answer, and the execution of his solemn engagements. I asked what his enemies would say to such a publication? He replied,—Or his friends?

The resolutions proposed in Congress, in consequence of the business of New Orleans, coming to hand, I sent a translation of them by General Bernadotte to ———; and also enclosed them to the minister. They proved we would not be rifled with; and the probability of a rupture with England, the effects of which upon the country, as you have observed in my notes, have been very strongly stated to them, hastened their determination; and they saw, as Mr. Talleyrand told me, that if they gave what I asked the rest was not worth keeping. This, and the impossibility of otherwise keeping faith with us, produced a determination to sell; which was communicated to the council, as I informed you on the 8th of April. There was a moment, even after Talleyrand called on me to set a price, that I thought the whole might drop through. It was when, as I informed you, he pretended he spoke without authority, and that Louisiana was not theirs, &c. But, as I have since written to you, that mystery was cleared up the next day.

The subsequent measures you have in my letters and notes, and in those Mr. Monroe and myself have jointly written to you. As I believe that, next to the negotiation that secured our independence, this is the most important the United States have ever entered into, I thought every thing that led to it might interest you and the President. I wished you to be minutely acquainted with every step I had taken; my verbal communications with every body, to whom I had access, whose interest I conceived might be useful, it would be impossible to detail. Nothing, however, was neglected on my part; and I sincerely hope the issue may be acceptable to our country.

Lord Whitworth retired last night, after the arrival of a messenger from Russia. The Emperor undertakes the mediation, but England will certainly decline; as it would be to continue her present ruinous expense, and derange her commerce probably for an unlimited time.

I have yet no time, nor indeed thought it proper, to interpose any business of less importance while the arrangements relative to, and in consequence of, the treaty were going on. The moment our messengers are despatched, I shall give it all my attention.

I have the honor to be, &c.

R. R. LIVINGSTON.

Messrs. Livingston and Monroe to Mr. Madison.

PARIS, *May* 13, 1803.

SIR:

We have the pleasure to transmit to you by M. Derieux a treaty which we have concluded with the French republic for the purchase and cession of Louisiana. The negotiation of this important object was committed, on the part of France, to M. Marbois, Minister of the Treasury, whose conduct therein has already received the sanction of his Government, as appears by the ratification of the First Consul, which we have also the pleasure to forward to you.

An acquisition of so great an extent was, we well know, not contemplated by our appointment: but we are persuaded that the circumstances and considerations which induced us to make it, will justify us in the measure to our Government and country.

Before the negotiation commenced, we were apprised that the First Consul had decided to offer to the United States, by sale, the whole of Louisiana, and not a part of it. We found, in the outset, that this information was correct, so that we had to decide, as a previous question, whether we would treat for the whole, or jeopardize, if not abandon, the hope of acquiring any part. On that point we did not long hesitate, but proceeded to treat for the whole. We were persuaded that, by so doing, it might be possible, if more desirable, to conclude eventually a treaty for a part, since, being thus possessed of the subject, it might be easy, in discussion at least, to lead from a view of the whole, to that of a part, and with some advantages peculiar to a negotiation on so great a scale. By treating for the whole, whereby we should be enabled to ascertain the idea which was entertained by this Government of its value, we should also be able to form some estimate of that which was affixed to the value of its parts. It was, too, probable that a less sum would be asked for the whole, if sold entire to a single purchaser, a friendly Power, who was able to pay for it, and whom it might be disposed to accommodate at the present juncture, than if it should be sold in parcels either to several Powers or companies of individuals: it was equally so, if this

Government should be finally prevailed on to sell us a part, that some regard would be paid in the price asked for it to that which was demanded for the whole; lastly, by treating for the whole, whereby the attention of this Government would be drawn to the United States, as the sole purchasers, we might prevent the interference of other Powers, as also that of individuals, which might prove equally injurious in regard to the price asked for it, whether we acquired the whole or any part of the territory. We found, however, as we advanced in the negotiation, that M. Marbois was absolutely restricted to the disposition of the whole; that he would treat for no less portion, and, of course, that it was useless to urge it. On mature consideration, therefore, we finally concluded a treaty on the best terms we could obtain for the whole.

By this measure, we have sought to carry into effect, to the utmost of our power, the wise and benevolent policy of our Government, on the principles laid down in our instructions. The possession of the left bank of the river, had it been attainable alone, would, it is true, have accomplished much in that respect; but it is equally true that it would have left much still to accomplish. By it our people would have had an outlet to the ocean, in which no Power would have a right to disturb them; but while the other bank remained in the possession of a foreign Power, circumstances might occur to make the neighborhood of such Power highly injurious to us in many of our most important concerns. A divided jurisdiction over the river might beget jealousies, discontents, and dissensions, which the wisest policy on our part could not prevent or control. With a train of colonial Governments established along the western bank, from the entrance of the river far into the interior, under the command of military men, it would be difficult to preserve that state of things which would be necessary to the peace and tranquillity of our country. A single act of a capricious, unfriendly, or unprincipled subaltern might wound our best interests, violate our most unquestionable rights, and involve us in war. But by this acquisition, which comprises within our limits this great river, and all the streams that empty into it, from their sources to the ocean, the apprehension of these disasters is banished for ages from the United States. We adjust by it the only remaining known cause of variance with this very powerful nation; we anticipate the discontent of the great rival of France, who would probably have been wounded at any stipulation of a permanent nature which favored the latter, and which it would have been difficult to avoid, had she retained the right bank. We cease to have a motive of urgency, at least, for inclining to one Power, to avert the unjust pressure of another. We separate ourselves in a great measure from the European world and its concerns, especially its wars and intrigues. We make, in fine, a great stride to real and substantial independence, the good effect whereof will, we trust, be felt essentially and extensively in all our foreign and domestic relations. Without exciting the apprehension of any Power, we take a more imposing attitude with respect to all. The bond of our Union will be strengthened, and its movements become more harmonious by the increased purity of interest which it will communicate to the several parts which compose it.

In deliberating on this subject in a financial view, we were strongly impressed with the idea that while we had only a right of deposite, or, indeed, while the right bank remained in the possession of a foreign Power, it was always to be expected that we should, at some time or other, be involved in war on questions resulting from that cause. We were well satisfied that any war would cost us more than is hereby stipulated to be given for this territory; that none could produce a more favorable result; while it might, especially in the present disturbed state of the world, prove the ruin of our affairs.

There were other considerations which, though of minor importance, had, nevertheless, their due weight in our decision on this great question. If France, or any other Power holding the right bank of the river, imposed lighter duties than comported with the revenue system of the United States, supposing even that we had acquired the left bank, all the supplies destined for our extensive and populous settlements on the other side would be smuggled in through that channel, and our revenue thereby considerably diminished. Should such Power open offices for the sale of lands on the western bank, our population might be drained to the advantage of such Power, the price of our lands be diminished, and their sale prevented. But, by the possession of both banks, these evils are averted.

The terms on which we have made this acquisition, when compared with the objects obtained by it, will, we flatter ourselves, be deemed advantageous to our country. We have stipulated, as you will see by the treaty and conventions, that the United States shall pay to the French Government sixty millions of francs in stock bearing an interest of six per cent.; and a sum not exceeding twenty millions more to our citizens, in discharge of the debts due to them by France, under the convention of 1800; and also to exempt the manufactures, productions, and vessels of France and Spain in the direct trade from those countries respectively, in the ports of the ceded territory, from foreign duties for the term of twelve years. The stock is to be created irredeemable for fifteen years, and discharged afterwards in three equal annual instalments; the interest on it is to be paid in Europe, and the principal, in case this Government thinks proper to sell it, disposed of in such manner as will be most conducive to the credit of the American funds. The debts due to our citizens are to be discharged by drafts on our treasury. We omit a more minute view of the stipulations of these instruments, since, as you will possess them, it is unnecessary.

Louisiana was acquired of Spain by France, in exchange for Tuscany, which latter is settled by treaty on the son-in-law of the King of Spain, with the title of King of Etruria, and was estimated in the exchange, in consideration of its revenue, at one hundred millions of francs. The First Consul thought he had made an advantageous bargain in that exchange, as appears by the high idea which he entertained of its value, as shown on many occasions. Louisiana was the territory which he promised, in his proclamation at the peace, as an asylum to those who had become unfortunate by the revolution, and which he spoke of as vast and fertile. When he made up his mind to offer the cession of it to the United States, it was contemplated to ask for it one hundred millions, exclusive of the debts they owed to our citizens, which they proposed we should also pay, with a perpetual exemption from foreign duties on the manufactures, productions, and vessels of France and Spain in the ports of the ceded territory. From that demand, however, in respect to the sum, he receded, under the deliberations of his own cabinet; for the first proposition which M. Marbois made to us was that we should pay eighty millions, sixty of which in cash, the balance to our citizens, the whole in one year in Paris, with a perpetual exemption from foreign duties as above. The modification in the mode of payment, that is by stock, for from the quantum he never would depart, and the limitation of the term of the duties to twelve years, with the proviso annexed to it, which was introduced into the treaty, with every other change from his project, was the effect of negotiation and accommodation, in which we experienced, on his part, and that of his Government, a promptitude and candor which were highly grateful to us.

In estimating the real value of this country to the United States, a variety of considerations occur, all of which merit due attention. Of these, we have already noticed many of a general nature, to which, however, it may be difficult to fix a precise value. Others present themselves of a nature more definite, to which it will be more practicable to fix some standard. By possessing both banks, the whole revenue or duty on imports will accrue to the United States, which must be considerable. The value of the exports, we have understood, was last year four millions of dollars. If a portion only of the imports pass through that channel, as, under our Government, we presume they will, the amount of the revenue will be considerable. This will annually increase in proportion as the population and productions in that quarter do. The value of the lands in the province of Louisiana, amounting to some hundred millions of acres, of the best quality, and in the best climate, is, perhaps, incalculable. From either of these sources it is not doubted that the sum stipulated may be raised in time to discharge the debt.

We hope to be able to forward you herewith the order of this Government for the delivery of the possession of the ceded territory to the United States, or to communicate its arrangements for that purpose, as also its views relative to the sale of the stock, since it is understood that their intention is to sell it. It has been intimated to us that the house of Baring, in London, connected with that of Hope, in Holland, will take the whole at their risk, at the current price in England, on a commission to be agreed on, paying to France a stipulated sum by the month; their object is said to be, exclusive of that of making profit by it, to keep up the credit of our stock, they being much interested in it. Considering the great capital of these houses, it is presumable that they would be able to comply with any engagement they might make to that effect. And it cannot be doubted that it would be more advantageous to us that the whole should be thus disposed of, than remain in the hands of France, who, under the pressure of difficulties, might have it less in her power to preserve or regard our credit, in the disposition of it. We shall communicate with M. Marbois fully on this subject, and apprise you of the result.

We received some days past a letter from Mr. King, in which he says, that, in case of war, which he deemed inevitable, the British Government contemplated taking possession of the island of New Orleans. He desired information to be communicated to that Government, whether it had been ceded to the United States, as he presumed a knowledge thereof would prevent the measure. We gave an immediate reply to his letter, in which we informed him that the whole of Louisiana had been ceded to the United States, which he was at liberty to communicate to the British Government. We likewise made the same communication to Lord Whitworth, the British ambassador here, who expressed himself to be well satisfied with the event.

These countries, France and England, have been on the point of a rupture for some time past. At present, the prospect of an accommodation is more remote, as the English ambassador left Paris at ten o'clock last night: still some hope of it is entertained by some persons in power here. This nation is desirous of peace, and it is believed that its Government is similarly disposed.

Permit us to express an earnest wish that the President and Senate may decide with the least possible delay on the treaty and conventions which we have concluded, and have the pleasure to transmit you. If it is the sense of our Government to ratify them, the sooner that fact is known to this Government the better its effect will be.

The list of the debts due by France to American citizens not being yet prepared, owing to M. Marbois's absence to-day from Paris, and the previous delays of the offices in which the evidences were, cannot be sent by this conveyance. In consequence, we retain the original of the convention to which it should be annexed, and send a copy of it: we shall forward in a day or two the original. By the list, it may be inferred that the debts amount to a greater sum than they really do: they will be subject, according to the convention, to the revision of our Board, by whom it is expected they will be reduced considerably. We have full confidence that, including the interest, they will not exceed the sum of twenty millions of francs, which is much to be desired, as in that case all our citizens, whose claims are entitled to the support of our Government, will be provided for and paid by it. You will observe that, in the mode adopted, considerable indulgence is given to our treasury. The whole sum is to be paid there, and under delays which will free it from embarrassment.

We have the honor to be, sir, your obedient servants,

ROBERT R. LIVINGSTON.
JAMES MONROE.

P. S. It was intended to have forwarded this by M. Derieux; but he being forced to leave Paris some days since on his way to Bordeaux, from whence he sails, we commit it to Mr. Hughes, who will embark at Havre. We shall forward to-morrow or next day an exemplication of it by Bordeaux, under the care of M. Derieux.

Mr. King to Lord Hawkesbury.

LONDON, *May* 15, 1803.

MY LORD:

In the present critical posture of affairs, I lose no time in communicating to your lordship, for His Majesty's information, that a treaty was signed at Paris on the 30th April past, by the plenipotentiaries of America and France, by which the complete sovereignty of the town and territory of New Orleans, as well as of all Louisiana, as the same was heretofore possessed by Spain, has been acquired by the United States of America.

In drawing up this treaty, care has been taken so to frame the same as not to infringe any right of Great Britain in the navigation of the river Mississippi.

I flatter myself that this communication will be received with satisfaction, and regarded as a new proof of the disposition of the United States to observe towards His Majesty a spirit of amity and confidence, important at all times, and more especially so in present circumstances, to the harmony and mutual prosperity of the two countries.

Lord Hawkesbury to Mr. King.

DOWNING STREET, *May* 19, 1803.

SIR:

Having laid before the King your letter of the 15th of this month, in which you inform me that a treaty was signed at Paris on the 30th of last month, by the plenipotentiaries of America and France, by which the complete sovereignty of the town and territory of New Orleans, as well as of all Louisiana, has been acquired by the United States, I have received His Majesty's commands to express to you the pleasure with which His Majesty has received this intelligence, and to add that His Majesty regards the care which has been taken so to frame this treaty as not to infringe any right of Great Britain in the navigation of the Mississippi, as the most satisfactory evidence of a disposition on the part of the Government of the United States, correspondent to that which His Majesty entertains, to promote and improve that harmony and good understanding which so happily subsist between the two countries, and which are so conducive to their mutual benefit. I have it also in command to assure you, sir, that the sentiments which you have expressed in making this communication, are considered by His Majesty's Government as an additional proof of that cordiality and confidence which you have uniformly manifested in the whole course of your public mission, and which have so justly entitled you to the esteem and regard of His Majesty's Government.

Messrs. Livingston and Monroe to the Secretary of State.

PARIS, *May* 16, 1803.

SIR:

We have the honor to enclose the account which should be annexed to the convention transmitted to you. The Bordeaux embargo is in assignats and two-thirds will be deducted. From many of the others, we have reason to think, from a particular account now in our hands, there will be such considerable deductions as will reduce the whole charge to less than twenty millions of livres, including the interest. The Consul has agreed to ratify immediately, and we hope to have the honor of transmitting you the ratified treaty, with an order to deliver the territory, in a few days. Such arrangements will also, we trust, be made relative to the stock as will prevent its coming on the market to any loss, or any part of it from being sold in America.

We have the honor to be, &c.

R. R. LIVINGSTON.
JAS. MONROE.

Hon. JAMES MADISON, *Secretary of State.*

Mr. Livingston to the Secretary of State.

PARIS, *May* 20, 1803.

DEAR SIR:

The subject of this letter is too important to admit of delay, in case the treaties should have been any time in your hands; but, as it has not yet been fully considered by Mr. Monroe, he thinks he cannot make it that of a joint letter till we have more fully discussed it, which we propose to do to-morrow or the next day. But as that will be too late for this conveyance, I throw out these hasty thoughts for your consideration. In the mean time you will

consider this rather as a private than as a public letter; since it may or may not be made use of to promote such measures as, upon mature deliberation, the President shall think proper to adopt. I do not, however, doubt that Mr. Monroe will concur with me in opinion, after we have discussed the subject; and that we shall, by the next opportunity, write to you officially thereon.

I informed you long since, that, on inquiring whether the Floridas were within the cession of Spain, I was told by M. Marbois he was sure that Mobile was, but could not answer further. I believed his information incorrect; because I understood that Louisiana, as it then was, made the object of the cession; and that since the possession of the Floridas by Britain, they had changed their names. But the moment I saw the words of the treaty of Madrid, I had no doubt but it included all the country that France possessed by the name of Louisiana, previous to their cession to Spain, except what had been conveyed bys ubsequent treaties. I accordingly insisted, with M. Marbois, at the time we negotiated, that this would be considered as within our purchase. He neither assented nor denied, but said that all they received from Spain was intended to be conveyed to us. That my construction was right, is fairly to be inferred from the words of the treaties, and from a comment upon them contained in the Spanish minister's letter to Mr. Pinckney; in which he expressly says that France had recovered Louisiana as it formerly belonged to her, saving the rights of other Powers. This leaves no doubt upon the subject of the intention of the contracting parties. Now, it is well known that Louisiana, as possessed by France, was bounded by the river Perdido, and that Mobile was the metropolis. For the facts relative to this, I refer you to Raynal and to his maps. I have also seen maps here which put the matter out of dispute.

I called this morning upon M. Marbois for a further explanation on this subject, and to remind him of his having told me that Mobile made a part of the cession. He told me that he had no precise idea on the subject, but that he knew it to be an historical fact, and that on that only he had formed his opinion. I asked him what orders had been given to the Prefect, who was to take possession, or what orders had been given by Spain, as to the boundary, in ceding it? He assured me that he did not know; but that he would make the inquiry, and let me know. At four o'clock I called for Mr. Monroe to take him to the Minister of Foreign Affairs; but he was prevented from accompanying me. I asked the minister what were the east bounds of the territory ceded to us? He said he did not know; we must take it as they had received it. I asked him how Spain meant to give them possession? He said, according to the words of the treaty. But what did you mean to take? I do not know. Then you mean that we shall construe it our own way? I can give you no direction; you have made a noble bargain for yourselves, and I suppose you will make the most of it.

Now, sir, the sum of this business is, to recommend to you, in the strongest terms, after having obtained the possession, that the French commissary will give you, to insist upon this as a part of your right; and to take possession, at all events, to the river Perdido. I pledge myself that your right is good; and, after the explanations that have been given here, you need apprehend nothing from a decisive measure. Your minister here, and at Madrid, can support your claim; and the time is peculiarly favorable to enable you to do it without the smallest risk at home. It may also be important to anticipate any designs that Britain may have upon that country. Should she possess herself of it, and the war terminate favorably for her, she will not readily relinquish it. With this in your hand, East Florida will be of little moment, and may be yours whenever you please. At all events, proclaim your right and take possession.

I am, sir, &c.

ROB. R. LIVINGSTON.

Hon. JAMES MADISON.

James Madison, Secretary of State, to Robert R. Livingston, minister to France.

SIR: DEPARTMENT OF STATE, *May* 25, 1803.

Your several letters of March 3, 11, 18, and 24, with their enclosures, have been duly received, as has been that of March 12 to the President. According to the request in this last, I now acknowledge, also, or perhaps repeat the acknowledgment, of the two papers enclosed, the one in your letter of February 26, the other in that of August 10, 1802.

The assurances given by the Chief Consul, on the subject of our claims, cannot but be acceptable, although they amount to less than justice; because no more than justice would have been done if the claims had been satisfied without the delay which has intervened, and according to the example of good faith and punctuality in executing the treaty given by the United States. It is to be hoped that the sincerity of these assurances will be verified by the success of the measures you are taking for a final and favorable settlement in behalf of our citizens, who have never doubted, as far as I know, your solicitude or your exertions to obtain justice for them.

The assurances given, at the same time, by the Chief Consul, of his regard for the United States, and of his personal esteem for their Chief Magistrate, are entitled also to favorable attention, as an indication that a juster value begins to be placed on our friendly relations to the French republic. Whether this language of the French Government be the effect of the political crisis in which it finds itself, or of a growing conviction of the important destinies and honorable policy of the United States, or, as is probable, of both these considerations, you will, in return, communicate the assurances, with which you are charged by the President, of his disposition to cherish a reciprocity of these sentiments, and that sincere amity between the two nations, which is prescribed to both by such weighty advantages.

The persevering evasion of your demands on the subject of the deposite at New Orleans, and generally of the rights of the United States, as fixed by their treaty with Spain, is not a little astonishing. It is as difficult to be reconciled with the sincerity of the late professions of the French Government, and with the policy which the moment dictates to it, as with any other rational motives. It is the more extraordinary, too, as it appears, by a late communication from the Spanish Government to Mr. Pinckney, (of which, he says, he forwarded a copy to Paris, and of which another is herewith enclosed,) that the treaty of cession expressly saves all rights previously stipulated to other nations. A conduct so inexplicable is little fitted to inspire confidence, or to strengthen friendship; and rendered proper the peremptory declaration contained in your note of the 16th of March. The negotiations succeeding the arrival of Mr. Monroe cannot fail to draw out the views of France on this important subject.

You were informed, in my letters of the 18th and 20th of April, that orders had been transmitted by the Spanish Government for restoring the deposite. The answers from New Orleans to the Spanish and French ministers here show that their successive interpositions, including the peremptory one from the Marquis d'Yrujo of the 11th of March, were all unavailing. The orders of the King of Spain will, no doubt, be obeyed, if they arrive before possession be given to the French authority; nor is it presumable that, in that event, they would be disregarded. Still it is possible that the French agents may choose to wait for the French construction of the treaty before they relinquish the ground taken by the Intendant; and the more possible, as the orders to the Intendant may contain no disavowal of his construction of it. Under these circumstances, it will be incumbent on the French Government to hasten the orders necessary to guard against a prolongation of the evil, and the very serious consequences incident to it. It cannot be too much pressed, that the justice and friendship of France, in relation to our rights and interests on the Mississippi, will be the principal rules by which we shall measure her views respecting the United States, and by which the United States will shape the course of their future policy towards her.

We are still ignorant of the result of the armed negotiations between Great Britain and France. Should it be war, or should the uncertainty of the result be spun out, the crisis may be favorable to our just rights and our just objects; and the President assures himself that the proper use will be made of it. Mr. Monroe's arrival has not yet been mentioned in any accounts which have not been contradicted.

I have the honor, &c.

JAMES MADISON.

ROBERT R. LIVINGSTON, Esq.

Mr. Madison to Messrs. Livingston and Monroe.

GENTLEMEN: DEPARTMENT OF STATE, *May* 28, 1803.

Since my last, which was of April 18th, the tenor of our information from France and Great Britain renders a war between those Powers in the highest degree probable. It may be inferred, at the same time, from the information given by Mr. Livingston and Mr. King, that the importance of the United States is rising fast in the estimation both of the French and the British cabinets; and that Louisiana is as much a subject of solicitude with the latter, as it has been an object of acquisition with the former. The crisis presented by this jealous and hostile attitude of those rival Powers has, doubtless, been seen in its bearings on the arrangements contemplated in your commissions and instructions; and it is hoped, though we have not yet heard, that the arrival of Mr. Monroe will have taken place in time to give full advantage to the means of turning the actual state of things to the just benefit of the United States.

The solicitude of England, with respect to Louisiana, is sufficiently evinced by her controlling the French expedition from Holland to that country. But her views have been particularly unfolded to Mr. King by Mr. Addington, who frankly told him, that, in case a war should happen, it would, perhaps, be one of their first steps to occupy New Orleans; adding, that it would not be to keep it, for that England would not accept the country were all agreed to give it to her, but to prevent another Power from obtaining it, which, in his opinion, would be best effected by its belonging to the United States: and concluding with assurances that nothing should be done injurious to their interests. If the councils of France should be guided by half the wisdom which is here displayed on the part of her rival, your negotiations will be made very easy, and the result of them very satisfactory.

Although the immediate object of Great Britain in occupying New Orleans may be that of excluding France, and although her prudence may renounce the fallacious advantage of retaining it for herself, it is not to be presumed that she will yield it to the United States without endeavoring to make it the ground of some arrangement that will directly or indirectly draw them into her war, or of some important concessions in favor of her commerce, at the expense of our own. This consideration necessarily connects itself with the explanation and friendly assurances of Mr. Addington, and so far leaves in force the inducement to accomplish our object by an immediate bargain with France.

In forming this bargain, however, the prospect held out by the British minister, with the nature of the crisis itself, authorizes us to expect better terms than your original instructions allow.

The President thinks it will be ineligible, under such circumstances, that any convention whatever on the subject should be entered into, that will not secure to the United States the jurisdiction of a reasonable district on some convenient part of the bank of the Mississippi.

He is made the more anxious, also, by the manner in which the British Government has opened itself to our minister, as well as by other considerations, that as little concession as possible should be made in the terms with France, on points disagreeable to Great Britain, and particularly that the acknowledgment of the right of France as holding one shore of the Mississippi, to shut it against British vessels, should be avoided, if not essential to the attainment of the great objects we have in view, on terms otherwise highly expedient. It is desirable that such an acknowledgment should not even be admitted into the discussion.

The guaranty of the country beyond the Mississippi is another condition which it will be well to avoid if possible, not only for the reasons you already possess, but because it seems not improbable, from the communications of Mr. King, that Great Britain is meditating plans for the emancipation and independence of the whole of the American continent south of the United States, and consequently, that such a guaranty would not only be disagreeable to her, but embarrassing to the United States. Should war, indeed, precede your conventional arrangements with France, the guaranty, if admitted at all, must necessarily be suspended and limited in such a manner as to be applicable only to the state of things which may be fixed by a peace.

The proposed occupancy of New Orleans by Great Britain suggests a further precaution. Should possession be taken by her, and the preliminary sum of two millions, or any part of it, be paid to France, risks and disputes might ensue, which make it advisable to postpone the payment till possession shall be given to the United States; or, if this cannot be done, to obtain every possible security against eventual loss.

As the question may arise, how far, in a state of war, one of the parties can, of right, convey territory to a neutral Power, and thereby deprive its enemy of the chance of conquest incident to war, especially when the conquest may have been actually projected, it is thought proper to observe to you, 1st, That, in the present case, the project of peaceable acquisition by the United States originated prior to the war, and, consequently, before a project of conquest could have existed. 2d, That the right of a neutral to procure for itself, by a bona fide transaction, property of any sort, from a belligerent Power, ought not to be frustrated by the chance that a rightful conquest thereof might thereby be precluded. A contrary doctrine would sacrifice the just interests of peace to the unreasonable pretensions of war, and the positive rights of one nation to the possible rights of another. A restraint on the alienation of territory from a nation at war to a nation at peace, is imposed only in cases where the proceeding might have a collusive reference to the existence of the war, and might be calculated to save the property from danger, by placing it in secret trust, to be reconveyed on the return of peace. No objection of this sort can be made to the acquisitions we have in view. The measures taken on this subject were taken before the existence or the appearance of war: and they will be pursued as they were planned, with the bona fide purpose of vesting the acquisition forever in the United States.

With these observations you will be left to do the best you can, under all circumstances, for the interests of your country, keeping in mind that the rights we assert are clear; that the objects we pursue are just; and that you will be warranted in providing for both, by taking every fair advantage of emergencies.

For the course of information relating to the deposite at New Orleans, I refer you to my letter of the 25th instant, to Mr. Livingston.

I have the honor to be, &c. JAMES MADISON.

From the Minister of Exterior Relations to Mr. Livingston.

PARIS, *le* 11 *Prairial, an* 11.

MONSIEUR:

La déclaration publiée le 17ème Mai, par le Gouvernement Anglais; l'embargo mis dans les ports d'Angleterre sur le commerce des Français, des Bataves, et des autres alliés de la république; les lettres de marque distribuées aux armateurs, et autorisant la course contre le commerce de France; la prise, enfin, de deux bâtimens faite, à quelques lieues de Brest, par deux frégates Anglaises; ne permettent plus de mettre en doute les intentions du Gouvernement de la Grand Bretagne.

Le Premier Consul a attendu que rien ne manquait à la conviction de tous les Gouvernemens de l'Europe sur les dispositions hostiles de S. M. Britannique; pour manifester les siennes, ce n'est que de ce jour qu'il a fait connaitre la résolution que l'honneur lui impose de repousser une injuste agression.

En informant vôtre Gouvernement de cette détermination, monsieur, vous le trouverez, je n'en doute pas, déjà éclairci de la justice de nos droits par la publication faite en France de pièces de la discussion.

L'histoire des relations diplomatiques n'a jamais présenté, d'une part, de plus constans efforts pour conserver la paix; de l'autre, une recherche plus soutenu, de tous les moyens, de tous les prétextes, pour rallumer la guerre.

Le Gouvernement Anglais a fait ressortir ses torts par la publication même qu'il a ordonnée dans la vue de se justifier. Sa déclaration de guerre est en contradiction ouverte avec la correspondance officielle qui en est la suite. Cette déclaration donne, pour motif à la guerre, des réclamations qui ont toujours été ignorées du Gouvernement Français, et des griefs, enfin, qu'il ne connait que par les hostilités et le manifeste de l'Angleterre.

J'ai l'honneur de vous transmettre la copie exacte d'une des lettres de Lord Whitworth, dont l'original a été communiqué à vôtre excellence. Cette note renfermait une faux allégation, que le Gouvernement Anglais a cru devoir faire disparaitre dans la copie qu'il a fait mettre sous les yeux de son Parlement. En rapprochant cette copie falsifié de son texte, vôtre excellence a du se convaincre que le ministre Britannique n'avoit trouvait d'autre moyen de se soustraire au jugement de l'Europe, que celui de couvrir un mensonge officiel par une imposture Parlementaire.

Le Premier Consul se flatte que tous les Gouvernemens de l'Europe n'hesiteront pas à juger que la France a été constamment loyale dans une cause juste, et que, dans de prétentions, sans justice, de l'Angleterre, s'en volontairement mise dans l'obligation de n'avoir a faire que des démarches sans convenance, et des déclarations sans bonne foi.

Agréez, monsieur, l'assurance de ma haute considération.

CH. MAU. TALLEYRAND.

[TRANSLATION.]

The Minister of Exterior Relations to Mr. Livingston.

PARIS, 11*th Prairial*, *an* 11, (*May* 30, 1803.)

SIR:

The declaration published the 17th of May by the English Government; the embargo laid in the ports of England on the commerce of the French, and of the Batavians, and of other allies of the republic; the letters of marque distributed to privateers, authorizing them to cruise against the commerce of France; the capture, in fine, of two vessels, made some leagues from Brest, by two English frigates; permit a doubt to exist no longer concerning the intentions of the Government of Great Britain.

The First Consul is persuaded that nothing can be wanting to convince all the Governments of Europe of the hostile dispositions of His Britannic Majesty. To manifest his own, it is only this day he publishes the resolution, which honor extorts, to repulse an unjust aggression.

In informing your Government of this determination, you will find it, I have no doubt, already apprised of the justice of our claims by the publication, made in France, of the papers which this discussion has elicited.

The history of diplomatic relations has never presented, on the one side, more constant efforts to preserve peace; and, on the other, a more persevering desire, by any means and every pretext, to rekindle the war.

The English Government, even in the publication which has been ordered for the purpose of defending her conduct, has only made her injustice the more apparent. The declaration of war is in palpable contradiction of the official correspondence which follows it. This declaration assigns, as a motive for the war, demands of which the French Government had been always ignorant, and complaints of which it was only apprised by the hostilities and manifesto of England.

I have the honor to transmit to you an exact copy of one of the letters of Lord Whitworth, the original of which has been communicated to your excellency. This note contains a false allegation, which it has thought proper to expunge from the copy submitted to the British Parliament. By comparing this falsified copy with the original text, your excellency will be convinced that the British ministry could find no other means to escape the condemnation of Europe than that of concealing an official untruth under a Parliamentary imposture.

The First Consul flatters himself with the belief that the Governments of Europe will not hesitate to pronounce that France has been uniformly loyal in a just cause; and that, amidst the unjust pretensions of England, she has involuntarily imposed upon herself the necessity of adopting measures destitute of propriety, and making declarations in violation of good faith.

Accept, sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

Mr. Livingston to the Minister of Exterior Relations.

PARIS, *June* 2, 1803.

SIR:

I have received the letter you did me the honor to write to me on the 11th Prairial, announcing the measures that have unfortunately led to a rupture between France and Britain. I shall transmit the same, together with the papers that accompany it, to the Government of the United States, who will doubtless learn with much pain the circumstances that have rekindled the flame of war in Europe; and, while they sincerely regret that the measures pursued by the First Consul for the preservation of the peace which Europe owes to his humanity have failed of success, they will still hope that some expedient may be found for stopping the effusion of blood, and restoring that repose to Europe for which she so ardently sighs.

I pray your excellency to accept the assurances of my high consideration.

ROB. R. LIVINGSTON.

Extract:—Mr. Livingston to Mr. Madison.

PARIS, *June* 3, 1803.

SIR:

Mr. Monroe having undertaken to write our joint letter, I shall confine this to objects that do not relate to the treaty. I would only observe to you that, since the ratification, we have had a great deal of trouble with it, an opinion prevailing that we have made too favorable a bargain. My letter to the President and our joint letter will so fully explain this extraordinary business as to make any further observations unnecessary. I must, however, earnestly press you, if you think the object important, to get the ratification as soon as possible, and to do all that on our part remains to be done.

During this transaction, I have thought it improper to press any other business that might excite the smallest irritation.

How happy, my dear sir, are we to have concluded a treaty which will forever exclude us from the politics of this stormy quarter of the globe. I hope that you will not let it totally pass through your hands. My letter to the President will fully explain this. Some commercial arrangements might be advantageously proposed here in the present state of things, had I your instructions thereon and the necessary powers. This, too, is the moment to arrange the affair of extra duty with Batavia; and it might, I believe, be done here advantageously.

General Bernadotte, after waiting for weeks at Rochefort, has returned here, and I think it probable will not go out now, as his services may be required at home. Who will be appointed in his place I know not. Otto is still without office, but does not wish to be sent across the Atlantic.

I am, &c.

ROB. R. LIVINGSTON.

Honorable JAMES MADISON.

Messrs. Livingston and Monroe to Mr. Madison.

PARIS, *June* 7, 1803.

SIR:

We have the pleasure to forward to you by Mr. Jay, the ratification by the First Consul of the treaty and conventions which we concluded on the 30th April with this republic. We have heretofore forwarded to you the

original instruments, and two copies by different ways, the original by Havre, under the care of Mr. Hughes, who sailed about two weeks since, expressly charged with that object, and instructed to proceed with the greatest possible despatch after his arrival in the United States, to the city of Washington, to deliver the same in person; the second by the way of England, under the care of Mr. Reed, son of the late President of Pennsylvania, who was instructed to forward it immediately on his arrival in England, by the most prompt and safe opportunity that offered; the third by M. Derieux, who sailed from Bordeaux. We flatter ourselves that you will receive those several communications in the course of the present month, and this by Mr. Jay early in July, as it is highly important that our Government should receive and act on the subject of them as soon as possible. The command of the sum stipulated for the cession to be paid to this Government being an object with them, is a motive for despatch, but it is not the only one: a late occurrence, which is suggested by the enclosed letter from M. Marbois, and our reply to it, has excited an anxiety on that point, which it was hoped and believed would not have grown out of the transaction. Several circumstances of late, especially the delay in granting us a passport for Mr. Jay to carry the ratifications to the United States, surprised us. We thought we could discern some symptoms of discontent in the Government with the bargain it had made. The letter from M. Marbois left no doubt on that head. We are convinced that if the transaction was not complete, or was within the reach of the Government, that it would not take place even on terms very different from those stipulated. There is much reason to believe that this letter was written not solely for the purpose of manifesting a sentiment of regret at what had been done, but to create difficulties and embarrass the transaction in the execution of it. On receiving the letter, we found ourselves placed in a situation of peculiar embarrassment, from personal as well as public considerations, which was much increased by a conference with the Minister of Foreign Affairs. We learned from him that the Consul considered the ratification as under his control till the exchange took place, and that he might annex to it such conditions as appeared to him to be proper; that he claimed every act stipulated on the part of the United States, to be performed strictly within the terms specified, or, on failure, that the parties be restored to the state they were in if the treaties were never made. We asked him what had created any doubt on that point: he said that the clause in the article of the convention respecting the payment of sixty millions of francs to France, which was made dependent on the delivery of possession of the country to our commissary, might, by accident or other causes, become nugatory; the Spaniards might not surrender it at once, the British might take it, &c. We told him that these things were contemplated by the parties when the treaties were made and provided for; that we could not add a new article to the treaty, or explain any one in it, since it must be explained by itself only; that delays which proceeded from bad faith were those only for which our Government was responsible; that such as were unavoidable attached to them no blame, and could not affect the treaty: he replied that, after the example of our Government in the last treaty, the Consul might nevertheless annex a condition to the ratification explanatory of his sense of it, which he would do if we did not satisfy him either with respect to the prompt manner in which the treaty would be executed by our Government, or agree to expunge the terms in that convention which respected taking possession of the territory. We did not fail to remark that the treaty must stand as it was to be adopted, rejected, or modified, by the parties having a right to do the same, not by us. Thus the affair was at a stand for a day or two, and it remained for us to decide what course we had better take to put it in motion. After viewing it in all the lights in which it presented itself to our minds, we thought it best to reply to M. Marbois's letter in the terms of that which is enclosed, which you will perceive, even had we had the power to modify the instruments which were passed and beyond our reach, has in truth not affected them at all: the principles implied or insisted on in M. Marbois's letter are not admitted. We state that the Government is bound to execute the treaty and conventions in the terms specified, which is no more than what those instruments state, that our Government is answerable for neglect, and by strong and obvious implication for it only, which is the doctrine of the law of nations; and even in that case, that the right which arises from it of declaring how far the party injured will be bound by the treaty, is reciprocal, since, if our Government is willing to make compensation for the injury resulting from the delay, it may equally insist on it. The remaining sentence in the letter states that we confine ourselves to the letter of the treaty, be which it is intended to exclude the construction of either party as the rule of interpretation for the other: this letter was accepted as satisfactory, and will, we presume, remove every difficulty to the execution of the treaty. We expect the order for the surrender of the country to be addressed to M. Pichon, in Washington, to be executed by him or by some person to be appointed by him, will be delivered to us to-morrow, and that Mr. Jay will take it with him with the ratification the day after to-morrow: had we pursued any other course, it is not easy to decide what the effect might have been. The First Consul in the moment of chagrin at what he may consider a bad bargain, (but which we think a good one for him, since he had better have given it away than held it with the expense attending the establishment by troops, which might occasion variance and wars with us,) might have so compromitted himself in opposition to the measure, as to have made the transaction, if not finally defeat the treaties, a cause of future discontent between the two nations, instead of what was contemplated by it, the establishment of perpetual peace, by the removal of every existing cause of variance which could possibly disturb it. The most favorable result that we could have expected was, that the ratification would have been forwarded to M. Pichon, with advice of the dissatisfaction of the First Consul with the treaties, and his desire to extricate himself from them, and with instructions not to exchange the ratifications, if any circumstance on our part, under the most rigid construction, would justify it. It is possible this may be still done: nevertheless we think it important to put the engagements in a train of execution, without exciting ill temper, in the belief that every stipulation may be executed in time, and that should the contrary occur by any accident or misfortune, it was the surest mode to prevent discussion and disagreement in the sequel. It is our earnest wish and advice, if the treaties are approved by the President, that he convene the Congress to provide the funds for an immediate compliance with them. It is best to leave nothing to hazard. The surrender of the posts ought to precede the creation of the fund: but as there will be no doubt on that point after taking the necessary measures, we would consider it as done, and act accordingly. If we execute our part strictly within the terms specified, the transaction is at an end; there will be no obstacle from this quarter.

We shall send you a copy of Mr. Baring's contract for the stock with this Government, which will show in what manner the payment is to be made. A third of the whole debt is to be advanced to him in Washington; the remaining two-thirds to be sent here immediately. It was contended lately that these two-thirds must be received here in three months after the exchange of ratifications, but that seems to be given up at present, since the term transfer being technical, and applicable to an act to be performed in our treasury, and no where else, it is admitted that it must have been used by us in that sense only. Still it is much to be wished that the certificates might be sent here within the three months, if possible, and which it is presumed may be done if the Congress is immediately convened.

After the funds are created and transferred in our treasury, it is, by the spirit of the treaty, the duty of the French minister to forward them here. But it is much to be desired that our Government would undertake that service, and forward them by a public vessel, to guard against accidents which might create delay. Should it happen unfortunately that the ratification or creation of the public stock should be protracted beyond the terms specified, we think the cause should be made known by a public vessel, with the assurance of the President that every injury resulting from it should be repaired, and ample compensation made for it. We cannot too strongly impress an idea, if our conduct is approved, of the most prompt execution of the stipulations to be performed on our part, and of a course of proceeding which leaves nothing to chance, by giving any cause of complaint to this Government.

We are happy to have it in our power to assure you, that, on a thorough examination of the subject, we consider it incontrovertible that West Florida is comprised in the cession of Louisiana. West Florida was a part of Louisiana when it was in the hands of France, and it was not in her hands in any other situation. The transfer of the whole was on the same day, the 3d of November, 1762, that being the day of the secret convention between France and Spain, and of the preliminary articles of the treaty of the 10th February, 1763, between those Powers and Great Britain. The treaty of 1783 between Britain and Spain, by which the Floridas were ceded to the latter, put Louisiana in her hands in the same state it was in the hands of France: and the remaining or third member of the article in the treaty of St. Ildefonso between France and Spain, under which we claim, by referring to that of 1783, (as to that between Spain and the United States of 1795,) and of course in the above character, only tends to confirm this doctrine. We consider ourselves so strongly founded in this conclusion, that we are of opinion the

United States should act on it in all the measures relative to Louisiana, in the same manner as if West Florida was comprised within the island of New Orleans; or, lay to the west of the river Iberville, and to the lakes through which its waters pass to the ocean. Hence the acquisition becomes of proportionably greater value to the United States.

In compliance with the convention, which provides for the payment of the debts due by France to the citizens of the United States, we have organized a board of three commissioners, whose duty it is to revise the claims that are or may be liquidated by the suitable department of the French Government, according to the principles of that convention. We have appointed to this office Colonel John Mercer, Isaac C. Barnet, and William McClure, three of our citizens, who are not interested in any of the claims; and who, for ability, probity, and industry, we think very deserving of the trust. Their appointment is, of course, provisional only, subject to the approbation of the President, whose disposition on the subject you will be pleased to communicate. We shall advance them a sum, by a draft on our bankers in Holland, necessary for defraying their current expenses; leaving it to our Government to fix the rate of compensation.

We consider it important that the stock to be created should not be brought on the American market, nor, indeed, strictly speaking, on the European market; lest it might occasion a decline in the price, to the injury of our credit, and the injury of the holders of it here and there, as well as of France, with whom we have a joint interest in that respect. On that principle we promoted the disposal of it to the company of Baring and Hope, which took place according to a contract which is here enclosed.* We consider the arrangement as accomplishing the object referred to, and, in that light, as being advantageous to the United States. We were not competent judges of the price at which the stock ought to have sold, on which account, as well as that that was a question which belonged more peculiarly to the Government of France to attend to, we did not interfere further in the transaction than to communicate to the latter the best information that we possessed. We believe the contract is such as, while it gives to the company an adequate profit, and may prevent sales by compulsion, will prove more beneficial to France than any other disposition she could have made of it. It is a justice due to this house to remark, that the assurances which we received from it through its agent here, of the advances of money on the credit of the United States, in case we should require them in the execution of the trust reposed in us, inspired us with greater confidence than we might otherwise have felt, to make the engagements we have entered into.

We are, with great respect and esteem, your most obedient servants,

ROBT. R. LIVINGSTON,
JAS. MONROE.

P. S. Since writing the above, this Government has, of its own accord, restored our letter and retaken its own. It has also shown to us the instructions given to M. Pichon, which is substituted for the other measure, and amounts to this: that, on exchanging the ratifications, he is to declare they are void if the funds, &c. are not created by our Government in the term stipulated. It is possible that this Government is fearful that the British may take the territory, and we, in consequence, delay the payment; though we rather think that the hesitation and procedure arose from some sentiment relative to the contract. It is known that the Consul has said lately, that he thought the territory worth three or four hundred millions of livres. The above change is the effect of further reflection on the subject. It will be well, that some of these circumstances be known, and that nothing appear under the sanction of the Government or otherwise, if to be avoided, to excite an unpleasant sensation here: since a belief they stand well with us, which is their political motive in the transaction, will contribute greatly to reconcile the Government and nation to the cession, and promote its harmonious execution.

We have thought it advisable to employ Mr. Jay to bear the ratifications of the First Consul to our Government; to whom we have advanced fifty louis, and undertaken that his expenses shall be borne. The above sum to that object are credited in his account. The ratifications are addressed to M. Pichon, as is the order for the surrender of the territory. The whole, however, is under our —— to be delivered by Mr. Jay to you, and by you handed over to M. Pichon. The exchange of ratifications in the United States has been very favorable to us.

ROBT. R. LIVINGSTON,
JAS. MONROE.

[Enclosed in the preceding.]

[TRANSLATION.]

M. Marbois, Minister of the Public Treasury, to Messrs. Livingston and Monroe.

PARIS, 20*th Floreal*, 11*th year*, (9*th April*, 1803.)

GENTLEMEN:

The article of the convention relative to the payment which the United States have to make to France, in three months at most after the ratification of the treaties, and after the taking possession of Louisiana in the name of the United States, determines, in a precise manner, the longest terms agreed upon for the consummation of this affair. They are three months after the ratification and the taking of possession. It is proper to foresee, also, the case in which this business shall not be consummated within the interval above expressed, and as they are precise, it is well understood, that every extraordinary delay beyond the terms fixed places the contracting parties in the same situation as if they had never treated. These consequences of the stipulations agreed upon are just and necessary. It has, nevertheless, appeared useful to recall them to view, in consideration of the great distance which separates the parties who contract, and that no doubt may be raised upon this subject. I have, nevertheless, gentlemen, a sure guarantee that delays will be abridged, as far as circumstances will permit, in the good faith which has presided in this negotiation during its whole continuance; and I know by my own and old experience, that it will be consummated by the Government of the United States according to these same principles.

I pray you to accept the assurance of my distinguished consideration.

BARBE MARBOIS.

[Enclosed in the joint letter of 7th June.]

Messrs. Livingston and Monroe to M. Marbois, Minister of the Public Treasury.

PARIS, *June* 2, 1803.

SIR:

We have received the letter with which you have honored us, dated the 20th Floreal. Without entering into the principles it lays down, we are ready to admit, in order to remove, as far as depends on us, all difficulties, that it is the duty of the Government of the United States to carry into effect the provisions of the treaty and conventions in the times therein specified; and that any neglect on their part so to do, puts it in the power of the Government of France to declare how far it will, or it will not, be bound thereby, or entitle it to a compensation for the damage it may sustain. We will observe, sir, that, in making these concessions, we mean to confine ourselves to the letter of the treaty.

With the highest respect, &c.

ROBT. R. LIVINGSTON,
JAS. MONROE.

* It was not enclosed.

Extract:—Mr. Livingston to Mr. Madison.

PARIS, *June* 25, 1803.

SIR:

I have received your letter of the —— with the commissions, &c. Before this reaches you, you will have learned that they were unnecessary, as they respected our negotiations. You will find, by looking back to my letters, that I had long anticipated something of this kind, and I was greatly surprised when Mr. Monroe came without it. I, however, in all my conversations, held out the idea very strongly, and you will see it hinted at in my notes, and in my letters to J. B.; so that it doubtless has had a considerable operation in bringing this Government to the resolution they took, before the arrival of Mr. Monroe, to part with Louisiana. You will remember that in one of my letters I request you to set on foot a negotiation with Britain for ascertaining your northwestern boundary, but not to come to a conclusion. Indeed, as I was at that time endeavoring to excite an alarm here that should put us in possession of the country above the Arkansas, I own I have felt very much distressed that I never found any of these suggestions noticed or encouraged by our Government. But presuming always that they ultimately would be, I have carefully concealed my want of powers, and acted as decidedly as if I had possessed them: and to this, as well as to the firm attitude that our Government took, you may attribute the success of our negotiations. I hope that nothing will prevent your immediate ratification, without altering a syllable of the terms. If you wish any thing changed, ratify unconditionally and set on foot a new negotiation. Be persuaded that France is sick of the bargain; that Spain is much dissatisfied; and that the slightest pretence will lose you the treaty. Nothing has raised the reputation of our country in Europe so high as the conduct of our Government upon this occasion both at home and abroad. In pursuance of the wish expressed in your letter, Mr. Monroe proceeds, in a few days, as your resident minister plenipotentiary to England; for though it was doubtful whether this was or was not intended to depend upon the contingency mentioned therein, yet, as you were unrepresented there, and the war rendered some representation necessary, we thought it most conformable to the President's intentions that he should go.

I am, &c.

ROBERT R. LIVINGSTON.

Hon. JAMES MADISON, *Secretary of State.*

Mr. Madison to Mr. Livingston.

DEPARTMENT OF STATE, *July* 29, 1803.

SIR:

Since the date of my last, which was May 24, I have received your several letters of April 11, 13, 17, and May 12th. As they relate almost wholly to the subject which was happily terminated on the 30th of April, a particular answer is rendered unnecessary by that event, and by the answer which goes by this conveyance to the joint letter from yourself and Mr. Monroe of the 13th of May. It will only be observed first, that the difference in the diplomatic titles given to Mr. Monroe from that given to you, and which you understood to have ranked him above you, was the result merely of an error in the clerk, who copied the document, and which escaped attention when they were signed. It was not the intention of the President that any distinction of grade should be made between you. Indeed, according to the authority of Vattel, the characters of minister plenipotentiary and envoy extraordinary are precisely of the same grade; although it is said that the usage in France, particularly, does not correspond with this idea. Secondly, that the relation of the First Consul to the Italian republic received the compliment deemed sufficient in the answer to a note of M. Pichon, communicating the flag of that nation. A copy of the communication and of the answer are now enclosed.

The boundaries of Louisiana seem to be so imperfectly understood, and are of so much importance, that the President wishes them to be investigated whenever information is likely to be obtained. You will be pleased to attend particularly to this object as it relates to the Spanish possessions both on the west and on the east side of the Mississippi. The proofs countenancing our claim to a part of West Florida may be of immediate use in the negotiations which are to take place at Madrid. Should Mr. Monroe proceed thither, as is probable, and any such proofs should, after his departure, have come to your knowledge, you will of course have transmitted them to him.

You will find by our Gazettes that your memorial, drawn up about a year ago on the subject of Louisiana, has found its way into public circulation. The passages in it which strike at Great Britain have undergone some comment; and will probably be conveyed to the attention of that Government. The document appears to have been sent from Paris, where you will be able no doubt to trace the indiscretion to its author.

No answer has yet been received either from you or Mr. Monroe to the diplomatic arrangement for London and Paris. The importance of shortening the interval at the former, and preventing one at the latter, makes us anxious on this point. As your late letters have not repeated your intention of returning home this fall, it is hoped that the interesting scenes which have since supervened may reconcile you to a longer stay in Europe.

I have the honor to be, &c.

JAMES MADISON.

The Secretary of State to Messrs. Livingston and Monroe.

DEPARTMENT OF STATE, *July* 29, 1803.

GENTLEMEN:

Your despatches, including the treaty and two conventions signed with a French plenipotentiary, on the 30th of April, were safely delivered on the 14th inst. by Mr. Hughes, to whose care you had committed them.

In concurring with the disposition of the French Government to treat for the whole of Louisiana, although the western part of it was not embraced by your powers, you were justified by the solid reasons which you give for it; and I am charged by the President to express to you his entire approbation of your so doing.

This approbation is in no respect precluded by the silence of your commission and instructions. When these were made out, the object of the most sanguine was limited to the establishment of the Mississippi as our boundary. It was not presumed, that more could be sought by the United States, either with a chance of success, or perhaps without being suspected of a greedy ambition, than the island of New Orleans, and the two Floridas; it being little doubted that the latter was, or would be comprehended in the cession from Spain to France. To the acquisition of New Orleans and the Floridas, the provision was, therefore, accommodated. Nor was it to be supposed that in case the French Government should be willing to part with more than the territory on our side of the Mississippi, an arrangement with Spain for restoring to her the territory on the other side, would not be preferred to a sale of it to the United States. It might be added, that the ample views of the subject carried with him by Mr. Monroe, and the confidence felt that your judicious management would make the most of favorable occurrences, lessened the necessity of multiplying provisions for every turn which your negotiations might possibly take.

The effect of such considerations was diminished by no information, or just presumptions whatever. The note of Mr. Livingston, in particular, stating to the French Government the idea of ceding the Western country above the Arkansas, and communicated to this Department in his letter of the 29th January, was not received here till April 5, more than a month after the commission and instructions had been forwarded. And besides, that this project not only left with France the possession and jurisdiction of one bank of the Mississippi from its mouth to the Arkansas, but a part of West Florida, the whole of East Florida, and the harbors for ships of war in the Gulf of

Mexico. The letter enclosing the note, intimated that it had been treated by the French Government with a decided neglect. In truth, the communications in general between Mr. Livingston and the French Government, both of prior and subsequent date, manifested a repugnance to our views of purchase, which left no expectation of any arrangement with France, by which an extensive acquisition was to be made, unless in a favorable crisis, of which advantage should be taken. Such was thought to be the crisis which gave birth to the extraordinary commission in which you are joined. It consisted of the state of things produced by the breach of our deposite at New Orleans; the situation of the French islands, particularly the important island of St. Domingo; the distress of the French finances; the unsettled posture of Europe; the increasing jealousy between Great Britain and France; and the known aversion of the former to see the mouth of the Mississippi in the hands of the latter. These considerations, it was hoped, might so far open the eyes of France to her real interest, and her ears to the monitory truths which were conveyed to her through different channels, as to reconcile her to the establishment of the Mississippi as a natural boundary to the United States; or, at least, to some concessions which would justify our patiently waiting for a fuller accomplishment of our wishes, under auspicious events. The crisis relied on has derived peculiar force from the rapidity with which the complaints and questions between France and Great Britain ripened towards a rupture; and it is just ground for mutual and general felicitation that it has issued under your zealous exertions in the extensive acquisition beyond the Mississippi.

With respect to the terms on which the acquisition is made, there can be no doubt that the bargain will be regarded as on the whole highly advantageous. The pecuniary stipulations would have been more satisfactory, if they had departed less from the plan prescribed; and particularly if the two millions of dollars in cash, intended to reduce the price or hasten the delivery of possession, had been so applied, and the assumed payments to American claimants placed on the footing specified in the instructions. The unexpected weight of the draught now to be made on the Treasury will be sensibly felt by it, and may possibly be inconvenient in relation to other important objects.

The President has issued his proclamation convening Congress on the 17th of October, in order that the exchange of the ratifications may be made within the time limited. It is obvious that the exchange, to be within the time, must be made here, and not at Paris; and we infer from your letter of —— that the ratifications of the Chief Consul are to be transmitted hither with that view.

I only add the wish of the President, to know from you the understanding which prevailed in the negotiation with respect to the boundaries of Louisiana; and particularly the pretensions and proofs for carrying it to the river Perdido, or for including any lesser portion of West Florida.

With high respect and consideration, &c.

JAMES MADISON.

ROBERT R. LIVINGSTON and JAMES MONROE, Esqrs.

Extract:—Mr. Livingston to Mr. Madison.

PARIS, *July* 30, 1803.

SIR:

The house of Hope and Baring will to-morrow lodge with me the amount in bills of the stock they have purchased from the French Government, to be delivered by me according to the terms of their contract. If the treaty is ratified, I believe that this meets with no delay. Be assured that were the business to do again it would never be done. They think we have obtained an immense advantage over them. Though the appearance of war had some influence, it had much less than is ascribed to it. Whenever I mentioned its falling into the hands of England, they admitted the possibility, but insisted that, as it must abide the event of the war, they had no doubt of ultimate success; they would get it back with the British improvements. Mr. Skipwith still thinks that the American debt will fall much within the twenty millions for which we have engaged, and all the fair creditors be fully satisfied; the supposed debt being extremely exaggerated in America. Other nations, creditors of France, have, at present, no prospect of being paid.

I this day got a sight of a letter from the minister to M. Laussat, containing directions for giving up the country, and assigning the reasons for the cession. I was much flattered to find their reasons wholly drawn from the memoirs I had presented; and that the order for the cession was full, and contained no other description of the country than that which had been designated in the treaty of St. Ildefonso: so that I hope you have not failed to insist on West Florida.

I have also this day been favored with a duplicate of yours of the 26th [25th] of May. You observe that the promise I had obtained for payment was still short of justice. This may be true; but, sir, were you here, or indeed in any court in Europe, you would admit that obtaining of any thing that approaches to justice, required some skill and much good fortune. At present, I believe you may purchase millions of just debt of Denmark, Sweden, &c. here at fifty-seven in the pound, and purchase it dear enough; and I think that I may, without vanity, ascribe my obtaining the promise to what are here considered as very delicate measures; and to that promise, a ruling influence in procuring a treaty that I trust will be considered in America (as in Europe) among the most important and advantageous the United States ever made.

I have the honor, &c.

ROBERT R. LIVINGSTON.

Hon. JAMES MADISON.

Extract of a letter from James Monroe, Esq., Minister Plenipotentiary, London, to the Secretary of State, dated

AUGUST 15, 1803.

The enclosed, which I received last night from Paris by an American gentleman, containing important information, is, therefore, transmitted to you.

Extract of a letter from Mr. Fenwick to Mr. Monroe.

PARIS, *August* 5, 1803.

Since you left this city nothing very material has transpired. I know, however, from a faithful source, that the Spanish Government has made the most serious remonstrances against the cession of Louisiana, and their instructions here are to prevent its being carried into execution, if yet possible; and, if pecuniary arguments could succeed, the hands of their ministers are not tied on that score. This might be a useful hint, if our Senate should not disregard federal examples in modifying treaties, as it is now well understood, that, if any conditional clause of ratification should be introduced by the United States, this Government would profit of the circumstance to annul the whole work.

James Madison, Secretary of State, to Robert R. Livingston, minister to France.

DEPARTMENT OF STATE, *October* 6, 1803.

SIR:

My last was of July 29, written a few days before my departure for Virginia, whence I returned, as did the President, ten or twelve days ago. Your letters received since that date are of May 20, June 3, and 25, July 11, 12, and 30th.

In the reply to the communication made by the French Government on the subject of the war, you are charged by the President to express the deep regret felt by the United States at an event so afflicting to humanity. Deploring all the calamities with which it is pregnant, they devoutly wish that the benevolent considerations which pleaded in vain for a continuance of peace, may have their due effect in speedily restoring its blessings. Until this happy change shall take place, the French Government may be assured that the United States will forget none of the obligations which the laws of neutrality impose on them. Faithful to their character, they will pay to every belligerent right the respect which is due to it; but this duty will be performed in the confidence that the rights of the United States will be equally respected. The French Government will do justice to the frankness of this declaration, which is rendered the more proper by the irregularities of which too many examples have been heretofore experienced. The President does not permit himself to doubt that the French Government, consulting equally its own honor and the true interests of France, will guard, by effectual regulations, against every abuse under color of its authority, whether on the high seas or within French or foreign jurisdiction, which might disturb the commerce, or endanger the friendly relations so happily subsisting, and which the United States are so much disposed to cherish, between the two nations.

Your interposition against the arrêt of the 1st Messidor, an 11, was due to the just interests of your fellow citizens. It is to be hoped, that the strong views which you have presented of the subject, will lead the French Government to retract, or remodify, a measure not less unjust to foreigners, than injurious to the interests of France: regulations which, by their suddenness, ensnare those who could not possibly know them, and who meant to observe those naturally supposed to be in force, are, to all intents, retrospective—having the same effect, and violating the same privileges, as laws enacted subsequent to the cases to which they are applied. The necessity of leaving between the date and the operation of commercial regulations an interval sufficient to prevent surprise on distant adventurers, is, in general, too little regarded, and so far there may be room for common complaint; but when great and sudden changes are made, and above all, when legal forfeitures, as well as mercantile losses, are sustained, redress may fairly be claimed by the innocent sufferers. Admitting the public safety, which rarely happens, to require regulations of this sort, and the right of every Government to judge for itself of the occasions, it is still more reasonable that the losses should be repaired than that they should fall on the individuals innocently ensnared.

Your suggestion as to commercial arrangements of a general nature with France, at the present juncture, has received the attention of the President, but he has not decided that any instructions should be given you to institute negotiations for that purpose; especially as it is not known on what particular points, sufficiently advantageous to the United States, the French Government would be likely to enter into stipulations. Some obscurity still hangs on the extra duty exacted by the Batavian Government. The state of our information leaves it doubtful, whether the interests of the United States would be promoted by the change authorized by our treaty with that republic.

Mr. Pinckney will doubtless have communicated to you his conversation with Mr. Cevallos, in which the latter denied the right of France to alienate Louisiana to the United States, alleging a secret stipulation by France not to alienate. Two notes on the same subject have lately been presented here by the Marquis d'Yrujo. In the first, dated September 4, he enters a caveat against the right of France to alienate Louisiana, founding it on a declaration of the French ambassador at Madrid, in July, 1802, that France would never part with that territory; and affirming that on no other condition Spain would have ceded it to France. In the second note, dated September 27, it is urged, as an additional objection to the treaty between the United States and France, that the French Government had never completed the title of France, having failed to procure the stipulated recognition of the King of Etruria from Russia and Great Britain, which was a condition on which Spain agreed to cede the country to France. Copies of these notes of the Spanish minister here, with my answer, as also extracts from Mr. Pinckney's letter to me, and from a note of the Spanish minister at Madrid to him, are also enclosed.

From this proceeding on the part of Spain, as well as by accounts from Paris, it is not doubted, that whatever her views may be, in opposing our acquisition of Louisiana, she is soliciting the concurrence of the French Government. The interest alone which France manifestly has in giving effect to her engagement with the United States, seems to forbid apprehensions that she will listen to any entreaties or temptations which Spain may employ. As to Spain, it can hardly be conceived that she will, unsupported by France, persist in her remonstrances, much less that she will resist the cession to the United States by force.

The objections to the cession, advanced by Spain, are in fact too futile to weigh either with others or with herself. The promise made by the French ambassador, that no alienation should be made, formed no part of the treaty of retrocession to France; and, if it had, could have no effect on the purchase by the United States, which was made in good faith, without notice from Spain of any such condition, and even with sufficient evidence that no such condition existed. The objection drawn from the failure of the French Government to procure from other Powers an acknowledgment of the King of Etruria, is equally groundless. This stipulation was never communicated either to the public or to the United States, and could, therefore, be no bar to the contract made by them. It might be added, that, as the acknowledgment stipulated was, according to the words of the article, to precede possession by the King of Etruria, the overt possession by him was notice to the world that the conditions on which it depended had either been fulfilled or been waived. Finally, no particular Powers, whose acknowledgment was to be procured, are named in the article; and the existence of war between Great Britain and France, at the time of the stipulation, is a proof that the British acknowledgment, the want of which is now alleged as a breach of the treaty, could never have been in its contemplation.

But the conduct of the Spanish Government, both towards the United States and France, is a complete answer to every possible objection to the treaty between them. That Government well knew the wish of the United States to acquire certain territories which it had ceded to France, and that they were in negotiation with France on the subject: yet the slightest hint was never given that France had no right to alienate, or even that an alienation to the United States would be disagreeable to Spain. On the contrary, the minister of His Catholic Majesty, in an official note, bearing date May 4th last, gave information to the minister of the United States at Madrid, that "the entire province of Louisiana, with the limits it had when held by France, was retroceded to that Power, and that the United States might address themselves to the French Government in order to negotiate the acquisition of the territories which would suit their interest." Here is at once a formal and irrevocable recognition of the right as well of France to convey, as of the United States to receive, the territory which is the subject of the treaty between them. More than this cannot be required to silence, forever, the cavils of Spain at the titles of France, now vested in the United States: yet, for more than this, she may be referred to her own measures at New Orleans, preparatory to the delivery of possession to France; to the promulgation, under Spanish authority at that place, that Louisiana was retroceded, and to be delivered to France; and to the orders signed by His Catholic Majesty's own hand, now ready to be presented to the Government of Louisiana, for the delivery of the province to the person duly authorized by France to receive it.

In a word, the Spanish Government has interposed two objections only to the title conveyed to the United States by France. It is said, first, that the title in the United States is not good, because France was bound not to alienate. To this it is answered, that the Spanish Government itself referred the United States to France, as the Power capable, and the only Power capable, of conveying the territory in question. It is said, next, that the title in France herself was not good. To this, if the same answer were less decisive, the orders of the King of Spain for putting France into possession are an answer which admits of no reply.

The President has thought proper that this view of the subject should be transmitted to you; not doubting that you will make the proper use of it with the French Government, nor that that Government will feel the full force of its stipulated obligations to remove whatever difficulties Spain may interpose towards embarrassing a transaction, the complete fulfilment of which is as essential to the honor of France as it is important to the interests of both nations. In the mean time, we shall proceed in the arrangements for taking possession of the country ceded, as soon as possession shall be authorized; and it may be presumed, that the provisions depending on Congress will be sufficient to meet the discontents of Spain, in whatever form they may assume.

The United States have obtained, by just and honorable means, a clear title to a territory too valuable, in itself, and too important to their tranquillity and security, not to be effectually maintained. And they count on every positive concurrence, on the part of the French Government, which the occasion may demand from their friendship and their good faith.

The rightful limits of Louisiana are under investigation. It seems undeniable, from the present state of the evidence, that it extends eastwardly as far, at least, as the river Perdido; and there is little doubt that we shall make good both a western and northern extent highly satisfactory to us.

The considerations which led Mr. Monroe to decline his trip to Madrid, having the same weight with the President, the mission is suspended until other instructions shall be given, or until circumstances shall strongly invite negotiations at Madrid for completing the acquisition desired by the United States.

With great respect,

ROBT. R. LIVINGSTON, &c. JAMES MADISON.

P. S. *October* 14.—Since the above was written, I have received a third note from the Marquis d'Yrujo, in reply to my answer to his two preceding. A copy of it is herewith added. It requires no comment beyond what may be applicable in the above observations on his two first notes; being probably intended for little more than a proof of fidelity to his trust, and of a zeal recommending him to the favor of his sovereign.

It having been thought proper to communicate to M. Pichon, the French chargé d'affaires here, the tenor of the notes from the Marquis d'Yrujo, he has presented in a note, just received, a vindication of his Government, and its treaty with the United States, against the objections proceeding from the Spanish Government. A copy of this note is herewith enclosed.

[Enclosed in Mr. Madison's letter of October 6.]

[TRANSLATION.]

The Marquis de Yrujo to the Secretary of State, dated

PHILADELPHIA, *September* 4, 1803.

Through the medium of the ambassador of the King my master, in Paris, it has come to His Royal knowledge, that that Government has sold to that of the United States the province of Louisiana which His Majesty had retroceded to the French republic. This information has occasioned to the King my master no small surprise, seeing that the French Government had contracted with His Majesty the most solemn engagement never to alienate the said province. In order to convince the Government of the United States of the nature of these engagements, I take the liberty here to insert a paragraph of a note presented on the 22d July, 1802, by M. de St. Cyr, ambassador of the French republic, at Madrid, to the Secretary of State of His Majesty, as follows:

"His Catholic Majesty has appeared to wish that France should engage not to sell nor alienate, in any manner, the property and the enjoyment of Louisana. Its wish in this respect is perfectly conformable with the intentions of the Spanish Government; and its sole motive for entering therein was because it respected a possession which had constituted a part of the French territory. I am authorized to declare to you in the name of the First Consul that France will never alienate it."

The mere reading of the paragraph which precedes will convince you, as well as the President of the United States, that the sale of Louisiana which France has lately made is a manifest violation of the obligations contracted by her with His Catholic Majesty, and that France wants the powers to alienate the said province without the approbation of Spain, as is seen incontestably in the above recited of the ambassador St. Cyr, authorized by his Government.

The King my master charges me to inform this Government as soon as possible of this important circumstance; and, in compliance with His Royal will, I hasten to acquaint you therewith, in order that it may as soon as possible come to the knowledge of the President of the United States. God preserve you many years.

EL MARQUIS DE CASA YRUJO.

JAMES MADISON, Esq.

[Enclosed in Mr. Madison's letter of October 6.]

[TRANSLATION.]

From the Marquis de Yrujo, Minister Plenipotentiary of His Catholic Majesty, to the Secretary of State of the United States.

VICINITY OF PHILADELPHIA, *September* 27, 1803.

SIR:

On the 4th current I had the honor to intimate to you the extraordinary surprise with which the King my master had heard of the sale of Louisiana, made to the United States in contravention of the most solemn assurances given in writing to His Majesty by the ambassador of the French republic near his person, and with the consent and approbation of the First Consul. The King my master charges me again to remind the American Government, that the said French ambassador entered, in the name of his republic, into the positive engagement that France never would alienate Louisiana, and to observe to it that the sale of this province to the United States is founded in the violation of a promise so absolute that it ought to be respected; a promise, without which the King my master would, in no manner, have dispossessed himself of Louisiana. His Catholic Majesty entertains too good an opinion of the character of probity and good faith which the Government of the United States has known how to obtain so justly for itself, not to hope that it will suspend the ratification and effect of a treaty which rests on such a basis. There are other reasons no less powerful which come to the support of the decorum and respect which nations mutually owe each other. France acquired from the King my master the retrocession of Louisiana under obligations, whose entire fulfilment was absolutely necessary to give her the complete right over the said province; such was that of causing the King of Tuscany to be acknowledged by the Powers of Europe; but, until now, the French Government has not procured this acknowledgment promised and stipulated, either from the court of London or from that of St. Petersburg. Under such circumstances it is evident that the treaty of sale entered into between France and the United States does not give to the latter any right to acquire and claim Louisiana, and that the principles of justice as well as sound policy ought to recommend it to their Government not to meddle with engagements as contrary in reality to her true interest as they would be to good faith, and to their good correspondence with Spain.

Such are the sentiments which the King my master has ordered me to communicate to the President of the United states; and, having done it through you, I conclude, assuring you of my respect and consideration towards your person, and of my wishes that our Lord may preserve your life, &c.

EL MARQUIS DE CASA YRUJO.

JAMES MADISON, Esq.

[Enclosed in Mr. Madison's letter of October 6.]

From the Secretary of State to the Marquis of Casa Yrujo, Minister Plenipotentiary of His Catholic Majesty, dated

OCTOBER 4, 1803.

SIR:

I have duly received your two letters of the 4th and 27th ultimo, and have laid them before the President. The repugnance manifested in these communications, on the part of His Catholic Majesty, to the cession of

Louisiana lately made by the French republic to the United States, was as little expected as the objections to the transaction can avail against its solidity.

The United States have given unquestionable proofs to the Spanish Government and nation of their justice, their friendship, and their desire to maintain the best neighborhood; and the President confides too much in the reciprocity of these sentiments so repeatedly and so recently declared on the part of His Catholic Majesty, to have supposed that he would see with dissatisfaction a convenient acquisition by the United States of territories which were no longer to remain with Spain. With respect to the transaction itself, by which the United States have acquired Louisiana, it would be superfluous to say more in justification of its perfect validity than to refer to the official communication made by Mr. Cevallos to the minister plenipotentiary of the United States at Madrid, in a note dated on the 4th of May last. His words are: * "Por la retrocesion hecha á la Francia de la Luisiana, recobró esta Potencia dicha provincia con los limites con que la tubo, y salvos los derechos adquiridos por otras Potencias. *La de los Estados Unidos podra dirigirse al Gobierno Francés para negociar la adquisicion de territorios que convengan á su interes.*" Here is an explicit and positive recognition of the right of the United States and France to enter into the transaction which has taken place.

To these observations, which I have been charged by the President to make to you, I have only to add, sir, that his high respect for His Catholic Majesty, and his desire to cherish and strengthen the friendly sentiments happily subsisting between the two nations, will induce him to cause such explanations and representations to be made through the minister plenipotentiary of the United States at Madrid as cannot fail to reconcile His Catholic Majesty to an event so essentially connected with the respect which the United States owe to their character and their interest.

Be pleased, sir, to accept assurances of the high respect and consideration with which I have the honor to be, your most obedient, humble servant,

JAMES MADISON.

[TRANSLATION.]

Marquis d'Yrujo to the Secretary of State.

BALTIMORE, *October* 12, 1803.

SIR:

I have received your letter of the 4th current in reply to those which I had the honor to write you on the 4th and 27th of last month; and as, without entering into the examination of the powerful reasons which, in the name of the King my master, I unfolded therein, against the sale of Louisiana, you refer generally to the expediency which, as you inform me, the minister of the United States near His Majesty is to make at Madrid. I shall at present confine my observations to that which you are pleased to make to me, founded upon certain expressions which you cite to me from an official letter of the Secretary of State, of the King my master, to the above mentioned American minister in Spain. The expressions are the following:

"By the retrocession made to France of Louisiana, this Power has recovered the said province, with the limits which it had, and saving the rights acquired by other Powers. The United States can address themselves to the French Government to negotiate the acquisition of territory which may suit their interest."

These expressions, which you consider as an explicit and positive acknowledgment of the right of the United States and France to enter into the engagements which they afterwards did, do not, in my opinion, weaken in any manner the foundation and the force of the representations which I have had the honor to make to you against the sale of Louisiana.

There is an expression, among those you cite, which will suffice to refute the inference you draw from them, and it is that of *saving the rights acquired by other Powers.* Although the general form of this expression gives, in other respects, much latitude to its true meaning, it is indubitable that Spain having made the retrocession of Louisiana to France, under certain conditions and modifications, Spain has the *indubitable right* to claim their execution. Of this nature was the stipulation, that France should not sell nor alienate Louisiana in any manner whatever, and likewise the solemn and positive accession and declaration of the French Government adhering to the wishes of Spain; consequently this expression destroys the possibility that, according to existing circumstances, the French Government should possess the right of selling the said province, or that of the United States that of buying it.

There is another consideration still stronger, and which is not at all subject to the interpretation of equivocal expressions. It is evident that the engagement entered into by France with Spain not to alienate Louisiana in any manner, is much older in date than the official letter of Mr. Cevallos, whose expressions you are pleased to cite to me. In that letter those which you have scored, *that the United States can address themselves to the French Government to negotiate the acquisition of the territory which may suit their interest*, neither signify nor can signify any thing but a deference towards France, whose Government alone is now concerned to give a decisive answer to the requests of the United States, an answer analogous and conformable to the nature of the previous engagements which had been entered into with Spain. The repugnance of the Spanish Government may likewise be recognised to give to that of the United States a necessary negative at a time when it found itself united with them by bands of the most sincere friendship.

Other interpretations of equal force may be derived from the obvious meaning of the expressions of the official letter of the Secretary of State of His Majesty mentioned by you; but as those which I have just made are, in my opinion, conclusive, I abstain from entering upon others in detail, and I take the liberty to call to them the attention, as well of yourself, as of the President of the United States, in order that you may be more and more convinced of the reason and justice with which the King my master objects to the ratification of a treaty founded upon a manifest violation of the most solemn engagements entered into by France.

I avail myself, with pleasure, of this occasion to reiterate to you my wishes to serve you, and that our Lord would preserve your life, &c.

EL MARQUIS DE CASA YRUJO.

JAMES MADISON, Esq.

James Madison, Secretary of State, to Charles Pinckney, minister to Spain.

DEPARTMENT OF STATE, *October* 12, 1803.

Since my last, of July 29th, I have received your several letters of April 12th and 20th, May 2d, and 4th, June 12th, and July 18th.

Mr. Monroe has already informed you of his having proceeded to London, and of his intention not to repair to Madrid for the present. He will have since received instructions, given on a contrary supposition; but it is probable he will wait where he is for the determination of the President, on the reasons which kept him from proceeding to Madrid. I have just informed him that the President approves the course he has taken, so that he is not to

* TRANSLATION.—"By the retrocession made to France of Louisiana, this Power has recovered the said province with the limits which it had, and saving the rights acquired by other Powers. The United States can address themselves to the French Government to negotiate the acquisition of territories which may suit their interest."

be expected to join you at Madrid, until he shall be so instructed, or until a change of circumstances shall, in his view, clearly invite him to do so. My last letter to you, having provided for the case of Mr. Monroe's postponing this trip, I need not repeat the instructions and observations then made to you. I shall only add that it is more proper now than ever that you should not be in haste, without the concurrence of your colleague, to revive the negotiation jointly committed to you.

Among the reasons which weighed with the President, as well as with Mr. Monroe, against attempting, at present, to procure from the Spanish Government the residuum of territory desired by the United States, is the ill humor shown by that Government at the acquisition already made by them from France; and of which the language held to you by Mr. Cevallos, as communicated in your letter of ———, is a sufficient proof. A still fuller proof of the same fact is contained in three letters lately received from the Spanish minister here; copies of which, with my answer to the two first, are herewith enclosed. I enclose also a copy of a letter written on the occasion to Mr. Livingston, which was rendered more proper by the probability, as well as by information from Paris, that efforts would be used by Spain to draw the French Government into her views of frustrating the cession of Louisiana to the United States.

In these documents you will find the remarks by which the objections made by the Spanish Government to the treaty of cession between the United States and France are to be combated. The President thinks it proper that they should, without delay, be conveyed to the Spanish Government, either by a note from you or in conversation, as you may deem most expedient; and in a form and style best uniting the advantages of making that Government sensible of the absolute determination of the United States to maintain their right, with the propriety of avoiding undignified menace and unnecessary irritation.

The conduct of Spain, on this occasion, is such as was, in several views, little to be expected, and as is not readily explained. If her object be to extort Louisiana from France, as well as to prevent its transfer to the United States, it would seem that she must be emboldened by an understanding with some other very powerful quarter of Europe. If she hopes to prevail on France to break her engagement to the United States, and voluntarily restore Louisiana to herself, why has she so absurdly blended with the project the offensive communication of the perfidy which she charges on the First Consul? If it be her aim to prevent the execution of the treaty between the United States and France, in order to have for her neighbor the latter instead of the United States, it is not difficult to show that she mistakes the lesser for the greater danger against which she wishes to provide. Admitting, as she may possibly suppose, that Louisiana, as a French colony, would be less able, as well as less disposed, than the United States, to encroach on her southern possessions, and that it would be too much occupied with its own safety against the United States to turn its force on the other side against her possessions, still it is obvious, in the first place, that in proportion to the want of power in the French colony would be safe for Spain, compared with the power of the United States, the colony would be insufficient as a barrier against the United States; and, in the next place, that the very security which she provides would itself be a source of the greatest of all dangers she has to apprehend. The collisions between the United States and the French would lead to a contest, in which Great Britain would naturally join the former, and in which Spain would, of course, be on the side of the latter; and what becomes of Louisiana and the Spanish possessions beyond it, in a contest between Powers so marshalled? An easy and certain victim to the fleets of Great Britain and the land armies of this country. A combination of these forces was always, and justly, dreaded by both Spain and France. It was the danger which led both into our revolutionary war, and much inconsistency and weakness is chargeable on the projects of either which tend to re-unite, for the purposes of war, the power which has been divided. France, returning to her original policy, has wisely, by her late treaty with the United States, obviated a danger which could not have been very remote. Spain will be equally wise in following the example; and, by acquiescing in an arrangement which guards against an early danger of controversy between the United States, first with France, then with herself, and removes to a distant day the approximation of the American and Spanish settlements, provides in the best possible manner for the security of the latter, and for a lasting harmony with the United States. What is it that Spain dreads? She dreads, it is presumed, the growing power of this country, and the direction of it against her possessions within its reach. Can she annihilate this power? No. Can she sensibly retard its growth? No. Does not common prudence, then, advise her to conciliate, by every proof of friendship and confidence, the good will of a nation whose power is formidable to her; instead of yielding to the impulses of jealousy, and adopting obnoxious precautions which can have no other effect than to bring on, prematurely, the whole weight of the calamity which she fears? Reflections such as these may, perhaps, enter with some advantage into your communications with the Spanish Government; and, as far as they may be invited by favorable occasions, you will make that use of them.

Perhaps, after all this interposition of Spain, it may be intended merely to embarrass a measure which she does not hope to defeat, in order to obtain from France, or the United States, or both, concessions of some sort or other as the price of her acquiescence. As yet no indication is given that a resistance, by force, to the execution of the treaty is prepared or meditated. And if it should, the provisions depending on Congress, whose session will commence in two days, will, it may be presumed, be effectually adapted to such an event.

With sentiments, &c.

JAMES MADISON.

CHARLES PINCKNEY, Esq.

[TRANSLATION.]

M. Pichon to the Secretary of State, dated

GEORGETOWN, 21 *Vendemiaire*, 12*th year*, (*October* 14, 1803.)

The undersigned, to whom the Secretary of State has been pleased to communicate the proceedings of the minister of His Catholic Majesty to the United States, in relation to the treaty by which the French Republic has ceded Louisiana to the United States, thinks that he owes it to his own Government as well as to the American Government, to present to Mr. Madison the observations of which those proceedings, as far as they attack the rights and even the dignity of the French Government, have appeared to him susceptible.

The court of Madrid, according to the notes of its minister, considers the cession made by France to the United States as irregular and invalid: 1st. Because France had renounced the right of alienating the territories in question: 2d. Because the treay of St. Ildefonso, by which Spain retroceded those territories to France, has not been fully executed with respect to the acknowledgment of the King of Etruria, an acknowledgment which was one of the conditions of the retrocession to be fulfilled by France.

On the first point, the undersigned will observe, that the treaty of St. Ildefonso retrocedes Louisiana in full sovereignty, and without any limitation as to the future domain of France. To operate a limitation so essential as is that to which the court of Madrid appeals, nothing less would have been necessary, according to the nature of contracts in general and of treaties in particular, than a stipulation to this effect inserted in the treaty itself. A promise made fifteen months after the signature of this pact, and which might, on one side, have been yielded to the solicitations of one of the contracting parties, and, on the other, dictated by dispositions which might then exist in the other party, but which ulterior circumstances might have changed; such a promise cannot create in favor of Spain a right sufficient to enable her to charge with invalidity the transactions which have contravened it. The contrary pretension would certainly confound all the principles relative to the nature of obligations, and would destroy the solemnity of treaties. These general reasonings would receive a new force from the circumstances which are peculiar to different nations in relation to the subject of pacts; but the undersigned will not enter into the examination of these circumstances, under the persuasion that general principles sufficiently repel the pretensions of the court of Madrid.

On the second point, the objections of that court do not appear to the undersigned to be better founded. It is known that the King of Etruria was placed on the throne since the treaty of St. Ildefonso. We have a right to suppose that His Catholic Majesty was satisfied from that period with the measures and efforts employed by France, to cause the title of this Prince to be acknowledged by the other nations. It is at least what might be concluded from facts within the knowledge of all the world. In the treaty of Amiens, concluded on the 27th of March, 1802, Great Britain did not acknowledge the King of Etruria. Notwithstanding the silence of the court of London, on so solemn an occasion, that of Madrid ordered, in the month of October following, the delivery of the colony to France, as is proved by the Royal cedula, which the undersigned has received and exhibited to Mr. Madison; a cedula, which, as all the world knows, was long ago forwarded to the Captain General of Louisiana, who sent the Marquis of Casa Calvo to New Orleans, to superintend its execution.

To these conclusive observations, the undersigned will add, that the court of Madrid might have been informed in the course of the month of February last, by its minister to the United States, that the American Government was sending to Paris a minister extraordinary, in order to negotiate with the French Government the acquisition of New Orleans. If the court of Madrid had seen, in the object of this mission, an injury offered to its rights, what prevented it, after being thus early apprised, from informing thereof the minister of the United States at Paris, and the French Government, and from interposing, before the conclusion of the treaty, its intervention in a form adapted to suspend it? It does not appear that that court has taken, at Paris, any steps of this nature. To suppose it, would be inconsistent with the instructions which the undersigned has received from his Government, to accelerate as much as is in his power the execution of the treaty concluded on the 30th of April last, between the French republic and the United States.

The undersigned therefore hopes, that the American Government will not see in the proceedings of the court of Madrid, in order to obstruct the execution of this treaty, any thing but specious reasonings, and will proceed to its execution with the same earnestness which the French Government has employed on its part. The undersigned has received the necessary orders to exchange the ratifications, and to effect the taking of possession of Louisiana by France, and its transfer to the United States. He does not presume that the court of Madrid would wish to oppose the execution of the first orders. This supposition would be as contrary to its loyalty as to the dignity of the French Government. In any event, as soon as the ratifications are exchanged, the undersigned will proceed without delay, in concert with the commissary appointed for that purpose by the First Consul, to the delivery of the colony to the persons whom the President of the United States shall appoint to take possession of it.

The undersigned has the honor to request Mr. Madison to submit to the President of the United States the contents of this note, which is intended to prevent the imputations cast by the minister of Spain against the French Government, from remaining without reply. The undersigned prays, at the same time, Mr. Madison to receive the assurance of his respect and of his high consideration.

L. A. PICHON.

Extract:—James Madison, Secretary of State, to James Monroe.

SIR: DEPARTMENT OF STATE, *October* 24, 1803.

I have received from you letters of the following dates, written after your arrival in London, viz. the 19th, 20th, and 26th of July, and the 11th and 15th of August.

I have the pleasure to inform you that the treaty for Louisiana has been ratified in form, and is now before both Houses for the legislative provisions necessary with respect to the stock, to taking possession, and to governing the country. There is no doubt that they will be made by very large majorities.

It will be agreeable to you to know that the ratifications were exchanged by M. Pichon and myself, unshackled by any condition or modification whatever. The note from me to him, with his reply, of which copies are enclosed, will show the turn and issue of our consultations on that point.

The information from Paris, enclosed in your letter of the 15th of August, had been previously received here from the same source, and was followed by full proof of the discontent of Spain at the transfer of Louisiana to the United States, in a formal protest against it from the Spanish minister here, in pursuance of orders from his Government. You will find herewith copies of his correspondence with this Department, and of my letters to Mr. Livingston and Mr. Pinckney, and of M. Pichon's to me, on this subject; all of which were included in the communications to the Senate. These documents will put you in possession of all that has passed, as well as of the present posture of the business. It remains to be seen how far Spain will persist in her remonstrances, and how far she will add to them resistance by force. Should the latter course be taken, it can lead to nothing but a substitution of a forcible for a peaceable possession. Having now a clear and honest title, acquired in a mode pointed out by Spain herself, it will, without doubt, be maintained with a decision becoming our national character, and required by the importance of the object.

I have the honor, &c.

JAMES MADISON.

JAMES MONROE, Esq. &c. &c.

James Madison, Secretary of State, to Robert R. Livingston, minister to France.

SIR: DEPARTMENT OF STATE, *November* 9, 1803.

In my letter of the 22d ultimo, I mentioned to you that the exchange of the ratifications of the treaty and conventions with France had taken place here, unclogged with any condition or reserve. Congress have since passed an act to enable the President to take possession of the ceded territory, and to establish a temporary Government therein. Other acts have been passed for complying with the pecuniary stipulations of those instruments. The newspapers enclosed will inform you of these proceedings.

By the post which left this city for Natchez on Monday last, a joint and several commission was forwarded to Governor Claiborne and General Wilkinson, authorizing them to receive possession of and occupy those territories, and a separate commission to the former as temporary Governor. The possibility suggested, by recent circumstances, that delivery may be refused at New Orleans on the part of Spain, required that provision should be made as well for taking as receiving possession. Should force be necessary, Governor Claiborne and General Wilkinson will have to decide on the practicability of a *coup de main*, without waiting for the reinforcements, which will require time on our part, and admit of preparations on the other. The force provided for this object is to consist of the regular troops near at hand, as many of the militia as may be requisite, and can be drawn from the Mississippi territory, and as many volunteers from any quarter as can be picked up. To them will be added five hundred mounted militia from Tennessee, who, it is expected, will proceed to Natchez with the least possible delay.

M. Pichon has, in the strongest manner, pressed on M. Laussat, the French commissary appointed to deliver possession, the necessity of co-operating in these measures of compulsion, should they prove necessary by the refusal of the Spanish officers to comply without them.

On the 8th of October it was not known, and no indications had been exhibited at New Orleans, of a design, on the part of Spain, to refuse or oppose the surrender of the province to France, and thereby to us.

With high respect and consideration, &c.

JAMES MADISON.

ROBERT R. LIVINGSTON, Esq.

P. S.—The President approves of the individuals appointed as commissioners to liquidate the claims payable under the convention of the 30th of April last. But as it now appears that difficulties have arisen, and are likely to increase, respecting the true construction of that instrument, and especially as it seems more than possible that the twenty millions allotted for the payments to be made under it may be insufficient to cover all which, in equity, and by a sound interpretation, ought to be included, it is the desire of the President that you apply to the French Government for its consent to suspend the issuing of any drafts upon the awards which may be given, until it is ascertained whether the twenty millions be sufficient or not, and with a view to give time for such mutual explanations and arrangements, as may tend to effectuate the true spirit and object of the convention. In taking this step, you will refer yourself to the further communications you are to expect from your Government upon the subject; the application you may make upon it to that of France being intended only as a preliminary to a further development.

Mr. Livingston to Mr. Madison.

SIR: PARIS, *November* 15, 1803.

I have only within these few days been honored by your letter to me of the 29th July, by way of Hamburgh, together with one of the same date to Mr. Monroe, which I have sent to him by Mr. ——, an American gentleman, by the way of Holland; none more direct offering here, as the intercourse is very strictly forbidden. I shall make the communication you direct, of Mr. Pichon's note, and your reply, relative to the flag of the Italian republic. It appears to me, however, that this notice rather recommends than supersedes the propriety of a direct recognition of the First Consul, and the compliment of a commission, upon the principle I have mentioned; but of this the President is the best judge. The letters you have received since the date of yours, you will find have anticipated your direction relative to information on the subject of West Florida, since they refer to documents and historic facts that it will be easy to adduce. As I presume you will have no trouble on this ground, I do not think it necessary to put you to the expense of procuring original papers. Should it happen otherwise, I shall obey your orders; and if any negotiation is necessary at Madrid, I shall transmit to Mr. Pinckney all the proofs I can collect; and I think they will be too numerous to admit of doubt, especially taken in connexion with the letter of the Spanish minister to Mr. Pinckney, of which a copy has been transmitted to you. The moment is so favorable for taking possession of that country, that I hope it has not been neglected, even though a little force should be necessary to effect it. Your minister must find the means to justify it.

I have seen, as you mention, a publication of my memoir on the subject of Louisiana. But, as it is not an official paper, as it is not signed or delivered in my public character, I do not see that it can ever be noticed on this side of the water as such; besides that, there is nothing in it relative to Britain that has not been told them officially by our Government and by almost every maritime power in Europe, on the subject of their vexations at sea. Nor can they blame any endeavor of mine to effect the objects of my country, by such arguments as I thought would have weight here. It could hardly be expected that this paper could be secret: since, as I informed you at the time, I had delivered printed copies of it, not only to the First and other Consuls, and to the French ministers, but to most of those persons who I believed would be consulted upon the occasion. A few were also sent to America, with injunctions, however, not to publish them. I am very sorry a bad translation of it has found its way into the papers, though it may serve, in some measure, to justify the President's appointment of me, by showing that I had not been inattentive to the great interests of my country. The zeal of our friends often carries them too far. Some of them, finding that Mr. Monroe was appointed (through circumstances which you have done me the honor to explain, but which they could not know) with a higher grade than myself; seeing him only mentioned in the newspapers, as the acting minister; and finding some endeavor here to impress a belief that he was the principal agent in treating with France; it was natural that they should feel some mortification, and endeavor to do me the justice they know I was entitled to. This may apologise for, I mean not by it to justify, their imprudence. There is another on the part of Mr. Monroe's friends, which I should not mention but that it carries with it a circumstance for which I may be under the necessity of apologising to the President, should my private letter to Mr. Monroe have reached the United States: since it argues a difference of sentiment upon an important point, which I fear will be laid hold of by our common enemies. I have in my former letter informed you of M. Talleyrand's calling upon me previous to the arrival of Mr. Monroe, for a proposition for the whole of Louisiana; of his afterwards trifling with me, and telling me *that what he had said was unauthorized.* This circumstance, for which I have accounted to you in one of my letters, led me to think, though it afterwards appeared without reason, that some change had taken place in the determination which I knew the Consul had before taken to sell. I had just then received a line from Mr. Monroe, informing me of his arrival. I wrote to him a hasty answer, under the influence of ideas, excited by these prevarications of the minister, expressing the hope that he had brought information that New Orleans was in our possession: that I hoped our negotiation might be successful; but that, while I feared nothing but war would avail us any thing, I had paved the way for him. This letter is very imprudently shown and spoken of by Mr. Monroe's particular friends, as a proof that he had been the principal agent in the negotiation. So far, indeed, as it may tend to this object, it is of little moment; because facts and dates are too well known to be contradicted. For instance, it is known to every body here that the Consul had taken his resolution to sell previous to Mr. Monroe's arrival. It is a fact well known that M. Marbois was authorized, informally, by the First Consul, to treat with me before Mr. Monroe reached Paris: that he actually made me the very proposition we ultimately agreed to, before Mr. Monroe had seen a minister, except M. Marbois, for a moment, at my house, where he came to make the proposition: Mr. Monroe not having been presented to M. Talleyrand, to whom I introduced him the afternoon of the next day. All, then, that remained to negotiate, after his arrival, was a diminution of the price; and in this our joint mission was unfortunate; for we came up, as soon as Mr. Monroe's illness would suffer him to do business, after a few days d[illegible] to the minister's offers. There is no doubt that Mr. Monroe's talents and address would have enabled him, h[illegible]e been placed in my circumstances, to have effected what I have done. But he unfortunately came too late to do more than assent to the propositions that were made us, and to aid in reducing them to form. I think he has too much candor not to be displeased that his friends should publicly endeavor to depreciate me by speaking of a private letter, hastily written, under circumstances of irritation with which Mr. Monroe is fully acquainted; a letter, too, which may contribute in two ways to advance the views of the enemies of the administration. It is in this light only that it gives me pain. First, it shows that it was my sentiment, founded upon the knowledge I must have been supposed to possess of the temper of this court, and the state of things here, that we should have availed ourselves of the circumstance of the denial of the right of depôt to possess New Orleans. That this was my sentiment, I confess: and you have found, by my notes, that I labored to impress this Government with a belief that it would be done. And I have every reason to think that the treaty would have been concluded in March, had not M. Pichon's letter, at the moment, contradicted my suggestion on this subject. As the President's views have been happily more correct than mine; as he has effected, without this harsh measure, his great object; it certainly is not advisable to publish that we differed in sentiment; and introduce discussions on the comparative advantages that might be derived from the one or the other mode of proceeding. The next point in which the letter may do harm, is in authorizing an opinion, which the enemies of the administration are most zealous in promoting, viz. that no credit is due either to the President or his ministers, since the war only produced the measure. The war, doubtless, had its effect upon the First Consul: but it is equally true that every person he consulted had long before been convinced, and even the Consul's opinion shaken, and I will venture to say by my means, of the little advantage France would derive from the possession of that country; and he had even, as I have before informed you, through Joseph Bonaparte, given me assurances that such arrangements should be made as we should approve. The not selling was a sort of personal point of honor, particularly as he was bound by the express stipulation of his treaty with Spain not to do so. Nor, until he found himself hampered by another personal consideration, to wit: his promise to pay the American claims, which I had purposely published, could he bring himself to take the step which the prospect

of war and the spirited measures of our Government, among which I number the special mission of Mr. Monroe, gave him the strongest apology for doing; particularly as, in case of war, he had no other means of keeping his word with us. Thus, sir, you see that it is very difficult for the most prudent man to restrain the ill judged zeal of his friends; and I dare say that Mr. Monroe will as sincerely lament that of his friends, who, indeed, ought not to have seen a mere private letter, as I do that of the gentleman that I suspect to have occasioned the publication which you justly blame.

Having had the goodness, sir, to correct one of the errors of the clerk that gave me some cause of complaint, I must notice another which added to my doubts of success at the moment I wrote to Mr. Monroe. In the copy of our joint instructions which you had forwarded to me, the ultimatum that we were limited to was thirty millions, out of which the American claims were to be paid. Now, I was satisfied, that, if Mr. Monroe, on his arrival, should adhere to this, our prospect of success was not very great; since ten millions, in cash, to the Government was an object of but little moment. More might have been got from Spain by a transfer. On looking over, however, the original instructions, of which Mr. Monroe was the bearer, I found that we were authorized to give fifty millions for New Orleans and the Floridas: so that we could, without, too, an extraordinary assumption of powers, go to the price they expected for Louisiana.

I have applied to M. Talleyrand on the subject of East Florida, thinking the moment favorable for making the acquisition. I have endeavored to alarm him and Spain about the danger that will result to Spain and France if England takes possession of the ports on the Gulf; and I have obtained from him a positive promise that this Government shall aid any negotiation that may be set on foot for its purchase. I have written on this subject to Mr. Pinckney, and advised him to open his negotiation by reiterating this argument, and by making some offer of payment in American stocks. I shall inform Mr. Monroe of these circumstances, and will forward for him any instructions he may choose to send to Mr. Pinckney.

I am, &c.

ROB. R. LIVINGSTON.

The Honorable JAMES MADISON, *Secretary of State.*

Extract:—James Madison, Secretary of State, to Robert R. Livingston, minister to France.

DEPARTMENT OF STATE, *January* 31, 1804.

SIR:

The two last letters received from you bear date on the —— and 30th September; so that we have been now four months without hearing from you. The last from me to you was dated on the 16th day of January, giving you information of the transfer of Louisiana, on the 20th of December, by the French commissioner, M. Laussat, to Governor Claiborne and General Wilkinson, the commissioners appointed on the part of the United States to receive it. The letters subsequent to that date from Governor Claiborne, who is charged with the present administration of the ceded territory, show that the occupancy by our troops of the military posts on the island of New Orleans, and on the western side of the Mississppi, was in progression; and that the state of things, in other respects, was such as was to be expected from the predisposition of the bulk of the inhabitants, and the manifest advantages to which they have become entitled as citizens of the United States. A bill providing for the government of the territory has been some time under the deliberation of the Senate, but has not yet passed to the other branch of the Legislature. The enclosed copy shows the form in which it was introduced. Some alterations have already been made, and others may be presumed. The precise form in which it will pass cannot, therefore, be foreknown; and the less so as the peculiarities and difficulties of the case give rise to more than the ordinary differences of opinion. It is pretty certain that the provisions generally contemplated will leave the people of that district, for a while, without the organization of power dictated by the republican theory; but it is evident that a sudden transition to a condition so much in contrast with that in which their ideas and habits have been formed, would be as unacceptable and as little beneficial to them as it would be difficult for the Government of the United States. It may fairly be expected that every blessing of liberty will be extended to them as fast as they shall be prepared and disposed to receive it. In the mean time, the mild spirit in which the powers derived from the Government of the United States will, under its superintendence, be administered, the parental interest which it takes in the happiness of those adopted into the general family, and a scrupulous regard to the tenor and spirit of the treaty of cession, promise a continuance of that satisfaction among the people of Louisiana which has thus far shown itself. These observations are made that you may be the better enabled to give to the French Government the explanations and assurances due to its solicitude in behalf of a people whose destiny it has committed to the justice, the honor, and the policy of the United States.

It does not appear that, in the delivery of the province by the Spanish authorities to M. Laussat, any thing passed denoting its limits, either to the east, the west, or the north; nor was any step taken by M. Laussat, either whilst the province was in his hands, or at the time of his transferring it to ours, calculated to dispossess Spain of any part of the territory east of the Mississippi. On the contrary, in a private conference, he stated positively that no part of the Floridas was included in the eastern boundary; France having strenuously insisted to have it extended to the Mobile, which was peremptorily refused by Spain.

We learn, from Mr. Pinckney, that the Spanish Government holds the same language to him. To the declaration of M. Laussat, however, we can oppose that of the French minister, made to you, that Louisiana extended to the river Perdido; and to the Spanish Government, as well as to that of France, we can oppose the treaty of St. Ildefonso, and of September 30, 1803, interpreted by facts and fair inferences. The question with Spain will enter into the proceedings of Mr. Monroe, on his arrival at Madrid, whither he will be instructed to repair as soon as he shall have executed at London the instructions lately transmitted to him in relation to the impressment of seamen from American vessels, and several other points which call for just and stipulated arrangements between the two countries. As the question relates to the French Government, the President relies on your prudence and attention for availing yourself of the admission, by M. Marbois, that Louisiana extended to the river Perdido, and for keeping the weight of that Government in our scale against that of Spain. With respect to the western extent of Louisiana, M. Laussat held a language more satisfactory. He considered the Rio Bravo, or Del Norte, as far as the 30th degree of north latitude, as its true boundary on that side. The northern boundary, we have reason to believe, was settled between France and Great Britain by commissioners appointed under the treaty of Utrecht, who separated the British and French territories west of the Lake of the Woods by the 49th degree of latitude. In support of our just claims in all these cases, it is proper that no time should be lost in collecting the best proofs which can be obtained. This important object has already been recommended generally to your attention. It is particularly desirable that you should procure an authenticated copy of the commercial charter granted by Louis XIV. to Crozat, in 1712, which gives an outline to Louisiana favorable to our claims, at the same time that it is an evidence of the highest and most unexceptionable authority. A copy of this charter is annexed to the English translation of Joutel's journal of La Salle's last voyage, the French original not containing it. A record of the charter doubtless exists in the archives of the French Government; and it may be expected that an attested copy will not be refused to you. It is not improbable that the charter, or other documents relating to the Mississippi project, a few years after, may afford some light, and be attainable from the same source. The proceedings of the commissioners under the treaty of Utrecht will merit particular research, as they promise not only a favorable northern boundary, but as they will decide an important question involved in a convention of limits now depending between the United States and Great Britain. To these may be added whatever other documents may occur to your recollection or research, including maps, &c. If the secret treaty of Paris, in 1762-3, between France and Spain, and an entire copy of that of St. Ildefonso, in 1800, can be obtained, they may also be useful. An authentication of the precise date, at least, of the former is very important. You will be sensible of the propriety of putting Mr. Mon-

roe in possession of all the proofs and information which you may obtain. Should he take Paris in his way to Madrid, you will have the best of opportunities for the purpose.

In my letter of the 9th of November last I communicated the ideas entertained by the President, with respect to the pecuniary provision in the last convention with France in behalf of our citizens. It is presumed that you will have found no difficulty in obtaining the concurrence of the French Government in suspending drafts in favor of any until the claims of all shall have been ascertained. Should the sum of three million seven hundred and fifty thousand dollars be insufficient for the payment of all, as becomes daily more probable, the least that ought to be attempted will be an apportionment of it among them. Perhaps more than this may now be attended with great difficulty; although it is clear that the patronage of the Government of the United States is due, on prior considerations, more to some classes of the claimants than to others; to those, for example, whose property was wrongfully taken on the high seas by force, than to those who, by voluntary contracts, placed a confidence in the French Government, which was disappointed. It seems requisite, nevertheless, that some effort should be made in behalf of those whose claims were embraced by the convention of September 30th, 1800, and not provided for by that of April 30th, 1803.

With this view, the President thinks it proper that you should adjust with the French Government a provision for comprehending in the convention of 1803 the claims still remaining under the convention of 1800; and for apportioning the money payable at the treasury of the United States among the claimants under both; or, as the object next to be pursued, a provision for apportioning among the whole, the money so payable, and also the balance chargeable on France, according to the tenor of the last convention. Or, as the object next in order, a provision for apportioning, among the whole, the money payable at the treasury of the United States, leaving to the claimants under the last convention the balance from France to which it entitles them; or, lastly, a provision for apportioning among the claimants under the last convention the money so payable, instead of paying it in the order of settlement, or according to any other rule of preference.

The first arrangement takes for granted that France considers herself bound, notwithstanding the last convention, to satisfy all the claims provided for by the first convention, pretermitted by the last. The supposition is founded on several expressions and implications of its text, as the head of the fifth article, "all agreements," &c. and particularly in the closing words of article tenth; and, with respect to debts, the provision is express in article twelve. This construction is the more reasonable also, inasmuch as the reciprocal stipulations of the convention of 1800, in this particular, were carried into immediate and full effect on the part of the United States; and as a contrary construction would imply the relinquishment, without equivalent, of vested rights never formally contested by France.

Should France, however, be unlikely to admit her responsibility for the pretermitted claims, and there be danger that, by urging her responsibility at this time, an equitable modification of any sort may be rendered more difficult, it will be best to pass over the question for the present, taking care that no waiver be made which may either still further weaken the claims against France, or give color for turning them over against the United States.

Neither of the succeeding alternatives will increase the balance payable by France, nor is it contemplated that in these or any other modifications whatever, the treasury of the United States is to be made chargeable with more than three million seven hundred and fifty thousand dollars; or rather, with more than so much of that sum as would satisfy the debts to which it is subjected by the last convention.

The object of each of the proposed modifications is to distribute whatever is to be paid by the United States and by France among all the claimants, as well those omitted as those included in the last convention; and in such a manner that every claimant of both descriptions shall receive a fair proportion from the treasury of the United States, as well of the balance to be paid by France.

The claimants who were provided for in the last convention cannot justly complain of any arrangement that will replace on the same footing with themselves their fellow claimants left by the last, under the first convention, as being a retrospective measure working a disadvantage to them. The retrospective proceeding will be found to lie in the last convention, so far as it is disadvantageous in its operation, to those claiming under the first only. An act superseding a retrospective act is not itself retrospective. The effect of it is to restore and enforce the original rule of justice.

Should the French Government refuse to concur in any proposition that will restore the latitude given to claims as defined by the first convention, and which is narrowed and obscured by the text of the last, it will be proper to settle with the Government, if it can be done, such a construction of this text as will be most favorable to all just claims, particularly those for freights, indemnities, property put in requisition, and the separate property of individuals who are concerned in the disqualifying partnerships mentioned in the convention, which are said to be threatened with rejection by the Board at Paris. It is to be kept in view, however, that in case the whole sum of three million seven hundred and fifty thousand dollars should not be absorbed by the construction of the Board, the construction settled with the French Government is not to enlarge the sum to be paid by the treasury of the United States beyond that to which the treasury would be made liable by the construction of the Board.

It will occur to you that, in case the field of claims should be enlarged, the time for presenting and settling them ought to be lengthened. You can yourself best decide how far a prolongation of the time necessary for the claims now admissible before the Board may be necessary, and ought to be attempted.

There is reason to believe that not a few of this description are yet to be forwarded from this side the Atlantic.

I have the honor to be, &c.

JAMES MADISON.

ROBERT R. LIVINGSTON, ESQ.

James Madison, Secretary of State, to Robert R. Livingston, minister to France.

DEPARTMENT OF STATE, *March* 31, 1804.

SIR,

Since my acknowledgment of yours of October 20 and 31, I have received those of 2d, 15th, and 23d November and 11th December.

In mine of January 31, I informed you that Louisiana had been transferred by the French commissioner to our commissioners on the 20th of December; that nothing had officially passed on the occasion concerning the boundaries of the ceded territory; but that M. Laussat had confidentially signified that it did not comprehend any part of West Florida; adding, at the same time, that it extended westwardly to the Rio Bravo, otherwise called Rio del Norte. Orders were accordingly obtained from the Spanish authority for the delivery of all the posts on the west side of the Mississippi, as well as on the island of New Orleans. With respect to the posts in West Florida, orders for the delivery were neither offered to, nor demanded by, our commissioners. No instructions have, in fact, been ever given them to make the demand. This silence on the part of the Executive was deemed eligible; first, because it was foreseen that the demand would not only be rejected by the Spanish authority at New Orleans, which had, in an official publication, limited the cession westwardly by the Mississippi and the island of New Orleans, but it was apprehended, as has turned out, that the French commissioner might not be ready to support the demand, and might even be disposed to second the Spanish opposition to it; secondly, because, in the latter of these cases, a serious check would be given to our title; and, in either of them, a premature dilemma would result between an overt submission to the refusal, and a resort to force; thirdly, because mere silence would be no bar to a plea at any time that a delivery of a part, particularly of the seat of Government, was a virtual delivery of the whole; whilst, in the mean time, we could ascertain the views, and claim the interposition of the French Government, and avail ourselves of that and any other favorable circumstances for effecting an amicable adjustment of the question with the Government of Spain. In this state of things, it was deemed proper by Congress, in making the regulations necessary for the collection of revenue in the ceded territory, and guarding against the new danger of smuggling into the United States, through the channels opened by it, to include a provision for the case of West Florida, by vesting in the President a power which his discretion might accommodate to events. This provision is

contained in the eleventh, taken in connexion with the fourth section of the act herewith enclosed. The act had been many weeks depending in Congress, with these sections, word for word, in it; the bill had been printed as soon as reported by the committee, for the use of the members, and as two copies are, by a usage of politeness, always allotted for each foreign minister here, it must in all probability have been known to the Marquis d'Yrujo in an early stage of its progress. If it was not, it marks much less of that zealous vigilance over the concerns of his sovereign than he now makes the plea for his intemperate conduct. For some days even after the act was published in the gazette of this city, he was silent. At length, however, he called at the office of State, with the gazette in his hand, and entered into a very angry comment on the eleventh section, which was answered by remarks (some of which it would seem from his written allusion to them were not well understood) calculated to assuage his dissatisfaction with the law, as far as was consistent with a candid declaration to him that we considered all of West Florida, westward of the Perdido, as clearly ours by the treaty of April 30, 1803, and that of St. Ildefonso. The conversation ended, as might be inferred from his letters which followed it on the 7th and 17th instant, of which copies are herewith enclosed, as are also copies of my answer of ——, and of his reply of ——. You will see by this correspondence the footing on which a rudeness, which no Government can tolerate, has placed him with this Government, and the view of it which must be unavoidably conveyed to our minister at Madrid. It may be of some importance, also, that it be not misconceived where you are. But the correspondence is chiefly of importance as it suggests the earnestness with which Spain is likely to contest our construction of the treaties of cession, and the Spanish reasoning which will be employed against it; and, consequently, as it urges the expediency of cultivating the disposition of the French Government to take our side of the question. To this she is bound no less by sound policy than by a regard to right.

She is bound by the former, because the interest she has in our friendship interests her in the friendship between us and Spain, which cannot be maintained with full effect, if at all, without removing the sources of collision lurking under a neighborhood marked by such circumstances; and which, considering the relation between France and Spain, cannot be interrupted without endangering the friendly relations between the United States and France. A transfer from Spain to the United States of the territory claimed by the latter, or rather of the whole of both the Floridas on reasonable conditions, is, in fact, nothing more than a sequel and completion of the policy which led France into her own treaty of cession; and her discernment and her consistency are both pledges that she will view the subject in this light. Another pledge lies in the manifest interest which France has in the peaceable transfer of these Spanish possessions to the United States, as the only effectual security against their falling into the hands of Great Britain. Such an event would be certain in case of a rupture between Great Britain and Spain, and would be particularly disagreeable to France, whether Great Britain should retain the acquisition for the sake of the important harbors and other advantages belonging to it, or should make it the basis of some transaction with the United States, which, notwithstanding the good faith and fairness towards France, (which would doubtless be observed on our part,) might involve conditions too desirable to her enemy not to be disagreeable to herself. It even deserves consideration that the use which Great Britain could make of the territory in question, and the facility in seizing it, may become a casting motive with her to force Spain into war, contrary to the wishes and the policy of France.

The territory ceded to the United States is described in the words following: "the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, that it had when France possessed it, and such as it ought to be, according to the treaties subsequently passed between Spain and other States."

In expounding this three-fold description, the different forms used must be so understood as to give a meaning to each description, and to make the meaning of each coincide with that of the others.

The first form of description is a reference to the extent which Louisiana *now* has, in the hands of Spain. What is that extent, as determined by its eastern limits? It is not denied that the Perdido was once the eastern limit of Louisiana. It is not denied that the territory now possessed by Spain extends to the river Perdido. The river Perdido, we say, then, is the limit to the eastern extent of Louisiana ceded to the United States.

This construction gives an obvious and pertinent meaning to the term "now," and to the expression "in the hands of Spain," which can be found in no other construction. For a considerable time previous to the treaty of peace in 1783, between Great Britain and Spain, Louisiana, as in the hands of Spain, was limited eastwardly by the Mississippi, the Iberville, &c. The term "now," fixes its extent, as enlarged by that treaty, in contradistinction to the more limited extent in which Spain held it prior to that treaty. Again: the expression "in the hands or in the possession of Spain," fixes the same extent; because, the expression cannot relate to the extent which Spain, by her internal regulations, may have given to a particular district under the name of Louisiana; but evidently to the extent in which it was known to other nations, particularly to the nation in treaty with her; and in which it was relatively to other nations in her hands, and not in the hands of any other nation. It would be absurd to consider the expression, "in the hands of Spain," as relating not to others, but to herself and to her own regulations; for the territory of Louisiana in her hands must be equally so, and be the same, whether formed into one or twenty districts, or by whatever name or names it may be called by herself.

What may now be the extent of a provincial district under the name of Louisiana, according to the municipal arrangements of the Spanish Government, is not perfectly known. It is at least questionable, even whether these arrangements have not incorporated the portion of Louisiana acquired from Great Britain, with the western portion before belonging to Spain, under the same provincial Government. But, whether such be the fact or not, the construction of the treaty will be the same.

The next form of description refers to the extent which Lousiana had when possessed by France. What is this extent? It will be admitted, that for the whole period prior to the division of Louisiana between Spain and Great Britain in 1762–3, or at least from the adjustment of boundary between France and Spain in 1719, to that event, Louisiana extended, in the possession of France, to the river Perdido. Had the meaning, then, of the first description been less determinate, and had France been in possession of Louisiana at any time with less extent than to the Perdido, a reference to this primitive and long continued extent would be more natural and probable than to any other. But it happens that France never possessed Louisiana with less extent than to the Perdido; because, on the same day that she ceded a part to Spain, the residue was ceded to Great Britain; and, consequently, as long as she possessed Louisiana at all, she possessed it entire, that is, in its extent to the Perdido. It is true, that after the cession of Western Louisiana to Spain in the year 1762–3, the actual delivery of the territory by France was delayed for several years: but it can never be supposed, that a reference could be intended to this short period of delay, during which France held that portion of Louisiana without the eastern portion in the right of Spain only, not in her own right, when, in other words, she held it as the trustee of Spain; and, that a reference to such a possession for such a period should be intended, rather than a reference to the long possession of the whole territory in her own acknowledged right, prior to that period.

In the order of the French King in 1764, to Monsieur d'Abbadie, for the delivery of Western Louisiana to Spain, it is stated that the cession by France was on the 3d of November, and the acceptance by Spain, on the 13th of that month, leaving an interval of ten days. An anxiety to find a period, during which Louisiana, as limited by the Mississippi and the Iberville, was held by France in her own right, may possibly lead the Spanish Government to seize the pretext into which this momentary interval may be converted. But it will be a mere pretext. In the first place, it is probable that the treaty of cession to Spain, which is dated on the same day with that to Great Britain, was, like the latter, a preliminary treaty, consummated and confirmed by a definitive treaty, bearing the same date with the definitive treaty, including the cession to Great Britain; in which case, the time and effect of each cession would be the same, whether recurrence be had to the date of the preliminary or definitive treaties. In the next place, the cession by France to Spain was essentially made on the 3d of November, 1762, on which day, the same with that of the cession to Great Britain, the right passed away from France. The acceptance by Spain, ten days after, if necessary at all to perfect the deed, had relation to the date of the cession by France, and must have the same effect, and no other, as if Spain had signed the deed on the same day with France. This explanation, which rests on the soundest principles, nullifies the interval of ten days, so as to make the cession to Great Britain and Spain simultaneous, on the supposition that recurrence be had to the preliminary treaty, and not to the definitive treaty; and, consequently, establishes the fact that France, at no time, possessed Louisiana with less extent than to

the Perdido; the alienation and partition of the territory admitting no distinction of time. In the last place, conceding even that during an interval of ten days the right of Spain was incomplete, and was in transitu only from France; or, in another form of expression, that the right remained in France, subject to the eventual acceptance of Spain, is it possible to believe that a description, which must be presumed to aim at clearness and certainty, should refer for its purposes to so fugitive and equivocal a state of things, in preference to a state of things where the right and the possession of France were of long continuance, and susceptible of neither doubt nor controversy? It is impossible. And, consequently, the only possible construction which can be put on the second form of description coincides with the only rational construction that can be put on the first: making Louisiana of the same extent, that is to the river Perdido, both "as in the hands of Spain" and "as France possessed it."

The third and last description of Louisiana is in these words: "Such as it ought to be according to the treaties subsequently passed between Spain and other States."

This description may be considered as auxiliary to the two others, and is conclusive as an argument for comprehending within the cession of Spain, territory eastward of the Mississippi and the Iberville, and for extending the cession to the river Perdido.

The only treaties between Spain and other nations that affect the extent of Louisiana, as being subsequent to the possession of it by France, are, first, the treaty in 1783 between Spain and Great Britain; and, secondly, the treaty of 1795 between Spain and the United States.

The last of these treaties affects the extent of Louisiana, as in the hands of Spain, by defining the northern boundary of that part of it which lies east of the Mississippi and the Iberville; and the first affects the extent of Louisiana, by including in the cession from Great Britain to Spain, the territory between that river and the Perdido; and by giving to Louisiana, in consequence of that reunion of the eastern and western part, the same extent eastwardly in the hands of Spain as it had when France possessed it. Louisiana, then, as it ought to be, according to treaties of Spain subsequently to the possession by France, is limited by the line of demarcation settled with the United States, and forming a northern boundary, and is extended to the river Perdido as its eastern boundary.

This is not only the plain and necessary construction of the words, but is the only construction that can give a meaning to them. For they are without meaning, on the supposition that Louisiana, as in the hands of Spain, is limited by the Mississippi and the Iberville, since neither the one nor the other of those treaties have any relation to Louisiana that can affect its extent, but through their relation to the limits of that part of it which lies eastward of the Mississippi and the Iberville. Including this part, therefore, as we contend, within the extent of Louisiana, and a meaning is given to both as pertinent as it is important. Exclude this part, as Spain contends, from Louisiana, and no treaties exist to which the reference is applicable.

This deduction cannot be evaded, by pretending that the reference to subsequent treaties of Spain was meant to save the right of deposite, and other rights stipulated to the commerce of the United States by the treaty of 1795; first, because, although that may be an incidental object of the reference to that treaty, as was signified by His Catholic Majesty to the Government of the United States, yet the principal object of the reference is evidently the territorial *extent* of Louisiana; secondly, because the reference is to more than one treaty, to the treaty of 1783, as well as to that of 1795; and the treaty of 1783 can have no modifying effect whatever rendering it applicable, but on the supposition that Louisiana was considered as extending eastward of the Mississippi and the Iberville, into the territory ceded by that treaty to Spain.

In fine, the construction which we maintain gives, to every part of the description of the territory ceded to the United States a meaning clear in itself, and in harmony with every other part, and is no less conformable to facts, than it is founded on the ordinary use and analogy of the expressions. The construction urged by Spain gives, on the contrary, a meaning to the first description which is inconsistent with the very terms of it; it prefers in the second a meaning that is impossible or absurd; and it takes from the last all meaning whatever.

In confirmation of the meaning which extends Louisiana to the river Perdido, it may be regarded as most consistent with the object of the First Consul in the cession obtained by him from Spain. Every appearance, every circumstance, pronounces this to have been to give lustre to his administration, and to gratify a natural pride in his nation, by re-annexing to its domain possessions which had, without any sufficient considerations, been severed from it; and which, being in the hands of Spain, it was in the power of Spain to restore. Spain, on the other side, might be the less reluctant against the cession in this extent, as she would be only replaced by it within the original limits of her possessions, the territory east of the Perdido having been regained by her from Great Britain in the peace of 1783, and not included in the late cession.

It only remains to take notice of the argument derived from a criticism on the term "retrocede," by which the cession from Spain to France is expressed. The literal meaning of this term is said to be that Spain gives back to France what she received from France; and that as she received from France no more than the territory west of the Mississippi and the Iberville, that, and no more, could be given back by Spain.

Without denying that such a meaning, if uncontrolled by other terms, would have been properly expressed by the term "retrocede," it is sufficient, and more than sufficient, to observe, first, that with respect to France, the literal meaning is satisfied; France receiving back what she had before alienated; secondly, that with respect to Spain, not only the greater part of Louisiana had been confessedly received by her from France, and, consequently, was literally ceded back by Spain, as well as ceded back to France; but, with respect to the part in question, Spain might not unfairly be considered as ceding back to France what France had ceded to her; inasmuch as the cession of it to Great Britain was made for the benefit of Spain, to whom, on that account, Cuba was restored. The effect was precisely the same as if France had, in form, made the cession to Spain, and Spain had assigned it over to Great Britain; and the cession may the more aptly be considered as passing through Spain, as Spain herself was a party to the treaty by which it was conveyed to Great Britain. In this point of view, not only France received back what she had ceded, but Spain ceded back what she had received, and the etymology even of the term "retrocede" is satisfied. This view of the case is the more substantially just, as the territory in question passed from France to Great Britain, for the account of Spain, but passed from Great Britain into the hands of Spain in 1783, in consequence of a war to which Spain had contributed but little, compared with France, and in terminating which so favorably in this article for Spain, France had doubtless a preponderating influence. Thirdly, that if a course of proceeding might have existed to which the term "retrocede" would be more literally applicable, it may be equally said that there is no other particular term which would be more applicable to the whole proceeding, as it did exist. Fourthly. Lastly, that if this were not the case, a nice criticism on the etymology of a single term can be allowed no weight against a conclusion drawn from the clear meaning of every other term, and from the whole context.

In aid of these observations, I enclose herewith two papers, which have been drawn up with a view to trace and support our title to Louisiana in its extent to the Perdido. You will find in them also the grounds on which its western extent is maintainable against Spain, and its northern in relation to Great Britain.

On the whole, we reckon with much confidence on the obligations and dispositions of the French Government, to favor our object with Spain, and on your prudent exertions to strengthen our hold on both; not only in reference to the true construction of the treaty, but to our acquisition of the Spanish territory eastward of the Perdido, on convenient and equitable conditions.

You will find herewith enclosed copies of another correspondence, sufficiently explaining itself, with the Marquis d'Yrujo on the commerce from our ports to St. Domingo; to which is added a letter on that subject from M. Pichon. The ideas of the President, as well to the part which the true interest of France recommends to her, as to the part prescribed both to her and to the United States by the law of nations, were communicated in my letter of the 31st of January last. It is much to be desired that the French Government may enter into proper views on this subject.

With respect to the trade in articles not for war, there cannot be a doubt that the interest of France concurs with that of the United States. With respect to articles for war, it is, probably, the interest of all nations that they should be kept out of hands likely to make so bad a use of them. It is clear, at the same time, that the United States are bound by the law of nations to nothing further than to leave their offending citizens to the consequences of an

illicit trade; and it deserves serious consideration, how far their undertaking, at the instance of one Power, to enforce the law of nations, by prohibitory regulations to which they are not bound, may become an embarrassing precedent, and stimulate pretensions and complaints of other Powers. The French Government must be sensible, also, that prohibitions by one nation would have little effect, if others, including Great Britain, should not follow the example. It may be added, that the most which the United States could do in the case, short of prohibiting the export of contraband articles altogether, a measure doubtless beyond the expectations of France, would be to annex to the shipment of these articles a condition, that they should be delivered elsewhere than in St. Domingo, and that a regulation of this kind would readily be frustrated by a reshipment of the articles after delivery elsewhere, in the same or other vessels, in order to accomplish the forbidden destination. If, indeed, the prohibitory regulations, on the part of the United States, were the result of a stipulation, and recommended by an equivalent concession, the objection to it as an inconvenient precedent would be avoided. If, for example, France would agree to permit the trade with St. Domingo in all other articles, on condition that we would agree to prohibit contraband articles, no objection of that sort would lie against the arrangement; and the arrangement would, in itself, be so reasonable, on both sides, and so favorable, even to the people of St. Domingo, that the President authorizes you not only to make it, if you find it not improper, the subject of a frank conference with the French Government, but to put it into the form of a conventional regulation; or, should this be objectionable, the object may be attained, perhaps, by a tacit understanding between the two Governments, which may lead to the regulations on each side respectively necessary. Although a legal regulation, on our part, cannot be absolutely promised, otherwise than by a positive and mutual stipulation, yet, with a candid explanation of this constitutional circumstance, there can be little risk in inspiring the requisite confidence that the legislative authority here would interpose its sanction.

It is the more important that something should be done in this case, and done soon, as the pretext, founded upon the supposed illegality of any trade whatever with the negroes in St. Domingo, is multiplying depredations on our commerce, not only with that island, but with the West Indies generally, to a degree highly irritating, and which is laying the foundation for extensive claims and complaints on our part. You will not fail to state this fact to the French Government in its just importance; as an agreement for some such arrangement as is above suggested, or if that be disliked, as requiring such other interposition of that Government as will put an end to the evil.

It is represented that a part of the depredations are committed by French armed vessels without commissions, or with commissions from incompetent authorities. It appears, also, that these lawless proceedings are much connected with Spanish ports and subjects, probably Spanish officers, also, in the West Indies, particularly in the island of Cuba. So far as the responsibility of Spain may be involved, we shall not lose sight of it. An appeal, at the same time, to that of France, is as pressing as it is just; and you will please to make it in the manner best calculated to make it effectual.

In one of your letters you apprehend that the interest accruing from the delay of the commissioners at Paris may be disallowed by the French Government, and wish for instructions on the subject. I am glad to find, by later communications from Mr. Skipwith, that the apparent discontent at the delay had subsided. But whatever solicitude that Government might feel for despatch in liquidating the claims, it would be a palpable wrong to make a disappointment in that particular a pretext for refusing any stipulated part of the claims. In a legal point of view, the treaty could not be in force until mutually ratified; and every preparatory step taken for carrying it into effect, however opposite or useful, must be connected with legal questions arising under the treaty.

In other parts of your correspondence, you seem to have inferred, from some passage in mine, that I thought the ten millions of livres in cash, over which a discretion was given, ought to have been paid rather to France than to our creditor citizens. If the inference be just, my expressions must have been the more unfortunate as they so little accord with the original plan, communicated in the instructions to yourself and Mr. Monroe; the more unfortunate still, as they not only decide a question wrong, but a question which could never occur. The cash fund of ten millions was provided on the supposition, that, in a critical moment, and in a balance of considerations, the immediate payment of that sum, as a part of the bargain, might either tempt the French Government to enter into it, or to reduce the terms of it. If wanted for either of these purposes, it was to be paid to the French Government; if not wanted for either, it was made applicable to no other. The provision contemplated for the creditors had no reference to the fund of ten millions of livres; nor was it even contemplated that any other cash fund would be made applicable to their claims. It was supposed not unreasonable, that the ease of our treasury and the chance and means of purchasing the territory remaining to Spain eastward of the Mississippi, might be so far justly consulted as to put the indemnification of the claims against France on a like footing with that on which the indemnification of like claims against Great Britain had been put. And it was inferred, that such a modification of the payments would not only have fully satisfied the expectations of the creditors, but would have encountered no objections on the part of the French Government, who had no interest in the question, and who were precluded by all that had passed from urging ojections of any other sort.

Congress adjourned on Tuesday, the 27th of March, to the first Monday in November next. Copies of their laws will be forwarded to you, as soon as they issue from the press. For the present, I enclose herewith a list of all their acts, and copies of a few of them, particularly of the acts providing for the Government of Louisiana, and for the war in the Mediterranean. The former, it is hoped, will satisfy the French Government of the prudent and faithful regard of the Government of the United States to the interest and happiness of the people transferred into the American family.

I have the honor to be, &c.

JAMES MADISON.

ROBERT R. LIVINGSTON, Esq.

[The following is one of the memoirs, or essays, referred to in the preceding letter from Mr. Livingston to the President, dated March 12, and in Mr. Madison's letter to Mr. Livingston of May 25, 1803.]

Thoughts on the relative situation of France, Britain, and America, as commercial and maritime nations.

The power of France having reached a height that leaves her nothing to wish or to fear from the continental sovereignties of Europe, she might be considered as invulnerable if she could either divide the empire of the sea, or place it in so many hands as to command, by her influence, or the advantages of her commerce, such a portion of it as would, with her own maritime exertion, reduce her rival to terms of equality.

It is certain that, for the last century, she has not been able to effect this; although she has generally had the aid of Spain, and sometimes that of Holland. Spain and Holland are diminishing in naval importance. Holland, by the shallowness of her harbors, which do not, without great difficulty, admit ships of the great size which are every day found more necessary in battle; by the ruin of her colonies; by the cession of the island of Ceylon; by the derangement of the affairs of her commercial companies; and, above all, by the great comparative advantages enjoyed by Britain in the East Indies: add to these circumstances the loss of seamen which she has sustained by the war, and the disaffection which has led many of them into foreign service, together with the accumulated debt of the nation, and it will appear that little aid can be expected from her in case of a maritime war. It must, at least, be doubtful, if she quits that system of neutrality so congenial to her own situation, whether she will take part with Britain or France. The neighborhood and force of France must, indeed, make her tremble for her possessions in Europe; but still she may find resources against them in the aid of the neighboring nations. But where is she to look for support against the power of Britain, who, in the very commencement of a war, will strip her of every foreign possession, and cut off all her resources?

Spain is much in the same situation; her wealth and credit depend upon her colonies. One of the most valuable of these (part of Hispaniola) has been ceded to France; and the possession of Trinidad, which the great capital of England will soon render very important, will afford her such a point of support, in America, as must render the

situation of the remaining islands very precarious, and always keep Spain in pain for her colonies; this will lead her to seek for safety, as far as possible, in neutrality. But, at all events, the maritime power of Spain must diminish by the circumstances I have mentioned, and by the illicit trade which the possession of the Mosquito shore, the bay of Honduras, and the island of Trinidad, will enable the British to carry on in spite of the vigilance of Spain—a vigilance, too, which will be, in some sort, relaxed from the apprehension of provoking a war by too much rigor.

The naval power of Britain has, on the other hand, acquired an immense accession, during the last war, by that maritime superiority which gave protection to her commerce in every part of the world; by her conquests in the East Indies; and by the cession of Trinidad. But, besides the extent of her colonies, she has, in her peculiar position, an advantage unattainable by France. The fuel for all the great cities of England and Scotland is coal. Not less than three thousand and six hundred ships enter the port of London yearly, charged with this article alone. This, together with similar exports to other cities, and the situation of the capitals of England and Ireland, is a great nursery for seamen, which France wants; and makes a coasting trade, which is more than four-fold of all the coasting trade of France taken together, and is not less than the whole colonial trade of Britain, including the East Indies. It also has this peculiar advantage, that, in time of war, all the seamen employed in this commerce may be engaged in the navy with very little inconvenience, only by permitting (which is not done in peace) the coal to be brought to London by inland navigation.

It becomes, then, a serious question with France, how she is to counterbalance the advantages enjoyed by her rival? Shall she establish foreign colonies?

Unless she has a naval force capable of protecting them, these colonies must soon change their masters; and the whole expense employed in their support redound to the benefit of her rival. But admit that they could be secured by land forces. How trifling will all the seamen afforded by the commerce of those colonies be compared to the number produced by the colonies of Britain in the East and West Indies, America, Africa, and the Southern Ocean. But supposing them equal, still the seamen Britain derives from her coasting trade alone more than equal those drawn from all these sources.

Will France create a marine by becoming the carrier of other nations? This is impossible. Except Britain, there is no nation in Europe which cannot navigate their ships as cheap as France. The materials for ship building, and more especially naval stores and provisions, are dearer in France than in the Northern States, and labor is equally high?

Will she be her own carrier? If she will it must be by restrictions on the trade of other nations, who will certainly not submit to them without imposing similar restrictions on France. Suppose, for instance, she should say (as indeed she has said) that tobacco brought to France in foreign vessels shall pay an extra duty. How easy will it be for the country which grows tobacco to say that that article, exported in a French ship, shall pay a similar duty? And what will be the end of this commercial warfare? But that every nation shall carry its own produce, and let their ships return home empty, if the partial duties are high? Thus, if France imposes a high duty on tobacco, and America a high duty on wines and other articles of France in foreign bottoms, the tobacco must be brought in French ships, and charged with a double expense of freight, because they can carry out no cargo to pay the expense and insurance of the ships on their outward-bound voyage. Of course this expense must fall on the consumer of tobacco; and for what? Why, in order that ten French seamen may be employed rather than ten foreigners. A ship of three hundred tons must make, in order to clear herself, seventy thousand francs a year. The whole of this, with insurance out and home, must be charged on the tobacco imported, in the case I mention; whereas only the one-half would be paid if she could take out a cargo. Thus, then, the consumer of tobacco in France pays, annually, to the maintenance of ten seamen, thirty-five thousand francs, or three thousand five hundred for every seaman; and this, too, without being of the smallest advantage to that class of people whose wages are not thereby at all increased. This is purchasing sailors at such a rate as I believe no nation in the world would ever long submit to. But should the same reasoning be applied to the manufactures and wines of France, and she, by attempting to be her own carrier, charge them with a double freight, it must necessarily follow that, with respect to every article which other nations can supply, she would soon lose the carriage by losing the sale; for if a foreign ship can carry out a cargo to Lisbon, and take back one from thence charged with no extra duty, the wine and oil of Lisbon will be preferred, though of inferior quality, to those of France. Thus, whatever she gives to her seamen by discouraging a free trade, she takes from her agriculture and manufactures: and yet her agriculture and manufactures can alone form the basis of her commerce. In time of war, unless this operation can really create a naval power, sufficient to protect her commerce, (of which there is not the smallest prospect,) foreigners having been driven from her ports by this operation, she must cease to trade altogether. Thus, the sources of her wealth will be cut off at the moment she most needs them.

What, then, is to be done? Is France to abandon her colonies as weak points in her system, which she cannot maintain? Is she to suffer a tyranny to be established upon the ocean, which shall forever hold her in check? Is she to allow such an accumulation of wealth as will forever enable her rival to interfere in the affairs of the continent and provoke new combinations against her? I answer these questions by returning to my first position.

She must place the empire of the sea in more hands, without attempting to grasp it alone. She must make it the interest of those who aid her in the attainment of a considerable portion of it to maintain her superiority. Spain and Holland are not to be neglected; though, as I have stated, they will, in the situation in which their colonies are now placed, incline to neutrality; and if otherwise, their aid would be insufficient during a war. The United States have physical advantages which, like those of Britain, must necessarily lead them to be a considerable maritime nation. The mass of their population lies upon the ocean, and upon large rivers that are navigable for sea vessels to the interior of the country, which is generally rough and hilly between the rivers. Hence it happens that there is little land carriage in America. If merchandises are to be transported from one State to another, it is by water; and that not solely by rivers or canals, but by descending one river, passing out into the ocean, and ascending another. This circumstance, together with the variance between the productions of the Southern and Northern States, which promotes much intercourse, must give to them a nursery of seamen in their coasting trade, equal to that which Britain enjoys in her coal trade: to which a growing coal trade, from mines found in the banks of the James river, and in other places, will be added, when wood diminishes, or when the policy of the country shall charge the importation of British coal with heavy duties. Our large cities consume, even now, very considerable quantities of this article. The advantage also that the United States enjoy in the cheapness of the articles for building, and, above all, for victualling their ships, more than counterbalances the high price given to their seamen. Their situation relative to the cod and whale fisheries also calls numbers to a maritime life.

The islands, to whomsoever they may belong, from the various accidents to which they are liable, and the difficulty of supplying them from Europe, must receive their provision and timber from the United States; and, if they choose, they can compel them to receive them only in American bottoms. Were the Powers of Europe, therefore, to lay the severest restrictions on her commerce, the United States would still be a very important commercial nation.

But who is interested in preventing their rapid rise to the height to which their position and their destinies lead them? No nation upon earth; unless Britain should one day fear them more as rivals than she will value them as customers. While they confine themselves to the production of raw materials, they must prove the best market for such nations as can afford them manufactures, wine, oil, and fruit, in return. Weak, indeed, would that nation be who should treat them with neglect, or drive them, by ill-judged laws, from their harbors. Britain is so sensible of this, that she has never attempted to prevent, by partial duties, the American vessels from carrying their *own* produce to them, or their fabrics back in return. She well knows that every such measure would have a tendency to drive them from her harbors, to which she so much wishes to invite them, that she even grants them a right, by treaty, to enter all her ports in the East Indies.

While Britain refuses to naturalize American ships she never will be able to navigate (because she cannot build, fit, or victual) her ships so cheap as those of America. It must follow, therefore, that the trade of Britain to and from the United States will be chiefly carried on by American ships; and, as her articles are very bulky, a great

number will be employed. There exists, indeed, at this moment a circumstance which will give them considerable advantages, unless France should instantly step in and prevent its operation.

The advanced price of living in Britain, owing to the debt contracted by the war, has naturally raised that of labor; while the peace, which gives more activity to her commerce, will make this operate upon seamen's wages, and thus give some check to her carrying trade. On the other hand, this diminution of the trade of the United States will throw at least twenty-five thousand seamen out of employ. These will, from their habits and manners, naturally pass into the service of Britain, and thus enable her to keep down wages and maintain her advantages.

It is obvious that it is much the interest of France to prevent this; and more particularly when it is considered that all these men are skilful mariners, and many of them experienced fishermen; who may transplant the whale fishery to Britain, and thus add a new source to her naval power. The efforts of France to establish a fishery will be of little avail against this; nor will it ever be found practicable to render this a flourishing branch of business, except by the aid of American fishermen; and even then by a charge upon a material useful in their manufactures more than equivalent to the value of the fishery.

I shall be asked how long it will take to make the United States a naval power equal to Britain? I answer, that a country which possesses timber, naval stores, provisions, and men accustomed, by an active commerce, to a sea life; a country whose credit is unblemished, and who has no debt but what she can instantly discharge; is certainly so far equal as her numbers are equal to one who has no advantage over her in any of these circumstances, and is inferior in others. It will be allowed, too, that, according to every rational probability, their numbers will be equal to those of the British isles in twenty years, and their wealth not inferior. But it is by no means necessary to carry the navy of America to the extent of that of Britain, in order to render her a useful ally, or a respectable enemy. The trade of Britain with her islands, and the Indies, must approach the coasts of America. Her privateers could, even without protection from a navy, destroy a great proportion of this. With a navy of thirty ships of the line, and a proportionate number of frigates, which need never be more than one week's sail from their own shores, such protection would be given to smaller vessels as would enable them to capture great part of their trade, unless protected by large fleets. For this purpose one-half of the British navy must be kept at vast expense, at a great distance from home, and in an unhealthy climate; while all the expenditures of the American navy would be made in their own ports. It will certainly admit of little doubt, that a nation who has no frontier to defend, who has six hundred thousand armed men at home, and who has no debts, need only will it to have a fleet of the size I mention. And it is very certain that such a fleet, by acting always together, would compel any European nation greatly to weaken her naval force in her own seas. No convoy could be less than the whole of the American fleet; nor could a smaller force be left in the islands; so that thirty ships in America would demand for convoys, out and in, and the stations in the islands, not less than ninety ships of equal force. What power could Britain oppose to this force, combined with an equal number of French ships, with the advantage of all the harbors of the United States? What refuge would she have against storms and accidental separation when on the American coast? And how, under these disadvantages, would she maintain her superiority in Europe? I infer, from this reasoning, that it is the true interest of France to promote the commerce and maritime force of America; and, at the same time, to interest her in the extension of the commerce of France. I do not mean to say that this force will always operate directly in favor of France. This will depend upon a variety of political circumstances that cannot be foreseen or controlled. The first interest of America will doubtless lead her to a state of neutrality. But such has always been the overbearing spirit of Britain at sea, that it is highly probable occurrences will arise which may compel America, when she feels her strength, to enter into a war to preserve her commercial rights from violation. But should she maintain her neutrality, she will indirectly serve France, if the plan I suggest is adopted: 1st, By carrying on her commerce for her during a war; 2d, By employing a great number of seamen who would otherwise go into the service of Britain; 3d, By seizing upon many branches of trade from which Britain derives her wealth, and which, when once diverted, may never return. But my plan embraces not only an extension of the American maritime force, but that of France, by an easy and natural operation, without imposing a burthen upon, but in fact giving the highest encouragement to, her manufactures and agriculture. It consists in a treaty of commerce which shall put the trade and shipping of both countries upon the most perfect equality. That is to say, the ships of France shall be admitted into the ports of America, paying a duty of six per cent. ad valorem only on all articles, and the same tonnage duty as the American ships pay. The American ships shall be admitted into all the ports of France and her colonies, upon the same terms, provided that they should never carry to the colonies any thing but the produce of their own country or of France; that the colonial products in American ships should be subject to every regulation as to their being landed in France, as they are in French ships.

The first advantage of this treaty would be, if immediately entered into, the saving to America twenty-five thousand seamen, who will, without this encouragement, go into the British service; and thus increase not only her relative but her actual force: 2d, The sale of a number of her ships to France, which will now become a dead capital in her hands: 3d, The preserving to the United States their fisheries, which may be otherwise greatly affected by the removal of their seamen to Britain. In these objects France has a mutual advantage; and I will venture to say, that she never acts more inconsistently with her own interest, or more conformably with that of Britain, than when, under the idea of raising a fishery at home, while she has not seamen or shipping for her other branches of commerce, she endeavors to discourage the fisheries of America, which, from a variety of physical causes, can alone keep them from falling into the hands of the English. France should bear in mind, that, were her colonies as extensive as those of Britain; were her trade in Europe and America equal to hers; yet, for the reasons I have mentioned, arising from the geographical and physical situation of England and Ireland, she would not possess more than two-thirds of the number of seamen, those circumstances alone producing nearly as many as all the other trade of Britain. France can only increase her relative strength by diminishing that of her rival, and keeping her from drawing from other sources new means of power.

France may injure, and perhaps ruin, the whale fishery in America; but England, only, will profit by it. The first war will break up her establishments; and the Americans in her service will return with their wealth into their own country.

The interest that France will have in this treaty will be much more extensive: 1st, The raising up a new marine Power; 2d, Giving that Power such an interest in her prosperity, as must not only keep it from being inimical to, but, on the contrary, frequently connected with her in hostile operations; 3d, The transfer of ships to France; 4th, The increase of French seamen: for as the wages of seamen are lower in France than in America, and must continue to be so, on account of the demand for men in a new country, while, on the other hand, ships, and the provisions for their outfit, are cheaper in America, French merchants, by fitting many of these vessels, and navigating them with French seamen, will be able to sail cheaper than the Americans themselves, and thus increase the number of their seamen. These seamen, in case of war, will be drawn into the navy; while their places will be supplied, during the war, at somewhat more expense, by Americans, without injuring their commerce. In the cod fishery, France will derive clear and obvious advantages from the American ports for her outfits, &c.

But even these advantages will be inferior to that derived from the increase of the commerce of exchange, by the removal of restrictions; an operation which, I will venture to say, will at least double the whole commerce and number of seamen employed by France, and quadruple it with respect to her navigation with America. It should also be considered that this works doubly in favor of France, 1st, So far as it is a direct advantage to her maritime power; 2d, So far as it subtracts from the navigation of England.

The benefits that will result to the manufacturers of France from this operation are incalculable: 1st, The raw materials will be purchased on easy terms to the manufacturer; 2d, The intercourse that this system will establish between the two nations will make their fabrics known, and render them fashionable in America; will draw off their custom from England, whose fabrics will continue to be charged with a heavy duty, unless, receding from her navigation act, she purchases an exemption.

Useful as this act may have been in its commencement, when the Dutch were the general carriers and rivals of Britain, and while the nations of Europe were ignorant of commercial principles, very enlightened statesmen now see many inconveniences in it to the general commerce of England; nor is there any thing necessary to its entire

overthrow, but for other nations to pass similar laws, so far as respect Britain, while their trade is put upon a liberal footing with regard to other nations. This, by promoting their own commerce of exchange, while that of Britain is restricted, will place her flag under such disadvantages, that her own merchants will seek a foreign bottom when they have an operation that requires a circuitous voyage. This must ultimately, in spite of all her prejudices, compel her to repeal this selfish law, after having some time suffered under it. But while the navigation act exists in Britain, it will, under the circumstances of the treaty I suggest, operate as a bounty on the navigation and fabrics of France; because it is obvious that the freight and charge on any specific article carried in a ship that may make a circuitous voyage, is much less than they would be if part of the voyage was made in ballast. Thus, a French ship carrying a cargo of wine to America, taking in a load of tobacco, and returning from thence to Bordeaux, could take the wine on a much smaller freight than if the duties imposed in America on the importation of wine in a French ship should be equivalent to the duties upon tobacco imported in an American ship into France; because, in that case, the French ship would go out empty for the tobacco, and the American ship empty for the wine; and the double freight and insurance must be charged on each of these articles. It should always be remembered, that whatever is saved in freight is a bounty upon agriculture and manufactures. But even this is a small advantage compared to that derived from the increase of adventures that will be occasioned by the very circumstance of freight for the *whole* outward and homeward voyage, and the consequent consumption of the commodities of the country that encourages it.

In this plan, Spain, (under some restrictions with regard to South America,) the Italian States, and any others who should incline to engage in it, should be associated; without, however, delaying the project between France and the United States, lest they should lose, and Britain acquire, at this critical moment, that great body of seamen, who will, by the peace, be thrown out of employ.

Were France to declare her determination to support this liberal system, such is her advantage in point of product and manufactures, that she could not fail to command the greatest foreign commerce of any nation in the world.

The wealth arising from this source would be unbounded. But while her great capital is in the centre of the republic, she never can have an extensive coasting trade; and she can only make up this deficiency, in a contest with Britain, by the increase of her wealth and credit; by nursing up new maritime nations; by which, if she adds little to her positive power, she adds much to her relative strength, in diminishing that of her rival.

To cite a simple instance: America can build and victual her whaling vessels much cheaper than either France or England, and of course afford oil cheaper; but if France excludes American oil from her market, she throws such a discouragement upon this fishery as will compel the whalers to seek another place of residence. In this case, though a few may be invited to France, the great bulk of them will go to England: First, because of their language, religion, and habits; and next, because they know that a war will ruin their establishments in France, and thus it will encourage those of Britain. The very companies established in France, at great national expense, will receive their oil at sea from English fishermen. Thus fifteen thousand men will be thrown into the scale of Britain, to support one thousand in the vain attempt to establish a fishery in France. This, however, is a small part of the loss. By the encouragement which France might give to the fisheries of the United States, she could destroy those of Britain; and, as the French ships that brought oil, or the American that brought French goods, would not go or return empty, a greater market would be created for French wines, brandies, &c. Let the loss upon this be calculated. The additional expense upon the first price to the inhabitants of France, and the countries given, and they will find that they purchase their oil at a ruinous rate.

Let the difference between fifteen thousand men, added to those employed in the British fishery, and eight thousand taken from them by the encouragement given to the American fishery by France, making together the loss or gain of twenty-three thousand to Britain, be put in the scale with the comparatively few fishermen France can make, and she will form a fair estimate of the attempt, considering her as a rival power to Britain.

Great as are the advantages proposed by this system to the commerce and navigation of France, they are small compared to those which she will derive from having opened a way to the establishment of free and liberal principles, that cannot fail to give room for the exertion of those talents and that industry for which her citizens are distinguished. Every nation, except one, will eagerly embrace them; and their mutual interest will lead them to protect them against the power of any maritime despot. The advantage that the vessels of this association would have over all others, could not fail to produce such a revolution in the principles and practice of commerce and navigation as would be highly interesting to humanity, honorable to the nations who should first adopt the system, and not unworthy of the enlarged views of that distinguished statesman to whom Europe is already so much in debted, and who, alone, has sufficient power to carry it into effect.

JANUARY 16, 1804.

To the Senate and House of Representatives of the United States:

In execution of the act of the present session of Congress for taking possession of Louisiana, as ceded to us by France, and for the temporary government thereof, Governor Claiborne, of the Mississippi territory, and General Wilkinson, were appointed commissioners to receive possession. They proceeded, with such regular troops as had been assembled at Fort Adams from the nearest posts, and with some militia of the Mississippi Territory, to New Orleans. To be prepared for any thing unexpected which might arise out of the transaction, a respectable body of militia was ordered to be in readiness in the States of Ohio, Kentucky and Tennessee, and a part of those of Tennessee was moved on to the Natchez. No occasion, however, arose for their services. Our commissioners, on their arrival at New Orleans, found the province already delivered by the commissaries of Spain to that of France, who delivered it over to them on the 20th day of December, as appears by their declaratory act accompanying this. Governor Claiborne, being duly invested with the powers heretofore exercised by the Governor and Intendant of Louisiana, assumed the Government on the same day, and, for the maintenance of law and order, immediately issued the proclamation and address now communicated.

On this important acquisition, so favorable to the immediate interests of our Western citizens, so auspicious to the peace and security of the nation in general, which adds to our country territories so extensive and fertile, and to our citizens new brethren to partake of the blessings of freedom and self-government, I offer to Congress and our country my sincere congratulations.

TH: JEFFERSON.

CITY OF NEW ORLEANS, *December* 20, 1803.

SIR:

We have the satisfaction to announce to you, that the province of Louisiana was this day surrendered to the United States by the commissioner of France; and to add, that the flag of our country was raised in this city amidst the acclamations of the inhabitants.

The enclosed is a copy of an instrument of writing, which was signed and exchanged by the commisioners of the two Governments, and is designed as a record of this interesting transaction.

Accept assurances of our respectful consideration.

WILLIAM C. C. CLAIBORNE,
JAMES WILKINSON.

The Hon JAMES MADISON, *Secretary of State, City of Washington.*

The undersigned William C. C. Claiborne and James Wilkinson, commissioners or agents of the United States, agreeable to the full powers they have received from Thomas Jefferson, President of the United States, under date of the 31st October, 1803, and twenty-eighth year of the independence of the United States of America, (8th Brumaire, 12th year of the French republic) countersigned by the Secretary of State, James Madison, and citizen Peter Clement Laussat, Colonial Prefect, and Commissioner of the French Government for the delivery, in the name of the French republic, of the country, territories, and dependencies of Louisiana, to the commissioners or agents of the United States, conformably to the powers, commission, and special mandate which he has received in the name of the French people from citizen Bonaparte, First Consul, under date of the 6th June, 1803, (17th Prairial, 11th year of the French republic,) countersigned by the Secretary of State, Hugues Maret, and by his excellency the Minister of Marine and Colonies, Decres, do certify by these presents, that on this day, Tuesday, the 20th December, 1803, of the christian era, (28th Frimaire, 12th year of the French republic,) being convened in the hall of the Hotel de Ville of New Orleans, accompanied on both sides by the chiefs and officers of the army and navy, by the municipality and divers respectable citizens of their respective republics, the said William C. C. Claiborne and James Wilkinson delivered to the said citizen Laussat their aforesaid full powers, by which it evidently appears that full power and authority has been given them jointly and severally to take possession of and to occupy the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th day of April last past, (10th Floreal,) and for that purpose to repair to the said territory, and there to execute and perform all such acts and things touching the premises as may be necessary for fulfilling their appointment conformably to the said treaty and the laws of the United States; and thereupon the said citizen Laussat declared that, in virtue of and in the terms of the powers, commission, and special mandate, dated at St. Cloud, 6th June, 1803, of the christian era, (17th Prairial, 11th year of the French republic,) he put from that moment the said commissioners of the United States in possession of the country, territories, and dependencies of Louisiana, conformably to the 1st, 2d, 4th, and 5th articles of the treaty and the two conventions, concluded and signed the 30th April, 1803, (10th Floreal, 11th year of the French republic,) between the French republic and the United States of America, by citizen Francis Barbé Marbois, minister of the public treasury, and Messrs. Robert R. Livingston and James Monroe, ministers plenipotentiary of the United States, all three furnished with full powers, of which treaty and two conventions the ratifications made by the First Consul of the French republic on the one part, and by the President of the United States, by and with the advice and consent of the Senate, on the other part, have been exchanged and mutually received at the City of Washington, the 21st Otober, 1803, (28th Vendemiaire, 12th year of the French republic,) by citizen Louis André Pichon, chargé des affaires of the French republic near the United States, on the part of France, and by James Madison, Secretary of State of the United States, on the part of the United States, according to the *procès verbal* drawn up on the same day; and the present delivery of the country is made to them, to the end that, in conformity with the object of the said treaty, the sovereignty and property of the colony or province of Louisiana may pass to the said United States, under the same clauses and conditions as it had been ceded by Spain to France, in virtue of the treaty concluded at St. Ildefonso, on the 1st October, 1800, (9th Vendemiaire, 9th year,) between these two last Powers, which has since received its execution by the actual re-entrance of the French republic into possession of the said colony or province.

And the said citizen Laussat in consequence, at this present time, delivered to the said commissioners of the United States, in this public sitting, the keys of the City of New Orleans, declaring that he discharges from their oaths of fidelity towards the French republic the citizens and inhabitants of Louisiana, who shall choose to remain under the dominion of the United States.

And that it may forever appear, the undersigned have signed the *procès verbal* of this important and solemn act, in the French and English languages, and have sealed it with their seals, and have caused it to be countersigned by their secretaries of commission, the day, month, and year above written.

WM. C. C. CLAIBORNE, [L. S.]
JAMES WILKINSON, [L. S.]
LAUSSAT. [L. S.]

PROCLAMATION

By His Excellency William C. C. Claiborne, Governor of the Mississippi Territory, exercising the powers of Governor General and Intendant of the province of Louisiana.

Whereas, by stipulations between the Governments of France and Spain, the latter ceded to the former the colony and province of Louisiana, with the same extent which it had at the date of the abovementioned treaty in the hands of Spain, and that it had when France possessed it, and such as it ought to be after the treaties subsequently entered into between Spain and other States; and whereas the Government of France has ceded the same to the United States by a treaty duly ratified, and bearing date the 30th of April, in the present year, and the possession of said colony and province is now in the United States, according to the tenor of the last mentioned treaty; and whereas the Congress of the United States, on the 31st day of October, in the present year, did enact that until the expiration of the session of Congress then sitting, (unless provisions for the temporary Government of the said territories be sooner made by Congress,) all the military, civil, and judicial powers, exercised by the then existing Government of the same, shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for the maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion; and the President of the United States has by his commission, bearing date the same 31st day of October, invested me with all the powers, and charged me with the several duties heretofore held and exercised by the Governor General and Intendant of the province:

I have, therefore, thought fit to issue this my proclamation, making known the premises, and to declare, that the Government heretofore exercised over the said province of Louisiana, as well under the authority of Spain as of the French republic, has ceased, and that of the United States of America is established over the same; that the inhabitants thereof will be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; that, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess; that all laws and municipal regulations, which were in existence at the cessation of the late Government, remain in full force; and all civil officers charged with their execution, except those whose powers have been especially vested in me, and except also such officers as have been entrusted with the collection of the revenue, are continued in their functions, during the pleasure of the Governor for the time being, or until provision shall otherwise be made.

And I do hereby exhort and enjoin all the inhabitants, and other persons within the said province, to be faithful and true in their allegiance to the United States, and obedient to the laws and authorities of the same, under full assurance that their just rights will be under the guardianship of the United States, and will be maintained from all force or violence from without or within.

In testimony whereof I have hereunto set my hand.

Given at the city of New Orleans, the 20th day of December, 1803, and of the independence of the United States of America the 28th.

WM. C. C. CLAIBORNE.

The Governor's Address to the Citizens of Louisiana.

NEW ORLEANS, *September* 20, 1803.

FELLOW-CITIZENS OF LOUISIANA:

On the great and interesting event now finally consummated—an event so advantageous to yourselves, and so glorious to united America, I cannot forbear offering you my warmest congratulations. The wise policy of the Consul of France has, by the cession of Louisiana to the United States, secured to *you* a connexion beyond the reach of change, and to your posterity the sure inheritance of freedom. The American people receive you as brothers; and will hasten to extend to you a participation in those inestimable rights, which have formed the basis of their own unexampled prosperity. Under the auspices of the American Government, you may confidently rely upon the security of your liberty, your property, and the religion of your choice. You may with equal certainty rest assured, that your commerce will be promoted and your agriculture cherished; in a word, that your true interests will be among the primary objects of our national Legislature. In return for these benefits, the United States will be amply remunerated, if your growing attachment to the constitution of our country, and your veneration for the principles on which it is founded, be duly proportioned to the blessings which they will confer. Among your first duties, therefore, you should cultivate with assiduity among yourselves the advancement of political information; you should guide the rising generation in the paths of republican economy and virtue; you should encourage literature; for, without the advantages of education, your descendants will be unable to appreciate the intrinsic worth of the Government transmitted to them.

As for myself, fellow-citizens, accept a sincere assurance, that, during my continuance in the situation in which the President of the United States has been pleased to place me, every exertion will be made on my part to foster your internal happiness, and forward your general welfare; for it is only by such means that I can secure to myself the approbation of those great and just men who preside in the councils of our nation.

WILLIAM C. C. CLAIBORNE.

[The following papers, relating to the opposition of Spain to the cession of Louisiana to the United States, were transmitted to Congress by the President's message of November 8, 1804.]

Extract of a letter from Don Pedro Cevallos, Minister of State of His Catholic Majesty, to Charles Pinckney, Esq. dated at the Pardo, February 10th, 1804.

Al mismo tempo que el ministro de S. M. en los Estados Unidos esta encargado de informar al Govierno Americano sobre la falsedad del rumor indicado, tiene tambien la orden para manifestarle que S. M. ha tenido á bien renunciar á sus reclamaciones contra la enagenacion de la Luisiana hecha pro Francia, sin embargo de los solidos motivos en que se fundaban; dando con esto una nueva prueba de su benevolencia y amistad á los Estados Unidos.

[TRANSLATION.]

At the same time that the minister of His Majesty in the United States is charged to inform the American Government respecting the falsity of the rumor referred to, he has likewise orders to declare to it that His Majesty has thought fit to renounce his opposition to the alienation of Louisiana made by France, notwithstanding the solid reasons on which it is founded; thereby giving a new proof of his benevolence and friendship towards the United States.

Copy of a letter from the Marquis of Casa Yrujo to the Secretary of State.

PHILADELPHIA, 15 *de Mayo, de* 1804.

MUY SENOR MIO:

Las esplicaciones que el Govierno de Francia ha dado á S. M. Catolica acerca de la venta de la Luisiana á los Estados Unidos, y las disposiciones amistosas de parte del Rey mi amo acia estos Estados, le han determinado á abandonar la oposicion que en una epoca anterior, y con motivos mui fundados, habia manifestado á la citada transaccion. En conseqüencia, y por orden especial de S. M., tengo el gusto de comunicar á V. S. sus reales intenciones sobre un asunto tan importante, bien persuadido de que el Govierno Americano vera en esta conducta del Rey mi amo una nueva prueba de su consideracion acia los Estados Unidos, y que estos corresponderan con una verdadera reciprocidad á la amistad sincera del Rey, de que les tiene dadas tantas pruebas.

Dios guarde á V. S. muchos años, &c. &c.

EL MARQUES DE CASA YRUJO.

Senor Don JAYME MADISON.

[TRANSLATION.]

PHILADELPHIA, *May* 15, 1804.

SIR:

The explanations which the Government of France has given to His Catholic Majesty concerning the sale of Louisiana to the United States, and the amicable dispositions on the part of the King my master towards these States, have determined him to abandon the opposition which, at a prior period, and with the most substantial motives, he had manifested against that transaction. In consequence, and by special order of His Majesty, I have the pleasure to communicate to you his royal intentions on an affair so important; well persuaded that the American Government will see, in this conduct of the King my master, a new proof of his consideration for the United States, and that they will correspond, with a true reciprocity, with the sincere friendship of the King, of which he has given so many proofs. God preserve you many years.

THE MARQUIS OF CASA YRUJO.

JAMES MADISON, Esq.

To all to whom these presents shall come:

Whereas, by an act of Congress, authority has been given to the President of the United States, whenever he shall deem it expedient, to erect the shores, waters, and inlets of the bay and river of Mobile, and of the other rivers, creeks, inlets, and bays, emptying into the Gulf of Mexico, east of the said river Mobile, and west thereof to the Pascaguola, inclusive, into a separate district for the collection of duties on imposts and tonnage, and to establish such place within the same as he shall deem expedient to be the port of entry and delivery for such district; and to designate such other places within the same district, not exceeding two, to be ports of delivery only:

Now know ye, That I, Thomas Jefferson, President of the United States, do hereby decide, that all the above mentioned shores, waters, inlets, creeks, and rivers, lying *within the boundaries of the United States*, shall constitute and form a separate district, to be denominated "the district of Mobile;" and do also designate Fort Stoddert, within the district aforesaid, to be the port of entry and delivery for the said district.

Given under my hand, this 30th day of May, 1804.

TH: JEFFERSON.

The undersigned William C. C. Claiborne and James Wilkinson, commissioners or agents of the United States, agreeable to the full powers they have received from Thomas Jefferson, President of the United States, under date of the 31st October, 1803, and twenty-eighth year of the independence of the United States of America, (8th Brumaire, 12th year of the French republic) countersigned by the Secretary of State, James Madison, and citizen Peter Clement Laussat, Colonial Prefect, and Commissioner of the French Government for the delivery, in the name of the French republic, of the country, territories, and dependencies of Louisiana, to the commissioners or agents of the United States, conformably to the powers, commission, and special mandate which he has received in the name of the French people from citizen Bonaparte, First Consul, under date of the 6th June, 1803, (17th Prairial, 11th year of the French republic,) countersigned by the Secretary of State, Hugues Maret, and by his excellency the Minister of Marine and Colonies, Decres, do certify by these presents, that on this day, Tuesday, the 20th December, 1803, of the christian era, (28th Frimaire, 12th year of the French republic,) being convened in the hall of the Hotel de Ville of New Orleans, accompanied on both sides by the chiefs and officers of the army and navy, by the municipality and divers respectable citizens of their respective republics, the said William C. C. Claiborne and James Wilkinson delivered to the said citizen Laussat their aforesaid full powers, by which it evidently appears that full power and authority has been given them jointly and severally to take possession of and to occupy the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th day of April last past, (10th Floreal,) and for that purpose to repair to the said territory, and there to execute and perform all such acts and things touching the premises as may be necessary for fulfilling their appointment conformably to the said treaty and the laws of the United States; and thereupon the said citizen Laussat declared that, in virtue of and in the terms of the powers, commission, and special mandate, dated at St. Cloud, 6th June, 1803, of the christian era, (17th Prairial, 11th year of the French republic,) he put from that moment the said commissioners of the United States in possession of the country, territories, and dependencies of Louisiana, conformably to the 1st, 2d, 4th, and 5th articles of the treaty and the two conventions, concluded and signed the 30th April, 1803, (10th Floreal, 11th year of the French republic,) between the French republic and the United States of America, by citizen Francis Barbé Marbois, minister of the public treasury, and Messrs. Robert R. Livingston and James Monroe, ministers plenipotentiary of the United States, all three furnished with full powers, of which treaty and two conventions the ratifications made by the First Consul of the French republic on the one part, and by the President of the United States, by and with the advice and consent of the Senate, on the other part, have been exchanged and mutually received at the City of Washington, the 21st Otober, 1803, (28th Vendemiaire, 12th year of the French republic,) by citizen Louis André Pichon, chargé des affaires of the French republic near the United States, on the part of France, and by James Madison, Secretary of State of the United States, on the part of the United States, according to the *proces verbal* drawn up on the same day; and the present delivery of the country is made to them, to the end that, in conformity with the object of the said treaty, the sovereignty and property of the colony or province of Louisiana may pass to the said United States, under the same clauses and conditions as it had been ceded by Spain to France, in virtue of the treaty concluded at St. Ildefonso, on the 1st October, 1800, (9th Vendemiaire, 9th year,) between these two last Powers, which has since received its execution by the actual re-entrance of the French republic into possession of the said colony or province.

And the said citizen Laussat in consequence, at this present time, delivered to the said commissioners of the United States, in this public sitting, the keys of the City of New Orleans, declaring that he discharges from their oaths of fidelity towards the French republic the citizens and inhabitants of Louisiana, who shall choose to remain under the dominion of the United States.

And that it may forever appear, the undersigned have signed the *proces verbal* of this important and solemn act, in the French and English languages, and have sealed it with their seals, and have caused it to be countersigned by their secretaries of commission, the day, month, and year above written.

WM. C. C. CLAIBORNE, [L. S.]
JAMES WILKINSON, [L. S.]
LAUSSAT. [L. S.]

PROCLAMATION

By His Excellency William C. C. Claiborne, Governor of the Mississippi Territory, exercising the powers of Governor General and Intendant of the province of Louisiana.

Whereas, by stipulations between the Governments of France and Spain, the latter ceded to the former the colony and province of Louisiana, with the same extent which it had at the date of the abovementioned treaty in the hands of Spain, and that it had when France possessed it, and such as it ought to be after the treaties subsequently entered into between Spain and other States; and whereas the Government of France has ceded the same to the United States by a treaty duly ratified, and bearing date the 30th of April, in the present year, and the possession of said colony and province is now in the United States, according to the tenor of the last mentioned treaty; and whereas the Congress of the United States, on the 31st day of October, in the present year, did enact that until the expiration of the session of Congress then sitting, (unless provisions for the temporary Government of the said territories be sooner made by Congress,) all the military, civil, and judicial powers, exercised by the then existing Government of the same, shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct, for the maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion; and the President of the United States has by his commission, bearing date the same 31st day of October, invested me with all the powers, and charged me with the several duties heretofore held and exercised by the Governor General and Intendant of the province:

I have, therefore, thought fit to issue this my proclamation, making known the premises, and to declare, that the Government heretofore exercised over the said province of Louisiana, as well under the authority of Spain as of the French republic, has ceased, and that of the United States of America is established over the same; that the inhabitants thereof will be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; that, in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess; that all laws and municipal regulations, which were in existence at the cessation of the late Government, remain in full force; and all civil officers charged with their execution, except those whose powers have been especially vested in me, and except also such officers as have been entrusted with the collection of the revenue, are continued in their functions, during the pleasure of the Governor for the time being, or until provision shall otherwise be made.

And I do hereby exhort and enjoin all the inhabitants, and other persons within the said province, to be faithful and true in their allegiance to the United States, and obedient to the laws and authorities of the same, under full assurance that their just rights will be under the guardianship of the United States, and will be maintained from all force or violence from without or within.

In testimony whereof I have hereunto set my hand.

Given at the city of New Orleans, the 20th day of December, 1803, and of the independence of the United States of America the 28th.

WM. C. C. CLAIBORNE.

The Governor's Address to the Citizens of Louisiana.

NEW ORLEANS, *September* 20, 1803.

FELLOW-CITIZENS OF LOUISIANA:

On the great and interesting event now finally consummated—an event so advantageous to yourselves, and so glorious to united America, I cannot forbear offering you my warmest congratulations. The wise policy of the Consul of France has, by the cession of Louisiana to the United States, secured to *you* a connexion beyond the reach of change, and to your posterity the sure inheritance of freedom. The American people receive you as brothers; and will hasten to extend to you a participation in those inestimable rights, which have formed the basis of their own unexampled prosperity. Under the auspices of the American Government, you may confidently rely upon the security of your liberty, your property, and the religion of your choice. You may with equal certainty rest assured, that your commerce will be promoted and your agriculture cherished; in a word, that your true interests will be among the primary objects of our national Legislature. In return for these benefits, the United States will be amply remunerated, if your growing attachment to the constitution of our country, and your veneration for the principles on which it is founded, be duly proportioned to the blessings which they will confer. Among your first duties, therefore, you should cultivate with assiduity among yourselves the advancement of political information; you should guide the rising generation in the paths of republican economy and virtue; you should encourage literature; for, without the advantages of education, your descendants will be unable to appreciate the intrinsic worth of the Government transmitted to them.

As for myself, fellow-citizens, accept a sincere assurance, that, during my continuance in the situation in which the President of the United States has been pleased to place me, every exertion will be made on my part to foster your internal happiness, and forward your general welfare; for it is only by such means that I can secure to myself the approbation of those great and just men who preside in the councils of our nation.

WILLIAM C. C. CLAIBORNE.

[The following papers, relating to the opposition of Spain to the cession of Louisiana to the United States, were transmitted to Congress by the President's message of November 8, 1804.]

Extract of a letter from Don Pedro Cevallos, Minister of State of His Catholic Majesty, to Charles Pinckney, Esq. dated at the Pardo, February 10th, 1804.

Al mismo tempo que el ministro de S. M. en los Estados Unidos esta encargado de informar al Govierno Americano sobre la falsedad del rumor indicado, tiene tambien la orden para manifestarle que S. M. ha tenido á bien renunciar á sus reclamaciones contra la enagenacion de la Luisiana hecha pro Francia, sin embargo de los solidos motivos en que se fundaban; dando con esto una nueva prueba de su benevolencia y amistad á los Estados Unidos.

[TRANSLATION.]

At the same time that the minister of His Majesty in the United States is charged to inform the American Government respecting the falsity of the rumor referred to, he has likewise orders to declare to it that His Majesty has thought fit to renounce his opposition to the alienation of Louisiana made by France, notwithstanding the solid reasons on which it is founded; thereby giving a new proof of his benevolence and friendship towards the United States.

Copy of a letter from the Marquis of Casa Yrujo to the Secretary of State.

PHILADELPHIA, 15 *de Mayo, de* 1804.

MUY SENOR MIO:

Las esplicaciones que el Govierno de Francia ha dado á S. M. Catolica acerca de la venta de la Luisiana á los Estados Unidos, y las disposiciones amistosas de parte del Rey mi amo acia estos Estados, le han determinado á abandonar la oposicion que en una epoca anterior, y con motivos mui fundados, habia manifestado á la citada transaccion. En conseqüencia, y por orden especial de S. M., tengo el gusto de comunicar á V. S. sus reales intenciones sobre un asunto tan importante, bien persuadido de que el Govierno Americano vera en esta conducta del Rey mi amo una nueva prueba de su consideracion acia los Estados Unidos, y que estos corresponderan con una verdadera reciprocidad á la amistad sincera del Rey, de que les tiene dadas tantas pruebas.

Dios guarde á V. S. muchos años, &c. &c.

EL MARQUES DE CASA YRUJO.

Senor Don JAYME MADISON.

[TRANSLATION.]

PHILADELPHIA, *May* 15, 1804.

SIR:

The explanations which the Government of France has given to His Catholic Majesty concerning the sale of Louisiana to the United States, and the amicable dispositions on the part of the King my master towards these States, have determined him to abandon the opposition which, at a prior period, and with the most substantial motives, he had manifested against that transaction. In consequence, and by special order of His Majesty, I have the pleasure to communicate to you his royal intentions on an affair so important; well persuaded that the American Government will see, in this conduct of the King my master, a new proof of his consideration for the United States, and that they will correspond, with a true reciprocity, with the sincere friendship of the King, of which he has given so many proofs. God preserve you many years.

THE MARQUIS OF CASA YRUJO.

JAMES MADISON, Esq.

To all to whom these presents shall come:

Whereas, by an act of Congress, authority has been given to the President of the United States, whenever he shall deem it expedient, to erect the shores, waters, and inlets of the bay and river of Mobile, and of the other rivers, creeks, inlets, and bays, emptying into the Gulf of Mexico, east of the said river Mobile, and west thereof to the Pascaguola, inclusive, into a separate district for the collection of duties on imposts and tonnage, and to establish such place within the same as he shall deem expedient to be the port of entry and delivery for such district; and to designate such other places within the same district, not exceeding two, to be ports of delivery only:

Now know ye, That I, Thomas Jefferson, President of the United States, do hereby decide, that all the above mentioned shores, waters, inlets, creeks, and rivers, lying *within the boundaries of the United States,* shall constitute and form a separate district, to be denominated "the district of Mobile;" and do also designate Fort Stoddert, within the district aforesaid, to be the port of entry and delivery for the said district.

Given under my hand, this 30th day of May, 1804.

TH: JEFFERSON.

8th CONGRESS.] No. 183. [1st SESSION.

GREAT BRITAIN.

COMMUNICATED TO THE SENATE, OCTOBER 24, 1803.

[Reported on December 24, 1803.]

To the Senate of the United States:

I lay before you the convention* signed on the 12th day of May last, between the United States and Great Britain, for settling their boundaries in the northeastern and northwestern parts of the United States, which was mentioned in my general message of the 17th instant; together with such papers relating thereto, as may enable you to determine whether you will advise and consent to its ratification.

TH: JEFFERSON.

OCTOBER 24, 1803.

CONVENTION WITH HIS BRITANNIC MAJESTY.

In order that the boundaries between the territories of His Britannic Majesty and those of the United States of America may be more precisely ascertained and determined than has hitherto been done, the parties have respectively named their plenipotentiaries, and given them full powers to negotiate and conclude a convention for this purpose; that is to say, His Britannic Majesty has named for his plenipotentiary the Right Honorable Robert Banks Jenkinson, commonly called Lord Hawkesbury, one of His Majesty's most honorable privy council, and his principal Secretary of State for Foreign Affairs; and the President of the United States, by and with the consent of the Senate thereof, has appointed for their plenipotentiary, Rufus King, Esq. their minister plenipotentiary to his said Majesty; who have agreed upon and concluded the following articles:

ARTICLE 1. The line hereinafter described shall and hereby is declared to be the boundary between the mouth of the river St. Croix and the bay of Fundy: that is to say, a line beginning in the middle of the channel of the river St. Croix, at its mouth, as the same has been ascertained by the commissioners appointed for that purpose; thence through the middle of the channel between Deer island on the east and north, and Moose island, and Campo Bello island on the west and south, and round the eastern point of Campo Bello island, to the bay of Fundy; and the islands and waters northward and eastward of the said boundary, together with the island of Campo Bello, situated to the southward thereof, are hereby declared to be within the jurisdiction and part of His Majesty's province of New Brunswick; and the islands and waters southward and westward of the said boundary, except only the island of Campo Bello, are hereby declared to be within the jurisdiction and part of Massachusetts, one of the said United States.

ART. 2. Whereas, it has become expedient that the northwest angle of Nova Scotia, mentioned and described in the treaty of peace between His Majesty and the United States should be ascertained and determined; and that the line between the source of the river St. Croix, and the said northwest angle of Nova Scotia, should be run and marked, according to the provisions of the said treaty of peace: It is agreed that for this purpose, commissioners shall be appointed in the following manner, viz: one commissioner shall be named by His Majesty and one by the President of the United States, by and with the advice and consent of the Senate thereof; and the said two commissioners shall agree in the choice of a third; or, if they cannot agree, they shall each propose one person; and of the two names, so proposed, one shall be taken by lot in the presence of the two original commissioners; and the three commissioners, so appointed, shall be sworn impartially to ascertain and determine the said northwest angle of Nova Scotia, pursuant to the provisions of the said treaty of peace: and likewise to cause the said boundary line between the source of the river St. Croix, as the same has been determined by the commissioners appointed for that purpose, and the northwest angle of Nova Scotia, to be run and marked according to the provisions of the treaty aforesaid. The said commissioners shall meet at Boston, and have power to adjourn to such place or places as they shall think fit; they shall have power to appoint a secretary and employ such surveyors, and other assistants, as they shall judge necessary: the said commissioners shall draw up a report of their proceedings which shall describe the line aforesaid, and particularize the latitude and longitude of the place ascertained and determined, as aforesaid, to be the northwest angle of Nova Scotia; duplicates of which report, under the hands and seals of the said commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same in behalf of their respective Governments; and the decision and proceedings of the said commissioners, or a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. 3. It is further agreed that the said commissioners, after they shall have executed the duties assigned them in the preceding article, shall be, and they hereby are, authorized, upon their oaths, impartially to ascertain and determine the northwesternmost head of Connecticut river, according to the provisions of the aforesaid treaty of peace; and likewise to cause the boundary line described in the said treaty of peace, between the northwest angle of Nova Scotia and the said northwesternmost head of Connecticut river, to be run and marked pursuant to the provisions of the said treaty. The said commissioners shall meet at Boston, and have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a secretary, and employ such surveyors and other assistants as they shall judge necessary. The said commissioners shall draw up a report of their proceedings, which shall describe the boundary line aforesaid, and particularize the latitude and longitude of the westernmost head of Connecticut river, duplicates of which report, under the hands and seals of the said commissioners, or of a majority of them, together with duplicates of their accounts, shall be delivered to such persons as may be severally authorized to receive the same, in behalf of their respective Governments; and the decision and proceedings of the said commissioners, or of a majority of them, made and had as aforesaid, shall be final and conclusive.

ART. 4. It is further agreed that the aforesaid commissioners shall be respectively paid in such manner as shall be agreed between the two parties, such agreement to be settled at the time of the exchange of the ratifications of this convention, and all other expenses incurred by the said commissioners shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the said commissioners; and, in case of death, sickness, or necessary absence, the place of any commissioners shall be supplied in the same manner as such commissioner was appointed, and the new commissioner shall take the same oath, and do the same duties.

ART. 5. Whereas it is uncertain whether the river Mississippi extends so far to the northward as to be intersected by a line drawn due west from the Lake of the Woods, in the manner mentioned in the treaty of peace between His Majesty and the United States, it is agreed that, instead of the said line, the boundary of the United States in this quarter shall, and is hereby declared to be the shortest line which can be drawn between the northwest point of the Lake of the Woods and the nearest source of the river Mississippi: and for the purpose of ascertaining and determining the northwest point of the Lake of the Woods and the source of the river Mississippi that may be nearest to the said northwest point, as well as for the purpose of running and marking the said boundary line be-

* The Senate having assented to this convention on the condition that the fifth article should be expunged, the ratifications of the respective Governments were never exchanged.

tween the same, three commissioners, upon the demand of either Government, shall be appointed, and authorized, upon their oaths, to act; and their compensation and expenses shall be ascertained and paid, and vacancies supplied, in the manner provided in respect to the commissioners mentioned in the preceding articles; and the decisions and proceedings of the said commissioners, or of a majority of them, made and had pursuant to this convention, shall be final and conclusive.

In faith whereof, we, the undersigned, ministers plenipotentiary of His Britannic Majesty and of the United States of America, have signed this present convention, and caused to be affixed thereto the seals of our arms.

Done at London, this 12th day of May, 1803.

HAWKESBURY. [L. S.]
RUFUS KING. [L. S.]

The Secretary of State to Rufus King, minister, &c. of the United States to Great Britain.

DEPARTMENT OF STATE, WASHINGTON, *July* 28, 1801.

SIR:

By the treaty of peace, the mouth of the St. Croix is supposed to be in the bay of Fundy. But as the commissioners have, in their decision, settled the mouth of that river, called the Schoodiac, to be in Passamaquoddy Bay, at a place called Joe's point, it is left undetermined to which nation the islands in the last mentioned bay, and the passages through them, into the bay of Fundy, belong. It appears to have been the intention of the two nations, in adjusting their limits at the peace, to make navigable waters, where they were the boundary common to both, by a divisional line running through the middle of their channels. Hence, it is believed, that, if it be true that one of the passages from the mouth of the river, intended as the St. Croix, into Fundy bay, be seldom and imperfectly navigable, and the other constantly and completely so, it will be most conformable to the treaty of peace to establish it as the boundary. Supposing, on the other hand, that the treaty of peace should be literally executed, as far as practicable, and the line drawn from Joe's point, due eastwardly, Great Britain would be excluded from both passages. At present, it is believed that the following description of the passage to be settled as the boundary, would be satisfactory to both nations: "Beginning in the middle of the channel of the river St. Croix, at its mouth; thence, direct, to the middle of the channel, between Pleasant point and Deer island; thence, to the middle of the channel, between Deer island on the east and north, and Moose island and Campo Bello island on the west and south; and round the eastern point of Campo Bello island, to the bay of Fundy. The other (western) channel has a bar across it, which is dry at low water.

These ideas are thrown out only for consideration. I shall probably have it in my power shortly to transmit you a commission to settle this point, with definitive instructions. Meanwhile, you may break the business to the British ministry, but without implicating any fixed mode of settlement.

RUFUS KING, *&c.*

The Secretary of State to Mr. King.

DEPARTMENT OF STATE, *June* 8, 1802.

SIR:

You will herewith receive a commission, giving you powers to adjust, by proper stipulations, with the British Government, whatever remains to be decided in relation to the boundary between the two nations.

In executing the first part of this trust, relating to the bay of Passamaquoddy, you will recur to the observations contained in my letter of the 28th of July last. I refer you also to a copy, herewith enclosed, of a letter from Judge Sullivan, heretofore agent of the United States, on the controversy regarding the river St. Croix, in answer to some inquiries from me on the subject now committed to you. His information and his reasoning will be useful in the discussion; and, to illustrate both, I also enclose herewith a copy of the map to which he refers in the beginning of his letter.

The essential objects to be secured to the United States are, the jurisdiction of Moose island, and the common navigation of the bay, and of the channels leading towards the sea between Deer island and the island of Campo Bello. To the observations of Judge Sullivan, in support of the rights of the United States, it need only be added, that the outlet through Moose island being the only adequate communication with the sea from a great and valuable territory of the United States, they are entitled to the full use of it on that principle, as well as on others, and with the less pretext for objection, as the trifling island of Campo Bello is the only territory held by Great Britain on one side of the channel.

In pursuance of the next object, viz: the establishment of boundaries between the United States and New Brunswick, on one side, and of Canada on another, it will be proper to provide for the immediate extension of the line which is to run from the south of the St. Croix, and which is represented as necessary to guard against interfering or encroaching grants under American and British authorities. As the course of this line is to be due north, and is to proceed from the point fixed by a survey already made, the running of it will be sufficiently provided for by an appointment of a commissioner by each of the two Governments, and an appointment, by the two commissioners, of a surveyor. In fixing the point at which the line is to terminate, and which is referred to as the northwest angle of Nova Scotia, the difficulty arises from a reference of the treaty of 1783 "to the highlands," which it is now found have no definite existence. To remove this difficulty, no better expedient occurs than to provide for the appointment of a third commissioner, as in article five, of the treaty of 1794; and to authorize the three to determine on a point most proper to be substituted for the description in the second article of the treaty of 1783, having due regard to the general idea that the line ought to terminate on the elevated ground dividing the rivers falling into the Atlantic, from those emptying themselves into the St. Lawrence. The commissioners may also be authorized to substitute for the description of the boundary between the point so fixed, and the northwesternmost head of Connecticut river, namely, a line drawn along the said highlands, such a reference to intermediate sources of rivers, or other ascertained or ascertainable points, to be connected by straight lines, as will admit of easy and accurate execution hereafter, and as will best comport with the apparent intention of the treaty of 1783.

The remaining provision necessary to complete the boundary of the United States will be a stipulation amending the second article of the treaty of 1783, in its description of the line which is to connect the most northwestern point of the Lake of the Woods with the Mississippi. The description supposes that a line running due west from that point, would intersect the Mississippi. It is now well understood that the highest source of the Mississippi is south of the Lake of the Woods; and, consequently, that a line, due west, from its most northwestern point, would not touch any part of that river. To remedy this error, it may be agreed that the boundary of the United States, in that quarter, shall be a line running from that source of the Mississippi which is nearest to the Lake of the Woods, and striking it, westwardly, as a tangent, and, from the point touched, along the water-mark of the lake, to its most northwestern point, at which it will meet the line running through the lake. The map in McKenzie's late publication is probably the best to which I can refer you on this subject.

From the mutual and manifest advantage to Great Britain and the United States, of an adjustment of all uncertainties concerning boundary, it is hoped you will find a ready concurrence in all the propositions which you will have to make to them. Should difficulties or delays threaten those which relate to the boundary connecting the Mississippi and the Lake of the Woods, or that connecting the Connecticut river and the point to be established as the northeast corner of the United States, it will be proper to separate from these the other subjects of negotiation, and to hasten the latter to a conclusion.

With the highest respect and consideration, &c.

JAMES MADISON.

RUFUS KING, Esq.
Minister Plenipotentiary of the United States, London.

BOSTON, *May* 20, 1802.

SIR:

Having the honor of receiving your letter of the 10th inst., I hasten to communicate to you my ideas of the subject matter of its contents.

When I was under a commission, as agent of the United States, on the controversy with Great Britain regarding the river St. Croix, I forwarded to the office of the Secretary of State a map of the bay of Passamaquoddy, of the Schoodiac, and of the lines of the whole dispute. That map was accurately and elegantly composed from astronomical observations and actual surveys. As that map is under your eye, there is no need of my sending a fac-simile; but I refer you to that for an explanation of this letter.

The treaty of 1783 with Great Britain evidently contemplates a river, as the St. Croix, which has its mouth in the bay of Fundy. Both rivers claimed by the parties empty their waters in the bay of Passamaquoddy. The agent of the United States urged the commissioners to settle the boundary through that bay to the sea; because the treaty expressly recognised the mouth of the river as in the bay of Fundy, which is a limb of the ocean, and the other bay united with it might be considered as the river's mouth; but they declined it, on an idea that their commission extended no further than to an authority to find the mouth and source of the river, and that, let whichever would be the river, it had its mouth three leagues from the sea, in Passamaquoddy bay; they, therefore, limited their decision on its southerly line, to a point between St. Andrews and the shore of the United States.

The whole of the waters of Passamaquoddy, eastward and northward of Moose island, and of the island of Campo Bello, are navigable for vessels of any burthen. The channel between Moose and Deer island is the best. The channel between Moose island and the continent of the United States is shoal, narrow, and not navigable for vessels of consequence. That between Campo Bello and the main, called the west passage, is rendered hazardous and dangerous by a bar of rocks, and is so narrow and shoal, that no vessel of considerable size will be risked there excepting on a fair wind, and at the top of high water. The tides there are exceedingly rapid, and rise near about fifty feet. Therefore, any settlement which would deprive the United States of a free navigation, as far to the eastward and northward as the channel you propose, that is, to the one between Moose and Deer islands, and north of Campo Bello, would ultimately destroy the important commerce and valuable navigation of an extensive territory within the United States; for, as you may observe on the maps, there is no river of consequence between the Schoodiac and the Penobscot; and that the waters which issue from numerous and extensive lakes, in the interior parts of the country, running into the sea, as the Schoodiac, will give an advantageous and invaluable transportation to the articles of commerce.

Your construction of the treaty of 1783, which renders the waters dividing the nations common to both, (where they are navigable,) must be reasonable and just. The English people have, in many instances, practised upon the treaty under such a construction. There has been no interruption to the American navigation, in any part of Passamaquoddy bay; but our vessels have proceeded through that bay to the shore of the United States, at and near Moose island, and have gone into the Schoodiac, above St. Andrew's point, and anchored on the western side of the channel, where they have discharged their cargoes. There have been some seizures where goods have been carried from those vessels over to the English side, but the goods have been condemned, and the vessel discharged. These seizures being made within the jurisdiction of the United States, as to the vessels, were clearly infractions of the law of nations.

There was a seizure lately made of a vessel of one Goddard of Boston. She was taken from her anchor on the American side of the channel, in the river established by the commissioners as the St. Croix, and carried over to New Brunswick: but she was acquitted by the court of admiralty, with damages and costs. Campbell, who made the seizure, appealed to England, merely to avoid the costs and damages, where the cause is now depending under the attention of Robert Slade, a proctor, who is the advocate for Mr. Goddard.

There is a clause in the treaty, that the United States shall comprehend the islands within twenty leagues of any of the shores of the United States, and lying between lines drawn due east from the aforesaid boundaries, between Nova Scotia on the one part, and East Florida on the other, as they shall respectively touch the bay of Fundy, and the Atlantic ocean. This circumstance, that the mouth of the St. Croix is settled to be between St. Andrew's point on the east, and the American shore on the west, three leagues within the island of Campo Bello, draws this consequence to the treaty, that nearly all the islands in Passamaquoddy bay are within the United States, by the above provision in the treaty, unless they are taken out by an exception, which I shall presently notice. A line, due east (as you will see on the plan) from the Schoodiac mouth at St. Andrew's point, takes in nearly all the bay. A line south, sixty-seven degrees east, will go to the north of Campo Bello, and take two-thirds of Deer island on the west. A southeast line, from the middle of the Schoodiac mouth, passes on the channel between Moose and Deer islands, and through the centre of Campo Bello.

The consequences attached to this provision may be, in some measure, controlled by an exception annexed to it in these words, "excepting such islands as now are, or heretofore have been, within the limits of the province of Nova Scotia."

The island of Campo Bello is confessedly within the exception, and, therefore, it may be said that the principle of common privilege to navigable waters will not give our nation a right to a navigation northward of, and between, that and the other islands in the bay, because that they, being all within the same exception, the right of a common navigation in both nations may not extend to the waters between that and them. But the answer to this is, that the clause establishes the jurisdiction of the United States, by lines which clearly include all the islands in the bay of Passamaquoddy, and all within the bay of Fundy comprehended to the south of the east line drawn from St. Croix; while the exception can extend only to the islands formerly within the jurisdiction of Nova Scotia, inclusive of the privileges necessary to the occupancy of them. The principle, therefore, of the common right to navigation or navigable waters which divide two nations, cannot apply here; because, in that case, the line of national jurisdiction seems to be settled on the channel; but here, in this case, the jurisdiction is definite, express, and ceded, according to the lines agreed on, as above described.

The ancient charter of Nova Scotia to Sir William Alexander, in 1638, included all the country from the Kennebeck to the bay of Chaleur. The treaty cannot mean, by the expression "heretofore within Nova Scotia," all the islands in that charter. If it mean the islands which were within a more recent description of it, where the boundary westward was the St. Croix, excluding the territory of Acadia, which was placed under the jurisdiction of Massachusetts, by the charter of that province in 1692, and bounded on that river. The river Schoodiac being now the established St. Croix, there can be no question in regard to Massachusetts extending to the channel where it joins that river. But Moose island, which I have described before, lies two leagues below what the commissioners made the mouth of the St. Croix: and very near the American shore. This was never granted by the crown of England, or by the Government of Nova Scotia, before the treaty of peace; nor was there ever an occupancy of it by subjects acknowledging the authority of Nova Scotia; nor did that province ever attempt to exercise authority there. Long before the revolutionary war, it was in the occupancy of people of, and from, the late province of Massachusetts bay. The soil has, I believe, been granted by that province, or by the State since the revolution, to the people who had it in possession. I do not know the date of the grant. There have been, as I am informed, recent grants by the province of New Brunswick of that island; but no formal claim on the part of the English nation has been made to it. The grantees of that province, who have speculated on the pretended right of the English nation, have excited civil officers, under the authority of the province of New Brunswick, to attempt to execute precepts there. These attempts were repelled, and I have not heard that they have been recently renewed. Should the jurisdiction of that island be found within the English authority, there can be no doubt how the right of property would be settled. This renders the dispute of consequence to the commonwealth of Massachusetts in a pecuniary point of view.

If the argument above stated does not prove that the jurisdiction of the United States is extended to all the waters of Passamaquoddy bay, but that the treaty leaves the navigable waters of the same, which form the natural boundaries common to both, it is of great consequence, that any claim made under the crown of the English empire to Moose island should be subverted. But if their having the island under the reservatory exception does not

deprive the United States of the jurisdiction on all the waters southward of the east line, drawn from the mouth of he Schoodiac, the consideration of the property alone gives consequence to the question.

The channel where the waters more directly issue from the Schoodiac to the bay of Fundy, between Moose and Deer islands, and between Deer island and Campo Bello, as described in your letter of instructions to the minister, is quite adequate to all navigation of our country.

You mention a resolve of the Legislature, wherein the subject of the navigation in Passamaquoddy bay is mentioned. I have attended to a resolve of the tenth of March, which proposes that the Governor should request the President of the United States to take measures for settling the disputed jurisdiction to certain islands in Passamaquoddy bay; but I do not know of any dispute in that bay as to islands, excepting what I have stated as to Moose island.

The settlement and plain establishment of a line from the head or source of the Cheputnatecook, which is the source of the St. Croix, and empties its waters through a long chain of lakes into the Schoodiac, has become necessary, because that Massachusetts is making grants of the lands in that quarter, and the province of New Brunswick is in the same practice, controversies may be created by interfering locations in pursuance of, or under pretence of, those grants. Such controversies can have no guide to their adjustment, excepting lines drawn through a vast extent of wilderness, where many known and unknown causes will effect the magnetic variations. These disputes on national, or even colonial, or State jurisdiction, are not easily settled when they are connected with private claims.

By the treaty of peace, it is provided that the boundaries shall be "from the northwest angle of Nova Scotia, viz. that angle which is formed by a line drawn due north, from the source of the St. Croix, to the highlands; along the highlands which divide those rivers that empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river."

You will see by the maps of that part of the country, that the line which runs north from the source of the St. Croix, crosses the river St. John a great way south of any place which could be supposed to be the highlands; but where that line will come to the northwest angle of Nova Scotia, and find its termination, is not easy to discover.

The boundary between Nova Scotia and Canada was described, by the King's proclamation, in the same mode of expression as that used in the treaty of peace. Commissioners who were appointed to settle that line, have traversed the country in vain to find the highlands designated as a boundary. I have seen one of them, who agrees with the account I have had from the natives and others, that there are no mountains or highlands on the southerly side of the St. Lawrence, and northeastward of the river Chaudiere. That, from the mouth of the St. Lawrence to that river, there is a vast extent of high flat country, thousands of feet above the level of the sea, in perpendicular height; being a morass of millions of acres, from whence issue numerous streams and rivers, and from which a great number of lakes are filled by drains. That the rivers originating in this elevated swamp pass each other wide asunder, many miles in opposite courses, some to the St. Lawrence, and some to the Atlantic sea.

Should this description be founded in fact, nothing can be effectively done, as to a Canada line, without a commission to ascertain and settle the place of the northwest angle of Nova Scotia, wherever that may be agreed to be: if there is no mountain or natural monument, an artificial one may be raised. From thence, the line westward to Connecticut river may be established by artificial monuments erected at certain distances from each other; the points of compass from the one to the other may be taken; and the ascertaining the degree of latitude, which each one is placed on from actual observation, may be very useful. Though there is no such chain of mountains as the plans or maps of the country represent under the appellation of the highlands, yet there are eminences from whence an horizon may be made to fix the latitude from common quadrant observations.

In the description of the morass, which is said to crown the heights between the United States and Lower Canada, it ought to have been noticed, that, though those swamps are vastly extensive, yet, in the acclivity from the Atlantic to their highest elevation, as well as in their declivity to the St. Lawrence, great tracts of valuable country are interspersed. On the banks of the river Chaudiere, and perhaps on the banks of other rivers, running to the St. Lawrence, the settlements are approaching fast towards those of the United States. This circumstance will soon render an established line of national jurisdiction absolutely necessary.

Should there be any thing within my power which will give aid to the Government on this occasion, you will please to command me.

I am, sir, with sentiments of sincere respect, your most humble servant,

JAS. SULLIVAN.

The Hon. JAMES MADISON, Esq. *Secretary of State for the United States of America.*

Mr. Gore to the Secretary of State.

LONDON, *October* 6, 1802.

SIR:

I have the honor to acknowledge the receipt of your several letters to Mr. King, under the following dates, viz: 8th June, 20th, 23d, and 26th of July, and 23d of August; the latter by Mr. Brent: all of which came to hand since his absence from this place. That of June 8th, covering commission and instructions to this gentleman to adjust whatever remains to be decided in relation to the boundaries between the United States and the British Government, was received, and forwarded to him before he left Harwich.

According to his desire, and with a view to expedite the business, I requested an interview of Lord Hawkesbury, for the purpose of making to him such communications on this subject as might enable him to enter on the negotiation with effect, on the return of Mr. King. After having opened the business at our first meeting, he requested it might lay over until Mr. Hammond, the under Secretary of State, should come from the seaside, where he then was for his health, to afford him an opportunity of conferring with this gentleman, who was much acquainted with the business to which the communication referred. On Mr. Hammond's arrival, I saw Lord Hawkesbury, and, with the map of the St. Croix, as reported by the commissioners under the fifth article of the treaty of 1794, and Arrowsmith's map of the United States, endeavored to trace out the boundaries that were still requisite to explain to him the views of the President, and to impress on his mind the reasonableness and justice thereof, in regard to the British nation. He appeared disposed to accede to the propositions, so far as they relate to the boundary line through the Passamaquoddy, the mode suggested of adjusting that between the United States and New Brunswick, and fixing the point intended in the treaty of 1783, by the northwest angle of Nova Scotia, and establishing the boundary between such point and the northwesternmost head of Connecticut river. It is, however, to be understood, that the disposition manifested by his lordship was founded on the belief that, on inquiry, he should find the islands in Passamaquoddy bay to have been possessed by, and to belong to, the respective nations as the proposed line would place them; and that, on further reflection, no insurmountable objection should occur to the plan proposed for running the other lines and fixing the point referred to. On these subjects, he doubtless intends to consult with Colonel Barclay, the British commissioner for ascertaining the St. Croix, who is now in some part of Great Britain, and who is expected in London early in the winter. On that part of the boundary which is to connect the northwest point of the Lake of the Woods with the Mississippi, he observed that it was evidently the intention of the treaty of peace that both nations should have access to, and enjoy the free use of that river; and he doubtless meant that this access should be to each nation through their own territories. He remarked, that commissions, which I had proposed for ascertaining the relation of the Lake of the Woods and the Mississippi, if any doubt remained on this head, and running the line between these two waters, according to your proposition, might establish such a boundary as would secure to each nation this object. To the remark I made no reply, other than by observing that the line suggested was what naturally seemed to be demanded by just interpretation, where such a mistake had happened, as was herein supposed; but this I did, however, chiefly with a view of not assenting to his proposal, and in a manner rather declining than courting the discussion. It will probably be persisted in; and I much doubt if this Government will be inclined to adjust any boundary in this quarter, that has not the right desired for its basis.

I have considered it important to apprise you of the view entertained by the British Government in this respect, that the President may have an opportunity, if he should choose, to forward Mr. King any instructions relative to the boundary in question. The papers marked A, herewith enclosed, are copies of the notes that passed from me to Lord Hawkesbury, and minutes of the proposals made him in conversation, and traced out on the maps before mentioned, and of his note in reply. These, with the above detail of what passed in conversation, will communicate to you all that has been, or probably will be, done on this subject, before Mr. King's return, which may be expected in November, and doubtless before Lord Hawkesbury will have an opportunity of consulting the persons alluded to in his note.

Your letter of 20th July, with the enclosed copy of the letter of the Secretary of the Treasury to the Comptroller, respecting the portages, or carrying places, and the exemption from duty of small vessels trading between the northern and northwestern boundaries, came to hand on the 10th of September, and I lost no time in stating their contents to Lord Hawkesbury in a note, (copy whereof is herewith enclosed,) in order to rebut any argument in favor of the pretensions of the British traders, from a supposed acquiescence on the part of the Government of the United States, and to insist on such a construction of the terms, portages, and carrying places, as might comport with the safety of the revenue of the United States, and the interest of their citizens. I afterwards had a conference with him on this subject, in which he acceded to the construction contained in my note; and, as to the tonnage duty, he said it certainly merited, and should receive, all due consideration.

I have the honor to be, with great consideration and respect, sir, your obedient and humble servant,

C. GORE.

Mr. Gore to Lord Hawkesbury.

GREAT CUMBERLAND PLACE, *August* 24, 1802.

Mr. Gore presents his compliments to Lord Hawkesbury, and has the honor to inform him that, since the departure of Mr. King, he has received for this gentleman instructions and a full power from the President of the United States, to adjust, by amicable negotiation, with the Government of His Britannic Majesty, whatever remains unsettled as to the boundaries between the territories of the two nations.

Mr. Gore takes the liberty of proposing to his lordship to communicate to him, whenever he shall be at leisure to attend thereto, the views of the President of the United States in order that his lordship may give to the subject such consideration as he shall think its importance requires: and that, having a distinct knowledge thereof, his lordship may, on the return of Mr. King, be enabled to concur in such measures for defining and settling the boundary lines between the two countries, as shall appear most conducive to their mutual interests and future harmony.

Mr. Gore flatters himself that Lord Hawkesbury will see, in this proposal of the President, a new proof of the sincere and earnest desire of the Government of the United States to live in friendship with that of His Britannic Majesty, inasmuch as it invites to an adjustment, by amicable negotiation, of not only whatever may now be the occasion of inquietude between the parties, but also of every thing, as far as can be foreseen, which may interrupt in future that good understanding so essential to the interests and happiness of both nations.

Mr. Gore to Lord Hawkesbury.

GREAT CUMBERLAND PLACE, *September* 22, 1802.

Mr. Gore presents his compliments to Lord Hawkesbury, and has the honor to inform him that the President of the United States, ever desirous to continue uninterrupted the harmony so happily subsisting between the Government of said States and that of His Britannic Majesty, and by a constant vigilance and unremitted attention to every circumstance that might have a tendency, however remote, to disturb the same, in order to prevent its effect by such seasonable interposition as the occasion may require, has given directions that it should be represented to His Majesty's Government, that certain traders, subjects of His Britannic Majesty, have set up pretensions to transport goods and merchandise, free of duty, through certain rivers, and over tracts of country, in the northwestern parts of the United States, and entirely within their jurisdiction, under the clause of the third article of the treaty of amity, commerce, and navigation, between the said United States and His Britannic Majesty, which provides "that no duties shall be payable on any goods which shall merely be carried over any of the portages, or carrying places, on either side, for the purpose of being immediately re-embarked, and carried to some other place or places."

Mr. Gore flatters himself that, if his lordship should take the trouble to look into the article referred to, he will see that such claims derive no support from the most liberal construction of the terms relied on, namely, the right to carry goods, exempt from duty, "over portages or carrying places;" and that these words, so used, can never intend other cases than where the waters forming a boundary between the parties become unnavigable, and where a transit by land is thence required and resorted to, in order to re-enter the common waters where they are again navigable.

While the United States are actuated by the most sincere and earnest desire to give every facility to the trade and commerce of the subjects of His Britannic Majesty, not inconsistent with a due regard to the rights of their own citizens, and the safety of their revenue, they have been obliged to resist, as incompatible with these, pretensions so unauthorized, and must speedily make such regulations in this respect, as the security of their public revenue renders indispensable; not, however, interfering, in the smallest degree, with the rights of His Britannic Majesty's subjects, under the stipulations of said treaty, which will always be held sacred by the Government of the United States.

Mr. Gore has also the honor, according to the instructions of his Government, to represent to Lord Hawkesbury, that the Congress of the United States, with a view to render the intercourse as convenient and free as possible to their citizens and the subjects of His Britannic Majesty living in the north and northwestern boundaries of said States, and in the British provinces of Upper and Lower Canada, and thereby promote a good understanding between the inhabitants thereof, by removing all impositions on the vessels of either trading there, at their last session passed an act to exempt from tonnage duty all vessels, whether British or American, not above fifty tons burthen, trading between the ports of the northern and northwestern boundaries of the United States, and the British provinces of Upper and Lower Canada.

He is also directed further to represent to His Majesty's Government, that vessels of the United States, in the British ports, within the same waters, are subject to a duty of six cents per ton. The disposition manifested by His Majesty's Government to concur in equalizing the situation of vessels of the two countries, and to do it rather by abolishing than assimilating the duties on them, raises an expectation, on the part of the President of the United States, that His Majesty's Government will be disposed to place vessels belonging to citizens of said States, in such British ports, on an equality with those of the subjects of His Majesty in the ports of the United States within said waters.

Mr. Gore to Lord Hawkesbury.

GREAT CUMBERLAND PLACE, *September* 28, 1802.

Mr. Gore presents his compliments to Lord Hawkesbury, and has the honor to transmit, herewith enclosed, minutes of what he took the liberty to suggest, in conversation with his lordship this morning, relative to the unascertained boundaries between the United States and the possessions of His Britannic Majesty.

Mr. Gore requests his lordship will please to consider them, conformably to his declaration then personally made to his lordship, as intended to afford a general idea of the views of the President of the United States on the subject to which they relate, rather than containing proposals not liable to modification, at the will of the American Government, or its representative; it being distinctly understood that the same may be altered as reflection shall suggest to Mr. King, or any other person to whom the negotiation may be committed, at a future day, should it not be finished by this gentleman in the ensuing winter, of which, however, Mr. Gore will not permit himself to doubt, as so many reasons concur to evince the fitness of the present time for adjusting and establishing, for the mutual benefit of the parties, the boundaries referred to; which, being left open and unsettled, until, as the natural and almost inevitable consequence of such a state of things, private gain and individual passion shall intermingle themselves in the question, will prove the most fruitful source of difference and misunderstanding between two nations whose essential interests demand the most amicable and friendly intercourse.

MINUTES, &c.

Boundaries from the mouth of the St. Croix, through the Bay of Passamaquoddy, and to the Atlantic ocean.

Beginning in the middle of the river St. Croix, at its mouth; thence, direct to the channel between Pleasant point and Dear island on the east and north, and Moose island and Campo Bello on the west and south, and round the northeastern point of Campo Bello island, to the bay of Fundy.

Boundaries between the United States and New Brunswick.

In tracing and establishing the boundary between the United States and New Brunswick, there may be some question what are the highlands intended by the treaty of peace?

To run the line from the source of the St. Croix, and fix the point at which it is to terminate, no mode more proper seems to suggest itself than that of instituting a commission, and appointing commissioners, as in the fifth article of the treaty of 1794; the report of whom to ascertain and establish this part of the boundary, as in the second article of the treaty of 1783, having due regard to the idea that the line ought to terminate on the ground dividing the rivers falling into the Atlantic from those emptying themselves into the St. Lawrence.

The same commissioners may be authorized to substitute for the description of the boundary between the point so fixed and the northwesternmost head of Connecticut river, a line drawn along the said highlands, with such reference to intermediate sources of rivers by straight lines, as will admit of easy and accurate execution hereafter, and best comport with the apparent intentions of the treaty of 1783.

Boundary from the Lake of the Woods to the Mississippi.

The second article of the treaty of 1783 supposes that the most northwestern point of the Lake of the Woods may be connected with the Mississippi, by running a line due west from that point, and that a line so drawn would intersect that river.

The highest source of the Mississippi is now supposed to be south of the Lake of the Woods, and, consequently, a line due west from its northwest point will not touch any part of said river.

If this be true, some provision is necessary to complete the boundary of the United States and the British possessions in this quarter, by amending the second article of the treaty of 1783 in that respect, according to the stipulations of the fourth article of the treaty of 1794.

Supposing the most northern branch of the source of the Mississippi to be south of the Lake of the Woods, as seems now to be understood, it is suggested, as consistent with justice and the mutual convenience of the parties, to establish the boundary of the United States in this quarter, by a line running from that source of the Mississippi which is nearest to the Lake of the Woods, and striking it westwardly, as a tangent, and from the point touched along the watermark of the lake to its most northwestern point, at which it will meet the line running through the lake.

Commissioners might be appointed to ascertain the local relation of the Mississippi to the Lake of the Woods, and, if as was supposed by the treaty of peace, to run the line there agreed on. But if the relative situation of these two waters be as now believed, to establish the boundary by running a line as above described.

*** To the original were added the second article of the definitive treaty of peace of 1783; the fourth article of the treaty of amity, commerce, and navigation, &c. of 1794, (both which articles relate to the boundaries;) and the following

Extract from Mackenzie's voyage.

"The Lake of the Woods is in latitude 49° 37′ north, and longitude 94° 31′ west.

"The northernmost branch of the source of the Mississippi is in latitude 47° 38′ north, and longitude 95° 6′ west, ascertained by Mr. Thomson, astronomer to the Northwest Company, who was sent expressly for that purpose in the spring of 1798. He in the same year determined the northern bend of the Missouri to be in latitude 47° 32′ north, longitude 101° 25′ west; so that, if the Missouri were even to be considered as the Mississippi, no western line could strike it."—*History of the Fur Trade, page* 85.

Lord Hawkesbury to Mr. Gore.

DOWNING STREET, *October* 4, 1802.

Lord Hawkesbury presents his compliments to Mr. Gore, and has the honor to acknowledge the receipt of his note of the 28th ultimo, together with the minutes which were enclosed in it.

Lord Hawkesbury is fully sensible of the expediency of adjusting, by some definitive arrangement, the several points to which those minutes refer, and will be ready to enter into a negotiation for that purpose either with Mr. Gore or with Mr. King, within as short a period as the circumstances of the case will conveniently admit. In the mean time, it may perhaps be necessary for Lord Hawkesbury to obtain information from persons in this country on some of the subjects which are likely to be brought into discussion. But Mr. Gore may be assured that Lord Hawkesbury is desirous of avoiding any unnecessary delay, and that he will feel the sincerest disposition to terminate the negotiation in such a manner as may be reciprocally advantageous both to Great Britain and to the United States, as may tend, by removing all causes of future dispute, to improve and conciliate the harmony and good understanding which so happily subsists between the two countries, and which are so essential to their several interests and prosperity.

Extract:—The Secretary of State to Rufus King, dated

DEPARTMENT OF STATE, *December* 16, 1802.

By the communications of the 6th day of October, received from Mr. Gore, it appears that the proposition for adjusting the boundary in the northwest corner of the United States is not relished by the British Government.

The proposition was considered by the President as a liberal one, inasmuch as the more obvious remedy for the error of the treaty would have been by a line running due north from the most northern source of the Mississippi, and intersecting the line running due west from the Lake of the Woods; and inasmuch as the branch leading nearest the Lake of the Woods may not be the longest or most navigable one, and may, consequently, favor the wish of the British Government to have access to the latter. The proposition, for these reasons, would not have been made but from a desire to take advantage of the present friendly dispositions of the parties for the purpose of closing all questions of boundary between them. As it is not probable, however, that the settlement of this particular boundary will for some time be material, and as the adjustment proposed is not viewed by the British Government in the same light as by the President, it is thought proper that it should not for the present be pursued; and that the other questions of boundary should be adjusted with as little delay as possible. In the mean time, further information with respect to the head waters of the Mississippi, and the country connected with them, may be sought by both parties; it being understood that the United States will be as free to be guided by the result of such inquiries, in any future negotiation, as if the proposition above referred to had never been made by them. Should it be most agreeable to the British Government to have an early survey instituted, with a view to a proper boundary in this case, the President authorizes you to concur in such an arrangement.

Mr. King to the Secretary of State.

LONDON, *February* 28, 1803.

SIR:

I have duly received your letters of 16th and 23d December. By Lord Hawkesbury's desire, I have conferred with Colonel Barclay respecting the continuation of the boundary through the bay of Passamaquoddy, who has made no objection to the line we have proposed, though he appears to think that it would be improper to cede to us the island of Campo Bello, unless the cession should be desired by its inhabitants. No objection has been made to our title to Moose island; and, at present, I foresee nothing to impede a settlement of this boundary, except the difficulty of engaging the minister to bestow upon the subject sufficient time to understand it. With regard to the line between the source of the St. Croix and the northwest corner of Nova Scotia, I have no reason to suppose there will be any objection to its being ascertained in the way we have proposed. Not having been able to fix the attention of Lord Hawkesbury upon the subject, I am not able to give you any information concerning the line between the northwest corner of Nova Scotia and the head of Connecticut river, or between the Lake of the Woods and the Mississippi.

With perfect respect and esteem, I have the honor to be, sir, your obedient and faithful servant,

RUFUS KING.

Mr. King to the Secretary of State.

LONDON, *May* 13, 1803.

SIR:

I have the honor to transmit herewith the convention which I yesterday signed, in triplicate, with Lord Hawkesbury, relative to our boundaries.

The convention does not vary in any thing material from the tenor of my instructions. The line through the bay of Passamaquoddy secures our interest in that quarter. The provision for running, instead of describing, the line between the northwest corner of Nova Scotia and the source of the Connecticut river has been inserted, as well on account of the progress of the British settlements towards the source of the Connecticut, as of the difficulty in agreeing upon any new description of the manner of running this line, without more exact information than is at present possessed of the geography of the country.

The source of the Mississippi nearest to the Lake of the Woods, according to McKenzie's report, will be found about twenty-nine miles to the westward of any part of that lake, which is represented to be nearly circular. Hence, a direct line between the northwesternmost part of the lake, and the nearest source of the Mississippi, which is preferred by this Government, has appeared to me equally advantageous with the lines we had proposed.

With perfect respect and esteem, I have the honor to be, sir, &c.

RUFUS KING.

Report of the Committee of the Senate on the foregoing Convention.

Mr. ADAMS, from the committee to whom the treaty with Great Britain, signed at London, on the 12th of May, 1803, was referred, reported thereon, as follows:

That, from the information they have obtained, they are satisfied that the said treaty was drawn up by Mr. King three weeks before the signature of the treaty with the French republic of the 30th of April, and signed by Lord Hawkesbury, without the alteration of a word; and that it had, in the intention of our minister, no reference whatsoever to the said treaty with the French republic, inasmuch as he had no knowledge of its existence. But, not having the means of ascertaining the precise northern limits of Louisiana, as ceded to the United States, the committee can give no opinion whether the line to be drawn, by virtue of the third article of the said treaty with Great Britain, would interfere with the said northern limits of Louisiana or not.

[The following papers were communicated to the Senate with the foregoing report.]

Mr. Adams to the Secretary of State.

SIR: DECEMBER 16, 1803.

Some difficulty having arisen in the Senate, in considering the expediency of advising and consenting to the ratification of the treaty of limits between the United States and Great Britain, signed on the 12th of May, 1803, a committee of that body has been appointed to inquire and report upon the subject.

The difficulty arises from the circumstance that the treaty with the French republic, containing the cession of Louisiana, was signed on the 30th of April, 1803, twelve days earlier than that with Great Britain; and some apprehension is entertained that the boundary line, contemplated in the third [fifth] article of the latter, may, by a possible future construction, be pretended to operate as a limitation to the claims of territory acquired by the United States in the former of these instruments.

But as the ratification, if it can be effected without unnecessary delay, is a desirable object, it has occurred to the committee that Mr. King may possibly have it in his power to give information which might remove the obstacle. I have, therefore, in behalf of the committee, to ask, whether, from any information in possession of your Department, or which may be obtained, in such manner as you may deem expedient, it can be ascertained whether the third article of the treaty with Great Britain was concluded with any reference whatsoever to that with the French republic, or with any right or claim which the United States have acquired by it.

I am, with much respect, sir, your very humble and obedient servant,

JOHN QUINCY ADAMS.

THE SECRETARY OF STATE.

The Secretary of State to Mr. Adams.

DECEMBER 16, 1803.

SIR:

Having transmitted to Mr. King the inquiry contained in your letter of ——, I have received the answer, of which a copy is enclosed. The Office of State possesses no further information on the particular point in question with the committee.

With great respect, I have the honor to be, sir, your most obedient, humble servant,

JAMES MADISON.

Rufus King to the Secretary of State.

NEW YORK, *December* 9, 1803.

SIR:

The draught of the convention with Great Britain respecting boundaries, having been settled in previous conferences, was drawn up and sent by me to Lord Hawkesbury on the 11th of April; on the 12th of May the convention was signed, without the alteration of a word of the original draught; and, on the 15th of May, the letter of Messrs. Livingston and Monroe, (a copy of which was annexed to my No. 100,) announcing the treaty of cession with France, was received and communicated by me to Lord Hawkesbury. At the date of the signature of the convention with Great Britain, I had no knowledge of the treaty with France; and have reason to be satisfied that Lord Hawkesbury was equally uninformed of it. It results, that the convention with Great Britain was concluded without any reference whatsoever to the treaty of cession with France.

With perfect respect and esteem, I have the honor to be, your most obedient faithful servant,

RUFUS KING.

SECRETARY OF STATE.

[The following resolution was passed by the Senate.]

IN SENATE OF THE UNITED STATES, *February* 9, 1804.

Resolved, unanimously, That the Senate do advise and consent to the ratification of the convention between the United States and His Britannic Majesty, for fixing the boundaries between the United States and Great Britain, concluded at London, May 12, 1803, with the exception of the fifth article.

8th CONGRESS.] No. 184. [1st SESSION.

MOROCCO.

COMMUNICATED TO THE SENATE, NOVEMBER 4, 1803.

NOVEMBER 4, 1803.

To the Senate and House of Representatives of the United States:

By the copy, now communicated, of a letter from Captain Bainbridge, of the Philadelphia frigate, to our consul at Gibraltar, you will learn that an act of hostility has been committed on a merchant vessel of the United States, by an armed ship of the Emperor of Morocco. This conduct, on the part of that Power, is without cause and without explanation. It is fortunate that Captain Bainbridge fell in with and took the capturing vessel and her prize. And I have the satisfaction to inform you, that, about the date of this transaction, such a force would be arriving in the neighborhood of Gibraltar, both from the east and from the west, as leaves less to be feared for our commerce, from the suddenness of the aggression.

On the 4th of September, the Constitution frigate, Captain Preble, with Mr. Lear on board, was within two days' sail of Gibraltar, where the Philadelphia would then be arrived with her prize, and such explanations would probably be instituted as the state of things required, and as might, perhaps, arrest the progress of hostilities.

In the mean while it is for Congress to consider the provisional authorities which may be necessary to restrain the depredations of this Power, should they be continued.

TH: JEFFERSON.

U. S. FRIGATE PHILADELPHIA, *east of Malaga about ten miles*,

MONDAY, *August* 29, 1803.

DEAR SIR:

I wrote you from Gibraltar on the 24th inst. mentioning that we should sail the next morning for Malta.

Hearing at the Rock that two Tripolitans were off Cape de Gatt, made me proceed with all expedition to examine that part of the Spanish coast. On the 26th, it blowing very fresh, at 8 P. M. being nearly up with Cape de Gatt, fell in with a ship carrying only her foresail, which had a brig in company, under the same sail. It being night, and her guns housed, prevented an immediate discovery of her being a cruiser. After hailing for some time, found that she was a vessel of war from Barbary. On which information, I caused her boat to be sent on board the frigate Philadelphia, with her passports, from which I discovered that she was a cruiser belonging to the Emperor of Morocco, called Meshboha, commanded by Ibraham Subarez, mounting twenty-two guns, and manned with one hundred men. By not making ourselves known to the officer who came on board, he confessed that the brig in company was an American, and had been with them three or four days; was bound to some port in Spain; had been boarded by them, but not detained. The low sail the brig was under induced me to suspect that they had captured her, notwithstanding their having your passport, which it must appear from the sequel was only obtained to protect them against the American ships of war. I sent my first lieutenant on board, to examine if they had any American prisoners. On his attempting to execute my orders, he was prevented by the captain of the cruiser. This increased my suspicion, and I sent a boat with armed men to enforce my intentions. After they were on board, they found Captain Richard Bowen, of the American brig Celia, owned by Mr. Amasas Thyer, of Boston, and several of his crew, who were taken the 17th inst. from Barcelona, bound to Malaga, within two or three leagues of the Spanish shore, and about twenty-five miles to the eastward of Malaga. The captain and the crew they had confined

below deck, which they always did when speaking a vessel. After making this discovery, I instantly ordered all the Moorish officers on board the frigate, for I made no hesitation in capturing her after such proceedings on their part, and violation of the faith of passports, which ought to be sacred. Owing to the high wind and sea, it took me the greatest part of the night to get the prisoners on board, and man the prize; which detention occasioned losing sight of the brig. The following morning, discovering many vessels in divers directions, the day was spent by the frigate and prize in chasing to find the captured brig. About 4 P. M. made her coming round the Cape de Gatt from the eastward, standing close in shore for Almeira bay, owing to the wind being very fresh. We were going slow in approaching her: the greatest exertions were made by Lieutenant Cox, in towing and rowing the prize. Fortunately, the wind increased in the evening, and we recaptured her at 12 o'clock at night. The Moors confessed that they came out cruising for the sole purpose of capturing Americans to be sent to Tangier. I have received a paper from them, written in Moorish, which they say is their authority from the Governor of Tangier for so doing. I enclose this to John Gavine, Esq. with a particular request to have it safely conveyed to you, that you may be informed of the circumstances, and act accordingly. I believe the Governor of Tangier is much disposed for hostilities with the United States: the Moorish prisoners accuse him as the sole cause of their present situation. I sincerely hope that this capture may be productive of good effects to the United States with the Emperor, who may be assured that if he unjustly goes to war with the United States he will lose every large cruiser he has; and God grant that it may not in the least prove a disadvantage to you. My officers and self have made it a marked point to treat the prisoners not only with the lenity that is due from humanity, but with particular attention of civility, to impress on their minds a favorable opinion of the American character. That you may receive this information as early as possible, I despatch my boat on shore at Malaga, to request W. Kirkpatrick, Esq. consul, to forward it by express to Gibraltar. I shall be extremely anxious to hear from you, as also for the arrival of Commodore Preble, to receive his instructions relative to the captured ships. I am bound to Gibraltar bay with the prize, but am fearful we shall be detained for want of an eastwardly wind.

I am, &c.

WM. BAINBRIDGE.

JAMES SIMPSON, Esq.

8th CONGRESS.] No. 135. [1st SESSION.

MOROCCO.

COMMUNICATED TO THE SENATE, DECEMBER 5, 1803.

DECEMBER 5, 1803.

To the Senate and House of Representatives of the United States:

I have the satisfaction to inform you that the act of hostility mentioned in my message of the 4th of November, to have been committed by a cruiser of the Emperor of Morocco on a vessel of the United States, has been disavowed by the Emperor. All differences in consequence thereof have been amicably adjusted, and the treaty of 1786 between this country and that has been recognised and confirmed by the Emperor, each party restoring to the other what had been detained or taken. I enclose the Emperor's orders given on this occasion.

The conduct of our officers, generally, who have had a part in these transactions, has merited entire approbation. The temperate and correct course pursued by our consul, Mr. Simpson, the promptitude and energy of Commodore Preble, the efficacious co-operation of Captains Rodgers and Campbell of the returning squadron, the proper decision of Captain Bainbridge, that a vessel which had committed an open hostility was of right to be detained for inquiry and consideration, and the general zeal of the other officers and men, are honorable facts which I make known with pleasure. And to these I add, what was indeed transacted in another quarter, the gallant enterprise of Captain Rodgers, in destroying, on the coast of Tripoli, a corvette of that Power of twenty-two guns. I recommend to the consideration of Congress a just indemnification for the interests acquired by the captors of the Mishouda and Mirboha, yielded by them for the public accommodation.

TH: JEFFERSON.

[TRANSLATION.]

Praise be given to God alone. May God be propitious to our master Mahomet and to his family.

[Imperial Seal.]

Know all those who shall see this noble writing—all our Governors—those encharged with our affairs, and captains of our vessels, that the American nation are still, as they were, in peace and friendship with our person exalted by God.

Their vessels are safe both at sea and in port, and so are their merchants; and you are not to disturb the peace between us and them. What has happened with their and our vessels, has only been an affair among the vessels; but the said nation continues respected as they were with us, and under all security, and equally so their vessels.

Wherefore, we hereby order that all those of our Governor; those encharged with the command of our ports, and captains of our vessels who shall see this writing, that they act in all respects for the fulfilment of this order, and that they do not deviate therefrom; those who shall contravene it will be punished with a severe punishment.

This order was given on the 21st Chemadi, the second in the year 1218, (9th October, 1803,) and at last we are in peace and friendship with the said American nation, as our father (to whom God be merciful,) was, according to the treaty made on the first day of Rhamadan, in the year 1200.

The original of the foregoing was translated from Arabic to Spanish by Don Manuel de Baccas, and from Spanish to English by

JAMES SIMPSON.

Certified at Tangier, October 15, 1803.

[TRANSLATION.]

Praise be given to the only God. May God be propitious to our master Mahomet and to his family.

[Imperial Seal.]

Our servant the Governor Ben Abdel Sadak, and all officers of our port of Mogadore: May God assist you. Peace, with the mercy and blessing of God, be with you.

Now know ye, that the Almighty having reconciled what had happened with the American nation because of the acts of the vessels, and that we are now, as we were before, with them in peace and friendship, as settled with our father, (to whom God be merciful!)—Take care—take care that none of you do any thing against them, or show them any disrespect or disregard, for they are, as they were, in friendship and in peace, and we have increased our regard for them, in consequence of the friendship they have manifested to our person, which God has exalted. And we order that you be careful and diligent in all their concerns, and we order that you do well with their vessels and with their merchants. Peace be with you all.

24th Chemadi 2d, 1218. (11th *October*, 1803.)

The original of the foregoing was translated from the Arabic to Spanish by Don Manuel de Baccas, and from Spanish to English by

JAMES SIMPSON.

Certified at Tangier, October 17, 1803.

8th CONGRESS.] No. 186. [1st SESSION.

IMPRESSMENT OF AMERICAN SEAMEN.

COMMUNICATED TO CONGRESS, DECEMBER 5, 1803.

DECEMBER 5, 1803.

To the Senate of the United States:

In compliance with the desire of the Senate, expressed in their resolution of the 22d of November, on the impressment of seamen in the service of the United States by the agents of foreign nations, I now lay before the Senate a letter from the Secretary of State, with a specification of the cases of which information has been received.

TH: JEFFERSON.

DEPARTMENT OF STATE, *December* 2, 1803.

SIR:

Agreeably to a resolution of the Senate, passed on the 22d of last month, requesting the President of the United States to cause to be laid before them such information as may have been received relative to the violation of the flag of the United States, or to the impressment of any seamen in the service of the United States, by the agents of any foreign nation, I do myself the honor to transmit to you the enclosed abstract of impressments of persons belonging to American vessels, which, with the annexed extracts from the letters of some of our agents abroad, comprises all the information on the subject that has been received by this Department since the report to Congress, at its last session, relative to seamen. To the first mentioned document I have added a summary, showing the number of citizens of the United States impressed, and distinguishing those who had protections as citizens; those who are stated to be natives of the British dominions, and not stated to be naturalized as citizens; and those of all other countries, who are equally not stated to have been naturalized in the United States.

Another source of injury to our neutral navigation has taken place in the blockade of Guadaloupe and Martinique, as notified in the annexed letter from Mr. Barclay, Consul General of His Britannic Majesty for the eastern States.

Besides the above, I have received no official information of any material violations of our flag during the present European war, except in the recent aggressions of the Emperor of Morocco.

With very high respect, I have the honor to be, sir, your most obedient servant,

JAMES MADISON.

The PRESIDENT *of the United States.*

Abstract of impressments of seamen belonging to American vessels, by the agents of foreign nations.

Edward Bass, a native of Philadelphia, impressed at London some time in March or April last, and put on board of the Mars. This man had been impressed into the British service during the late war, and was confined therein until peace. Upon the breaking out of war again, as he was on the point of departing for this country, he was impressed a second time into the British service. He was without a custom-house protection.

Robert Carter Gilliam, native of Sussex county, Virginia, impressed from the American vessel Warren, then lying at the port of London, in March or April last. He was without a protection.

John Leland Wade, native of Bristol county, Massachusetts, (having lost his protection,) was impressed at Liverpool in April last, from the brig Mahela Winsor, and put into the Courageux.

William Wall, Henry Clark, and James Clark, Irishmen, not stated to be citizens of the United States, impressed at London the 10th May, from the American ship Industry. No protections.

Christopher Tillinghast, native of North Kingston, Rhode Island, impressed into the British ship Loire, off Ireland, on the high seas, on the 20th May, from the American ship Sterling. Without a protection.

John Robberts and John Backham, the former a Dane, and the latter a Swede, impressed on the 25th May, in the North sea, from the American ship Shepherdess, John Bryan, Master, into the British frigate Amelia, Lord Proby, master. Without protections.

Barnabas Otis, junior, native of Plymouth, Massachusetts, impressed on the 29th May, in the English channel, into the British frigate Immortalité, —— Owens, commander, from the American brig Hannah. No protection.

Samuel Wilson, a native of Maryland, Andrew Sampson, and Peter Thompson, natives of Curacoa and Norway, but American citizens, impressed on the 31st May, 1803, from the American ship Martha, Henry Waddel, master, at London. Without protections.

William Brown, a citizen of the United States, impressed at Cuxhaven, on the 5th June, from the American schooner Astrea, and put into the British frigate Amethyst. He had a protection.

John Daniel Kessler, John Anderson, and Michael Jones, impressed on the 6th June, from the American ship William and Jane, off the port of Cork, and put into the British ship Loire. It is not stated that they are American citizens, or that they had protections.

Richard Rodman, on the 7th June, 1803, impressed at Hull, England, into the British service, from the American ship Atlas, Sweeny Wilson, master. It is not stated whether he had a protection, or of what country he is a citizen.

Dennis Sweeny, a native of Ireland, and without a protection, impressed on the 7th June, in the North sea, into the British frigate Amelia, Lord Proby, master, from the American ship Washington.

William Ireland, native of Suffolk county, New York, impressed from the American ship Alknomac, John Gore, master, at Falmouth, Jamaica, by a pressgang belonging to the Desiré, Captain Ross, or the armed brig Racoon, though he showed a protection given by the collector at New York, dated 26th April last. This impressment was made on the 22d June last.

John Dirks, Peter German, and James Peterson, natives of Denmark, impressed, on the 29th June, from the barque Pallas, an American vessel, then lying at London. They had no protections.

Hiram Chaples, (a native of New York, but it is not stated that he had a protection,) was impressed on the 3d day of July, from the American ship Charleston; Joseph Wyer, master, about twenty leagues from Sandy Hook, into the British frigate Cambrian.

Joseph Simonds, and Sylvester Pendleton, native Americans and residents of New York, and John Table, a black man, impressed about the 7th July, off the Texel, from the American schooner Recovery, Josiah Shackford, master, into the British sloop of war Harpy, Edmund Heywood, commander. Without protections.

Ephraim Vanduser, an American citizen and native of New York, with a protection as such, impressed, from the schooner Perseverance, Daniel Coyle, master, on the 18th July, off Tiberoon, into the British sloop of war Snake.

Josiah Hunt, native of Newburyport, Massachusetts, impressed the 17th July last, from the American brig John, Jonathan Titcomb, into the British ship Emerald, then in sight of Martinico. Without a protection.

John Whiting, native of Gloucester, Massachusetts, impressed at the same time, from and into the same vessel. No protection in this case.

Nathaniel Keene, an American citizen, who had been in slavery at Algiers, and who had a protection, which he left, through forgetfulness, at New York, impressed on the 18th July, at Folkstone, into the British service, from the American ship Maryland, John Wickham, master.

Joseph Stevens, an American citizen, with a protection as such, impressed from the schooner Perseverance, Daniel Coyle, master, on the 18th July, off Tiberoon, into the British sloop of war Snake.

William Evans, an Englishman, without a protection, and Thomas Challis, an American citizen, impressed at Cork, on the 19th and 26th June, from the American ship Joseph, James Jameson, master.

Joseph Emerson, native of Lincoln county, Massachusetts, impressed from the American schooner Harriet, Nathaniel Knight, master, into the British schooner St. Lucia, Shipley, master, then lying in the road of Basseterre, on the night of the 20th July. No protection.

Benjamin Eldridge and William Finney, natives of Falmouth, Massachusetts, impressed on the 20th July from the American schooner Hannah, in the road of Basseterre, into the British schooner St. Lucia, Shipley, master. No protection.

Three seamen, names unknown, belonging to the American vessel Mark and Mary, John Mooklar, master, were impressed, on the 29th July, into the Emerald, British vessel, Captain O'Brien, near the north end of Martinico, though the vessel from which they were taken was then in a leaky condition. Under these circumstances, Captain Mooklar was ordered to leave the coast of Martinico, as the island was blockaded, and he put into Dominica, but could stay there only a very short time, from the violence of the sea, which set into the harbor. He again put to sea, and before his return to Dominica sustained considerable loss in the washing overboard a great part of his deck cargo, which consisted of lumber. One of the men impressed had a custom-house protection.

William Whipp, native of New Haven, Connecticut, and John Simpson, of Virginia, impressed into the British sloop of war Sylph, July 30th, 1803, on the high seas, from the American ship Phaeton, —— Boush, master. No protections.

George Arnold, native of Great Britain, and John Williamson, a Swede, both without protections, impressed the 31st July, on board the British frigate Cambrian, William Bradley, commander, from the American ship Venus, Lemuel Bruce, master, upon the high seas.

Two seamen, citizens of the United States, and possessed of protections as such, which they showed to the British officers, impressed into the British frigate Boston, Captain Douglas, just after she had passed the territorial line of the United States, about the last of July.

William Liddle, it is not stated whether he be a citizen of the United States, impressed from the Juno, the 3d August, on her passage from Norfolk to Amsterdam, into the British frigate Thetis.

John M'Evoy, (an Englishman, and without a protection,) impressed from the American brig Paisly, John Jackways, master, on the 9th August, into the British frigate Boston, Captain Douglas, off the Chesapeake.

James Farnish, mate, and Neil Lang, seaman, of the American brig Drake, on her voyage to Barbadoes, were impressed the 12th August last, upon the high seas, into a British frigate, name of which is not known. The crew which remained in the Drake were found to be too weak for working her; in consequence of which, the captain was obliged to put into Antigua, the nearest port that he could make, to the great loss of the adventure.

David Kitchell, a native citizen of the United States, at the mouth of Delaware bay, was impressed into the British ship Leander, captain Cain, the 22d August, 1803, from the American sloop Hiland, John Hand, master, on a voyage from Philadelphia to Alexandria. Kitchell, it is believed was without a custom-house protection.

Oliver Harris, native of Boston, on the 14th August, was impressed into the British ship Blenheim, from the American schooner Harrie, near the island of Martinique. No protection in this case.

Charles Tracy, an American citizen, impressed on the 25th August from the ship Marion, William D. Seton, off Delaware, into a British frigate, name unknown. No protection.

James Davis and Henry Wood, black men, impressed at Liverpool, on the 1st September, from the American ship Chatham. No protections.

Samuel Robinson, an American, with a protection, Christian Moldenham, and Christian Lowman, Danes, with Danish protections, impressed the 5th September, on the high seas, from the American ship Flora, Caleb Harrison, master, into the British frigate Cambrian.

Thomas Doyle, native of Philadelphia, and a seaman belonging to the American brig Hector, impressed at Lisbon, the 6th September, into the British sloop of war Bittern, then at that port. Doyle had a protection.

Samuel Watt, Andrew Pace, and John Davis, the former having a protection as an American citizen, and the two latter being natives and subjects of Great Britain, were impressed on the 11th September from the American ship Charlotte, Thomas Hasam, master, about ten miles east of Cape May, into the British sloop of war Driver.

James Matthews, chief mate of the schooner Amazon, John Murray, master, impressed on the 14th September, 1803, into the British armed brig Geochi Pine, in the West Indies. No protection.

William Watson, a native of Connecticut, and with a protection, impressed the 29th September from the American ship Ontario, Seaman Weeks, master, into the British frigate Cambrian, upon the high seas.

Thomas Cook and George Wilson, the former a native of New York, the latter of Scotland, both without protections, impressed October 1st from the ship American Packet, Solomon Swain, master, at sea, about eight leagues from the lighthouse at Sandy Hook, into the British frigate Perseverance.

Henry Cobb, native of Falmouth, Massachusetts, impressed into the Loire, British ship. It is not stated when, or whether he had a protection.

Daniel Walker, native of Philadelphia, impressed from the American ship Fox, into the British frigate Boston. No protection, and the time of impressment not stated.

Jesse Dillings, native of Wethersfield, Connecticut, impressed into the Dreadnought, British ship. No protection; time not stated.

Richard Johnson, native of Middletown, Connecticut, impressed into the British service. No protection; time not stated.

Joseph Mace, native of Newburyport, Massachusetts, impressed into the British ship Isis. No protection; time not stated.

Samuel Hills, native of Providence, R. I. impressed into the English ship Britannia. He had a protection. Time not stated.

Henry Kipp, a native of Hamburgh, and a naturalized citizen of the United States; impressed into the British frigate Endymion from the American ship Eagle. No protection; time not stated.

William Chandler, a British subject, taken into the English service at Falmouth, Jamaica, from the American ship Anna, Caleb Johnson, master. No protection.

William Fegarie, belonging to the American brig Sally, claimed by the French at St. Pierre, Guadaloupe, as a citizen of France, and kept as such. Time not stated.

Nicholas Bullea, by birth a Frenchman, impressed into the service of France, from the American brig Joseph, at St. Pierre. Time not stated.

John Nicholson, a black man, with a certificate of freedom, impressed from the American brig Canton, at Surinam, on the 5th October, into a Dutch frigate.

Summary of impressments by the British from American vessels.

Forty-three impressments of citizens of the United States appear to have been made, of whom twelve had protections.
Ten of natives of the British dominions, and not stated to be naturalized as American citizens; and
Seventeen of all other countries, who are not stated to have been naturalized in the United States.

Summary of Impressments by the agents of other Powers, from American vessels.

Two by the agents of France.
One by the agents of the Batavian republic.

DEPARTMENT OF STATE, *December* 2, 1803.

Extract of a letter from James Maury, Esq., Consul of the United States at Liverpool, to the Secretary of State.

MARCH 24, 1803.

"I had the honor to write to you on the 25th ultimo, since which the alarm of war has occasioned a great press for seamen. Many of ours, confident, as I suppose, in the continuance of peace, had not taken the caution, before leaving home, to be furnished with regular documents of citizenship, which exposes them to impressment."

Extract of a letter from John W. Fox, Esq., Consul of the United States at Falmouth, to the Secretary of State.

MAY 14, 1803.

"The impress is very severe. The citizens of the United States are not molested; two or three, without protections, and on board British ships, have been taken. I have made application for their release, but it is necessary that the seamen should bring certificates of their citizenship with them, otherwise they will run great risk of being impressed."

Extract of a letter from Wm. Savage, Esq. agent of the United States, for the relief and protection of their seamen at Jamaica, to the Secretary of State.

JUNE 25, 1803.

"There has been a hot press throughout this island. In this port about sixty seamen have been taken out of American vessels; immediately after which, I made application to the admiral, who liberated the American citizens. Some few vessels on the north side have lost their men, and have experienced distress from the measure. The names of the persons impressed I have a minute of, and on the arrival of the frigates, in which they are, I shall make application for their discharge.

Copy of a letter from Thomas Barclay, Esq., Consul General of His Britannic Majesty for the eastern States of the United States, to the Secretary of State.

OCTOBER 20, 1803.

SIR:

I have the honor to enclose you the copy of a letter which I yesterday received from Commodore Hood, commander-in-chief of His Majesty's ships of war on the windward station, notifying the blockade of the islands of Martinique and Guadaloupe by the squadron under his command.

I have the honor, &c.

THOMAS BARCLAY.

CENTAUR, OFF MARTINIQUE, *July* 25, 1803.

SIR:

I beg you will have the goodness to acquaint the American Government, and agents of neutral nations, the islands of Martinique and Guadaloupe are, and have been, blockaded by detachments of His Majesty's squadron, under my command, since the 17th June last, that they may have no plea for attempting to enter the ports of those islands. By your acknowledging the receipt of this, you will greatly oblige, sir, your most obedient servant,

SAMUEL HOOD,
Commodore and Commander-in-chief.

THOMAS BARCLAY, Esq. *Consul General, &c.*

8th CONGRESS.] No. 187. [1st SESSION.

SPAIN.

COMMUNICATED TO THE SENATE, DECEMBER 21, 1803.

DECEMBER 21, 1803.

To the Senate of the United States:

On the 11th of January last, I laid before the Senate, for their consideration and advice, a convention with Spain on the subject of indemnities for spoliations on our commerce committed by her subjects during the late war; which convention is still before the Senate. As this instrument did not embrace French seizures and condemnations of our vessels in the ports of Spain, for which we deemed the latter Power responsible, our minister at that court was instructed to press for an additional article comprehending that branch of wrongs. I now communicate what has since passed on that subject. The Senate will judge whether the prospect it offers will justify a longer suspension of that portion of indemnities conceded by Spain, should she now take no advantage of the lapse of the period for ratification. As the settlement of the boundaries of Louisiana will call for new negotiations on our receiving possession of that province, the claims not obtained by the convention now before the Senate may be incorporated into those discussions.

TH: JEFFERSON.

Extract of a letter from the Secretary of State to Charles Pinckney, Esq. Minister Plenipotentiary, &c. at Madrid, dated

MARCH 8, 1803.

The convention signed with Spain in August, though laid before the Senate at an early day, had no question taken on it till the close of the session. It was then postponed till the next session, which is to commence in November. More than a majority, but less than two-thirds, which the constitution requires, would have acquiesced in the instrument in its present form; trusting to the success of further negotiations for supplying its defects, particularly the omission of the claims founded on French irregularities. But it is understood that it would have been a mere acquiescence; no doubt being entertained that Spain is bound to satisfy the omitted as well as the included claims. In explaining, therefore, the course taken by the Senate, which mingles respect for the Spanish Government with a cautious regard to our own rights, you will avail yourself of the opportunity of pressing the reasonableness and the sound policy of remodelling the convention in such a manner as to do full justice. I need not repeat the observations heretofore made on the Spanish responsibility for the conduct of French citizens within Spanish jurisdiction; but it may be of use to refer you to the enclosed copy of a royal order issued by the Spanish Government in 1799, which will enable you to remind them of their own view of the subject at that time. In this document it is expressly declared, that the French consular jurisdiction was not admitted, and that French consuls in Spanish ports were in the same condition with those of every other nation. After such a declaration against the authority of French consuls, the Spanish Government would be chargeable with no less disrespect to the French republic than to itself, in saying that Spain was not left at liberty to prevent an exercise of the usurped authority; and, if at liberty, she is indisputably answerable for the consequences of not preventing it. A document, which I add, will explain the just sentiments entertained by the Batavian Government during the same period, in relation to a case turning on the same principle.

Extract of a letter from the Secretary of State to Charles Pinckney, Esq. Minister Plenipotentiary, &c. at Madrid, dated

MARCH 22, 1803.

As the convention you signed with Spain will be now submitted to further negotiation, it will be proper, in addition to the general remarks contained in preceding letters, to suggest some particular alterations which are calculated to remove doubts, and to provide for its convenient execution.

1st. The words "excesses of individuals," in the caption of the convention, are liable to exception. The term "excesses" has not a definite meaning in the sense in which it is here used, and "individuals" might be restricted at least as a purely English word to private citizens or subjects, as distinguished from those who are vested with public authority. The English part of the caption in the words quoted uses the preposition *of* in lieu of the Spanish words *cometidas por*, which are preferable.

It is believed that the form of words, "who have sustained losses, damages, or injuries, in consequence of the wrongs committed by the subjects or citizens of either nation, or under color of authority from it," &c. would be an improvement of importance.

2d. From the first section, it would seem that the fifth commissioner is to be appointed by the common consent of the two *nations*, or, in case of disagreement, by lot from two persons, one of whom is to be named by each *nation*. The formation of the Board would be very much facilitated by substituting the agency of the commissioners on each side, in the appointment of the fifth commissioner either by consent or by lot.

3d. To equalize the compensation of the commissioners, to provide for the payment of the expenses of the Board, and to obviate the case of the death, sickness, or necessary absence of either of them, the eighth article of the British treaty will serve as an approved model.

4th. It would be desirable to add the words "justice, equity," before the laws of nations, &c. in the close of the second article, and a clause to the oath, whereby the commissioners should engage not to sit at the decision of a case in which they might as individuals be directly or indirectly interested.

5th. The third article limits the term within which claims are to be made to eighteen months; but the Board should be vested with a power to extend it further in special cases, so as not to exceed two years in all. The close of this article admits of the same alteration as was suggested above with regard to the caption.

6th. A criticism, perhaps an unfounded one, having been made upon the word *testimony*, used in the fourth article, as if it were restricted to parole deposition, it may not be amiss to change it for the word *evidence*, or to couple them, so as to read "all testimony and evidence, the authenticity of which," &c.

A perseverance in our claims, grounded on the wrongs permitted to be done by French cruisers and tribunals, it is expected will produce a correspondent alteration in the whole convention, and a retrenchment of the sixth article. It will be obvious to you how convenient it will prove if you can terminate your negotiation so as to produce the requisite modifications of the convention in season to preclude its reconsideration in the Senate, at their next session, in its present shape.

Extract of a letter from Charles Pinckney, Esq., Minister Plenipotentiary of the United States at Madrid, to the Secretary of State, dated

MAY 12, 1803.

I find, by your letter of the 22d March, that the convention signed with this country is to be submitted to further negotiation, on the ground, I suppose, principally, that it did not include the claims for French captures. Your let-

ters, to which the only one I have received refers, have not yet come to hand, and therefore I only know it is to be submitted to further negotiation; and that, with some alterations respecting the mode of appointing to vacancies in the commission; extending the time at the discretion of the Board to two years; equalizing the compensation; altering the terms "excesses of individuals," and the expression respecting testimony. I am to persevere in obtaining redress for the French captures and wrongs permitted to be done by French cruisers and tribunals, which will certainly produce, if obtained, an alteration in the whole convention. I have been some time endeavoring, in every conversation I have had, to obtain the promise to include the arbitration of the French captures, but without effect: for it may be necessary here to state, that, although Mr. Cevallos did positively, in one of his letters last summer, promise to include them, if I would add the words "segun los principios que constituen la moralidad de las acciones," yet that very day, or a very short time after, when I had some inclination to add the words, and take the clause with that addition, he flew the way, and would not agree to it. I was, therefore, obliged to take the convention, such as it was, or none at all; and as it gave up *nothing*, secured very important and extensive claims, and opened the door to others, I always hoped the Senate would have ratified it conditionally, striking out the sixth article, and annexing one including the claims for French captures and condemnations, and ordering me, in very strong and decisive terms, to tell the Government here that they were determined to have the whole or none. Had this been done, I believe they would consent, and, as I suppose, the arbitration for the French captures and condemnations not being included was the principal objection to ratifying it at the present session, I shall now take that ground, and insist upon their being included, even if I am obliged to add the words he proposed to annex, and which I have already quoted. I shall also consider myself as not at liberty to sign any convention which does not include them in some manner that I think may be acceptable; but as this subject is one of the most grating and disagreeable that can be to the Spaniards, and as they consider it so extremely hard to be obliged to pay for the *French condemnations*, I wish to know your positive instructions, *whether I am to make them an indispensable part of the convention, and not to sign or agree to any which does not include them in some shape.* This is the ground I take at present; and as the Spaniards are not very quick in any of their negotiations, and are particularly crowded with business at this time, when they expect war between France and England, and of course that they will be involved, it is not improbable your instructions may reach me before I conclude the business. Should war take place, it is then very probable I shall succeed, and I shall govern the style of my representations by the probability or improbability of a rupture.

Mr. Pinckney to the Secretary of State.

DEAR SIR: MADRID, *August* 2, 1803.

My last despatches, and those which preceded them, will have conveyed to you the propositions I submitted to this Government on the subject of our claims, and particularly the captures and condemnations by the French; they will also have informed you of the anxious manner in which I have been expecting the arrival of Mr. Monroe since the 20th of May, hopeful that the instructions he would bring might enable me to add such offers, or bring the question of the spoliations by the French in some manner before this Government, to tempt them to accede to our propositions. After waiting until nearly the beginning of this month,* I received a letter from Mr. Monroe and Mr. Livingston, acquainting me with the cession of Louisiana; and another from Mr. Robert Livingston yesterday, saying that Mr. Monroe was gone to London, to reside there as minister from the United States. In consequence of this, I have again pressed upon this Government a decision with respect to the French captures and condemnations, and have desired an audience on Tuesday.

While I expected Mr. Monroe, and supposed that, in treating respecting Florida, something could have been proposed which might have induced this Government to include our claims for French spoliations and condemnations, notwithstanding I had, in pursuance of your instructions, brought them forward, I forbore to push them, lest I might injure the other and more important parts of the negotiation; but the moment I received official information from Mr. Monroe and Mr. Livingston that Louisiana was ceded, and that they considered the cession as including West Florida, and that Mr. Monroe was not coming, I then pushed the new propositions respecting our claims, in that positive and decided manner which the circumstances of Europe, and the particular situation of Spain, seemed to me to warrant. In my letter (No. 1) you will perceive the manner in which the new propositions were submitted, and the copy of the new convention; these went in the last despatches. After waiting for some time to see whether Mr. Monroe would arrive with the extraordinary commission, and finding it doubtful, I wrote the letter (No. 2); and immediately on being informed that Mr. Monroe would not come, I demanded an audience of Mr. Cevallos, the Secretary for the Foreign Department, in which I went over the whole ground of our difference in opinion, and repeated to him, at length, not only all the arguments used in my letters, but such others as occurred in the course of conversation, or as I thought the particular and doubtful situation of Spain at present warranted.

I entered fully into the impropriety of Spain's having suffered her ports to be used for the purpose of equipping privateers to cruise upon our vessels, and bringing them in as prizes, and permitting the consuls of France to condemn them; by which means her territorial sovereignty was not only violated, but her ports, which we ought to have considered not only as the ports of a neutral and a friend, but of a nation in treaty with us, were, by that means, converted into those of an enemy. For what could France do more with her ports against us than equip and man privateers in them, and bring in and condemn our vessels? Spain did not permit us to do so; and if she had offered it, she well knew the offer was of no consequence to us, because the distance from the United States, and the contiguity of the French coasts created a difference in the exercise or use of the permission which made it extremely important to the one, and of very little consequence to the other. That there can be no doubt that any nation which lends the aid of its ports for the purpose of arming privateers, aids in annoying the commerce of those against which these privateers are intended to cruise: that, further, any nation which vests within its dominions a foreign tribunal, with the power of condemning and selling the property of a neutral nation, assists in depriving the citizens of that nation by force of their property. Hence, it would seem, a permission to arm privateers, and sell prizes, granted to one belligerent Power, is inconsistent with the impartiality due to both by a nation which professes to be neutral; that it would not destroy the argument to say the same privileges might be granted to both; that, in our late differences with France, it could not, for the United States never suffered their public or private vessels to capture the merchant ships of France, and, it is believed, in no instance could the privilege operate equally in favor of two nations: from their maritime strength, local situation, or other cause, the one must always benefit by it more than the other; hence, one of them must be materially injured, if it was granted to both. For example, suppose Spain and Russia were engaged in war; would the United States do them equal justice by opening her ports for the arming of their privateers, and the sale of their prizes? Nobody would suppose she did, when he recollected that all, or nearly all, the rich commerce of Spain passes before the ports of the United States, and that Russia has no commerce in that quarter of the world. Again, if unfortunately there was a war between the United States and Spain, would England do equal justice to both, if she opened the port of Gibraltar to both, for the purpose of arming privateers and selling prizes? Certainly not; for, by doing so, she would give to the United States the most advantageous position from whence to annoy the commerce of Spain; and to Spain she would give the use of a port three thousand miles distant from the United States, and not more useful to her than her own on the Mediterranean.

From these and other examples, I endeavored to convince him how peculiarly Spain is situated, and how important it is to her to put an end to a practice so contrary to the principles of justice and strict neutrality. I repeated to him that these observations, together with those which have been, from time to time, during the last four years, offered by my predecessor and myself to the consideration of His Majesty, are believed to be sufficient to entitle us to demand compensation from His Majesty for the property wrested from us by those whose actions he had a right, and most certainly the power, to control: that the respect which the Government of the United States had for His Majesty had induced them to urge the point, which they considered as a point of national honor, with the greatest moderation, as was proved by their offering to refer the question to arbitration, although they were perfectly con-

* It seems probable that this date, and the following, are advanced, and that this part of the letter was written in July.

scious of their right to demand payment without a reference, of which they had given a proof before they had become interested themselves. But that if Spain will not agree to the principle of neutral right, and chooses to adopt, as a part of her public law, the practice of opening her ports for the arming of privateers and selling of prizes, I am sure the United States would, in point of mere interest, be benefited by following the example, after obtaining compensation for the losses they have already sustained.

In order to meet the observations he made before, that His Majesty was not, by the law of nations, liable for the condemnations by the French consuls, I repeated to him the observations of Vattel, in his 3d book, and particularly in the paragraphs sect. 15, 95, 97, 102, and 104; and endeavored to show him how incompatible these aggressions were with the duties therein enjoined to neutrals; that, at the time Vattel and others had written on the laws of nations, no such case had occurred; no such new, extraordinary, or unwarrantable attempts had been made to erect, within any country, tribunals independent of its authority. I endeavored to impress upon him the manner in which our Government had defeated a similar attempt upon them at an earlier period of the war, well knowing that, to permit such an exercise of the rights of war within their cities, would be to make their coasts a station of hostility. To show him that we did not stand alone in our opinions on this licentious attempt to exercise the rights of war within neutral countries, where no such rights have ever before been exercised, I read and explained to him the doctrines laid down in the English Court of Admiralty, by Sir William Scott, in the celebrated case of the Flad Oyen, Martensen, master; and which, as you no doubt have seen, I shall not trouble you with repeating. I concluded with informing him that our Government considered this as a point of national honor, which they could never relinquish; that, as war had again commenced between Great Britain and France, the decision of Spain on this subject was become now indispensable; that we knew not to what other parts its flames will soon extend; that our commerce must never again be exposed to similar depredations, and that our Government were determined, upon this occasion, to show how far they would protect it; that, having arranged all their differences with France and England, it now rested solely to do so with Spain; that, to do this, they had offered an equal and amicable arbitration, and that I had waited with great patience for their decision; that, however, being now instructed to transmit His Majesty's answer, so that it might be received by the meeting of Congress, the period had arrived when I could delay no longer applying to his excellency for a prompt and decisive one, which I was hopeful he would give me in a few days, as I had two American gentlemen only waiting to take it to America.

In his answer, he went over the old ground, that Spain, not having authorized, but expressly forbidden, the exercise of this power by the French consuls, was not, in his opinion, liable to make reparation; that the more he had considered the subject, the more he was convinced; and that, in his view of it, the quotations I had made from Vattel did not apply; that, since the last year, he had been informed, from the best sources, *that many leading men in our (the American) Government were in sentiment with him that Spain was not liable; and that even some of our best informed lawyers had given the same opinion.* I replied, it was incredible to me that any men of information, whether in our Government or among our gentlemen of the bar, could have given such an opinion; that, if they had, I had never heard of it; that it was always safest for his excellency to take the sentiments and views of our Government, as they respected Spain, from me; that I could assure him every branch of our Government was not only decided in their opinion as to the liability of His Majesty to make compensation, but determined never to relinquish it, at least so far as to insist upon its being included in the arbitration; that the Senate not having ratified the convention, ought to be full proof of their determination upon this subject; that it was time our Government should know His Majesty's decision, and I must request to have it by the day Mr. Young sailed. He said that was impossible, as the royal feasts, and other occupations of His Majesty, for this month, in which he was obliged to attend him, would put it entirely out of his power; but that he would give it as soon as he could. I then informed him that I considered it as my duty to write, and asked him, "*whether I was to transmit to our Executive, as His Majesty's final decision, that he could not consent to include in the convention the captures and condemnations by the French and their consuls.*" He hesitated, and said no. The serious manner in which I put this question seemed to have affected him. He added, "*The subject, with your representations, are now before His Majesty, and I will state what has passed further this evening;*" at the same time assuring me I should have a very speedy answer. He then went on to converse with me on the subject of the cession of Louisiana by the French to us, in which he expressed an opinion so important and extraordinary, that I made a point of transmitting it to you by the post the next day, by the route of Lisbon, and which, I trust, you will soon receive. The substance was this: that, in the cession of Louisiana by Spain to France, there was a secret article that France should never part with Louisiana, except to Spain; that if she (France) should ever wish to dispose of it, Spain should always have the right of pre-emption; from which he argued that France had not the right to make such cession without the consent of Spain, and that he was astonished our commissioners had not applied to their Government to know the actual terms upon which France was to receive Louisiana, and, in fact, to examine their title. I answered him by saying that he could not be more astonished at their not doing so than I was at his remark; that he well knew Mr. Livingston and myself had been applying for upwards of a year, incessantly, to the Governments of France and Spain, to know if Louisiana was ceded, and upon what terms; that, for more than a year, the most guarded silence was observed by both, and that, at last, when Spain had answered and avowed the cession, not a word was mentioned in his (Mr. Cevallos's) letter to me of any secret article; that the letter only avowed the cession, and that it had been made subject to the conditions of our treaty; that I had transmitted this to Mr. Livingston and Mr. Monroe; and I asked him whether, after the sight of this letter from him, acknowledging the cession, they could for a moment doubt the perfect right of France to sell. I then further asked him whether, if Spain still continued in possession, and our Government ratified the treaty, there would be any hesitation on the part of His Majesty to give us the possession: to which he made no positive reply, nor could I bring him to do so during the whole evening. I could easily discover, in the course of it, that there exists at present much uneasiness, on the part of this court, with respect to the conduct of France in the sale of Louisiana, and particularly in the opinion held by our commissioners, that it includes West Florida, which both Mr. Cervallos and the Prince of Peace expressly deny, and on which I wrote you a separate letter, containing my conversation with them on this subject.

AUGUST 30.

Not receiving the answer of the Secretary as soon as I expected, and anxious to transmit you the result, I followed the court to San Ildefonso, and had another conference with him on the 24th instant. In this he informed me he was sorry so much delay had been occasioned in his reply; that it was owing to the removal of the court, and the particular urgency of the moment, alluding, I suppose, to the state of things occasioned by the war; that, however, the answer was prepared, and would be transmitted the following day; that I would perceive in it the two grounds upon which His Majesty conceived he was not liable to make compensation for the French condemnations; and that several very respectable and learned gentlemen in the law in the United States had expressed the same opinion, a copy of which he would send me enclosed in his reply: the grounds were, *the inability of Spain to prevent it*, and the *general relinquishment* of our claims to France for every thing done by Frenchmen, so far as respects the seizure of our vessels or their condemnation; and that he was convinced, when our Government came to see these opinions, and to reconsider the question, they would think, with His Majesty and his ministers, that Spain was only liable for the acts of her own subjects, except, indeed, in the violation of their territory by foreign cruisers, which, he said, he had no objection to admit, considering it as a distinct question from that of the condemnations. I told him I believed our Government would be not a little surprised to find Spain resorting to the plea *that she was not able to prevent it;* that, if he pressed this argument, if he contended she was not then a free agent, and, of course, not a responsible one, and could prove it to be so, it only remained for me to transmit this reply to you for your future directions; that the relinquishment he spoke of to France has nothing to do with our claims on Spain; that we never considered ourselves as having any right to demand compensation from France for these violations of the territory and sovereignty of Spain by the cruisers and consuls of France; that they were by no means included in the claims relinquished, but were as distinct and separate as claims could be; that we had received from France a very valuable compensation, in her consent to dissolve the treaties of commerce and alliance previously

existing between the two nations—an alliance by which we were bound to guaranty her islands in the West Indies, and to be liberated from which was inestimable to the United States; that from Spain we had hitherto received no compensation, and that it would be found a great part of these claims had originated since the date of the French convention; that I still hoped he would consent to include them in some way, convinced that, if they were not provided for, our Government would remain extremely dissatisfied; that, merely from motives of conciliation, I would consent to insert them, with the addition of the words he offered the last year, "segun los principios que constituyen la moralidad de las acciones." He said he was rather of opinion, from the intelligence he had received from the United States, that the thing would now be viewed in a different light, and that our Government would not insist on so hard terms, even if they had the right, as to call upon them for *condemnations which they could not prevent, and not one shilling of the proceeds of which went into the pockets of His Majesty or his subjects;* that he never meant, the last year, in what he said respecting the arbitration, subject to the limitation of "segun los principios, &c.," to apply it to *the condemnations of the French consuls,* or to have left it to the commissioners to decide upon them, but only to the violations of territory; and that, had I admitted the limitation, he would have *expressly excepted* the condemnations; that, for the acts of his own subjects and the violations of territory by foreign cruisers, His Majesty had been always ready to arbitrate, as appeared by his letters to me of the last year; that he wished me to transmit the reply he would send me, with the opinions of the American lawyers on the subject; and that he did not doubt their future instructions to me would be such as would tend to promote the harmony and good understanding of the two Governments.

On the morning following, he sent me the enclosed answer to my several verbal and written applications, accompanied by an opinion, which I also enclose, given by Messrs. Ingersoll, Rawle, McKean, Duponceau, and Livingston, on an abstract question submitted to them, as I suppose, by the order of this Government. I considered it proper to transmit Mr. Cevallos an answer, in which you will find most of the arguments insisted upon which had been before used, and in which I object to the statement submitted to our lawyers, as not expressing either fully or truly the state of facts: that, in relinquishing our claims on France, we had done so for a valuable consideration, and that, in so doing, we had by no means relinquished our claims on Spain, as they were separate and distinct; that, for the truth of this, we referred him to the letters of my predecessor, by which, it appears, the Government of Spain were continually warned of the illegality of the captures and condemnations, and informed that His Majesty would be held liable to make compensation; that, in resorting to the plea that Spain could not prevent it, it was incumbent on her to show that she really could not, either by force or influence, do so, and that she had exerted herself, as far as she was able, to effect it; that, after all, if it was true she could not prevent it, but, to avoid a war, or a renewal of the war, with France, was under the necessity of submitting to it, and of sacrificing to the preservation of peace the commerce and property of the citizens of the United States, on every principle of justice and national honor she ought now to make compensation; that the tacit sacrifice of the property of our citizens was the price she paid for a peace, inestimable to her in every respect; and that, in my judgment, she ought now most cheerfully and gratefully to submit to our proposition for an arbitration, rejoicing that we have been so moderate as to acquiesce in this mode, and not to demand, not only immediate compensation for the losses, but satisfaction for the injury to our national honor; that it should be recollected, the opinions of gentlemen of the law, however respectable as professional men, were not to direct our Government; that *they* were supposed to be the best judges of our public rights, and had alone the authority to treat respecting them, and, when necessary, to devise the means of asserting and protecting them; and that even the opinions he produced could easily be proved to be in our favor.

As I cannot now expect that Spain will agree to include the claims for the condemnations by the French consuls, it will remain for you to direct what is best to be done. You will consider how far her plea that *she could not prevent it* entitles her to consideration, and whether it appears, in any of our applications to the French Government previously to the signing of the convention of 1800, we applied to them for compensation for the captures and condemnations by the French privateers and consuls within the territory of Spain, or included them in those claims which were afterwards relinquished. In determining this, much will depend upon the correspondence of our envoys or commissioners who made the convention with the French envoys, and I will thank you for the necessary information, and copies of such of the letters respecting the claims as may be proper.

From the above, you will see the state of the negotiation, and with what anxiety this Government wish to avoid inserting the claims for the condemnations by the French. I have no doubt Mr. Yrujo has been very industrious on this subject in the United States, and Mr. Azzara in Paris, in endeavoring to collect all the intelligence they can, to prove that we considered these as claims *on France;* that our commissioners had urged them as such; and that they are included in the general relinquishment to that nation. As I do not believe this to have been the case, I have continued to urge them as separate claims, which could be alone made on this Government; and you will perceive, by my letter to Mr. Cevallos, that I do not by any means agree with him, or acquiesce in his doctrines. Upon the whole of this business, it appears to me, that, in the present state of Europe, it would be politic in us to endeavor to arrange all our claims on Spain, by conditionally ratifying the convention already sent, striking out the sixth article, and inserting one including such of the claims for French captures and condemnations as you are determined to insist upon, and accompanying it with a specific offer to Spain to purchase Florida, or such part of it as now remains to her; for, on the subject of the limits of Louisiana and Florida, I am otherwise apprehensive we shall have some difficulties. Mr. Livingston and Mr. Monroe officially informed me they considered West Florida as included in the cession. This the Prince of Peace and Mr. Cevallos strongly deny; and, unless we can come to some agreement with Spain for the cession of all their claims on Florida, we may, as I have observed, have some difficulties with them. This appears to me, also, to be the best time, for Spain must eventually be involved in the war; and, cut off from her resources in South America, her trade destroyed, and her country without bread, a sum of money would go a great way in tempting her to sell. We are now, also, sure of the influence and assistance of France in persuading them to do so; for General Bournonville, the French ambassador, told me lately he had received orders from his Government to promote, as far as he could, a disposition in this court to sell Florida to the United States. Notwithstanding Mr. Monroe has not come on, I am continually conversing with the leading men here on this subject, and keeping it constantly in their view; but, not conceiving myself now authorized to make any explicit offer, and not knowing exactly what proportion of West Florida you will *insist upon* as ceded to the United States by France, I wait your further instructions, which I request may be as particular and as explicit as possible; not wishing, in affairs of so great pecuniary importance, to have too much left to my discretion. I take the liberty to recommend the bearer, Major Young, to the President and yourself, as an excellent and deserving public officer. Please present me in the most respectful and affectionate manner to the President, and believe me, with sincere regard and affectionate respect, dear sir, yours truly,

CHARLES PINCKNEY.

Mr. Pinckney to Mr. Cevallos.

MADRID, *May* 23, 1803.

I have the honor to inform your excellency that, after the most mature reflection and deliberation, the Government of the United States are of opinion, they cannot, consistently with the honor of their Government, or those interests of its citizens which it is their duty to support, consent to any convention with His Majesty for the arbitration in settlement of their respective claims, which shall not include the arbitration of all the claims arising, as well from the acts of Spanish subjects, as those of aliens or foreigners within the Spanish territory, contrary to the laws of nations, or the treaty existing between His Majesty and the United States, and that in order to allow time for including this class of claims, they have postponed coming to any decision on the convention formed between your excellency and myself, until the next session of the Senate, in November. In consequence, therefore, of their precise and positive instructions, I now submit a new convention which they expect His Majesty will consent your excellency should sign, for the following reasons: That your excellency has already agreed to arbitrate all the acts

of Spanish subjects, contrary to the treaty and the law of nations, and all the infractions of the Spanish territory by foreign privateers; and in your excellency's letter of the 26th June, did positively agree to insert all the other claims arising from the acts of aliens, if I would consent to insert after the words "ó de otros," the words "cuyos excesos puedan imputarse al Gobierno Español segun los principios que constituyen la moralidad de las acciones y su responsabilidad."

As it was unusual to insert expressions of this kind, and I did not conceive my instructions as warranting it, I objected at that time to the insertion, and preferred trying the opinion of our Government on a convention confined solely to the acts of Spanish subjects, and leaving the question respecting those of aliens to future negotiation. It is, however, the opinion of our Government, that, when the two Governments go to the expense and trouble of constituting this Board, it ought at once to be authorized to consider and decide upon all their mutual claims.

From the dispositions, or rather assent, at first manifested by your excellency, and on perusal of your letters, a more favorable as well as speedy issue was expected to this negotiation by our Government, and it is still hoped and expected, that modifications may be devised that will make the contested article satisfactory to Spain, without being unjust to the United States.

The true object is to give to the Board a power that will reach every description of cases. According to information received from time to time, it appears that losses have been sustained by citizens of the United States: first, on the high seas; secondly, within the territorial jurisdiction of Spain herself; thirdly, within the jurisdiction of her colonies: that they have proceeded, first, from Spanish subjects; secondly, from others within Spanish jurisdiction: that they have been contrary either, first, to the treaty of 1795; or, secondly, to the law of nations; or, thirdly, to substantial justice. It is desirable, therefore, that a stipulated provision for repairing these injuries should be so expressed as to be commensurate with this view of the cases; or, if this extent cannot be explicitly given to the provision, that it should be as little narrowed as possible.

The objection made to giving the Board cognizance of the wrongs committed by aliens within the jurisdiction, and, consequently, within the temporary allegiance of the King of Spain, is clearly open to the reply I made to it. The authority which every sovereign has over the conduct of aliens within his territorial jurisdiction, makes him responsible to others for their conduct, as much, and for the same reason, as he is responsible for the conduct of permanent citizens or subjects. This is a doctrine too well established, both by reason and by public law, to be questioned. The United States have pursued it in practice, as well as in discussion; and may, therefore, with the more energy claim the benefit of it. The remark of your excellency, that the stipulation on this subject, in our treaty of 1794, with Great Britain, implies that, without such a stipulation, the law of nations would not have imposed on the United States the responsibility assumed, admits of a double answer. The United States acquiesced in the doctrine before the treaty was made; and the stipulation in the treaty, like numerous stipulations in other treaties, was not meant to supersede the rule of public law, but to acknowledge and explain it.

It is not denied that there are certain exceptions to the authority over those within a temporary, which do not apply to the authority over those within a permanent, allegiance; and so far there may be exceptions to the responsibility of the sovereign also. But none of these exceptions belong to the cases in question. In the equipment of privateers, and the condemnation of prizes, in Spanish ports, the King of Spain had the same authority to restrain aliens as he had to restrain his own subjects from illegal acts towards other nations. Having this authority, his duty to other nations required him to exert it; and, failing in this duty, he made himself answerable to those injured by the failure.

The losses sustained by Americans from aliens, and for which Spain is held answerable, have proceeded, first, from condemnations within her jurisdiction; secondly, from equipments within her jurisdiction known to be against the American trade; thirdly, from equipments ostensibly made against the enemies of Spain, but turned against the United States; fourthly, from captures only within the limits of Spanish jurisdiction.

With respect to the first two cases, it is clear that the Spanish Government had not only the right but the power to interpose effectually; and is, consequently, bound to repair the consequences of her omission. With respect to the fourth case, the violations of her territory might be less under her control, where the prizes were not carried into her ports. Still, however, with the right accruing to her against the aggressors, accrues, at the same time, the right against her to the sufferers.

It is my duty to inform your excellency, and my instructions direct me to do so, that the course pursued by the Senate of the United States, in postponing the decision on the convention until the next session, in order that His Majesty should have time to consent to incorporate and include the arbitration of the claims arising from the acts of aliens within the Spanish territories, while it maintains a cautious regard for our own rights, exhibits, at the same time, great respect for the Spanish Government. Every branch of *our Government* is of opinion that the arbitration of these claims ought to be included, and that, by the law of nations, Spain is clearly answerable for the acts of aliens within her territory and jurisdiction; and, notwithstanding the time which has already been spent, and the ruinous delays which have taken place, they still rely on the well known honor of His Majesty to remodel the convention, so as to do ample justice.

But in order to remove all doubt on the subject, and to show how well founded is the right the United States have to expect that this class of claims will be admitted at least to arbitration, I am also directed to refer your excellency to the enclosed copy of a royal order, issued by the Spanish Government in 1799, which must remind your excellency of the view of your Government, and of their opinions at that time on this subject. In this document, it is expressly declared, that the French consular jurisdiction was not admitted in Spain, and that French consuls in Spanish ports were, and always have been, in the same condition only with those of every other nation.

After such a declaration against the authority of French Consuls, the Spanish Government never can say, or have they ever said, they were not left at liberty to prevent an exercise of the usurped authority; and if at liberty she is indisputably answerable for the consequences of not preventing it. A document which I also take the liberty to add, will explain the just sentiments entertained by the Batavian Government during the same period in relation to a case turning on the same principle.

This subject has been so often, and so long before your excellency, that it is not necessary for me to go again into the other arguments heretofore used to prove to your excellency the policy and justice of the measure. Our Government relies confidently on the justice and honor of His Majesty, and on the promise contained in your letters, and particularly that of the 26th June last, in which you say you consent to the inclusion of the words "de otros," and in the arbitration of claims for damages arising from the acts of aliens, with the addition of this comment for its clear signification, "ó de otros cuyos excesos puedan imputarse al Gobierno Español segun los principios que constituyen la moralidad de las acciones y su responsabilidad." The present convention is drawn in conformity with that limitation, with some few alterations of no moment, which our Government wishes for the more convenient execution of the convention, and such as your excellency can have no objection to: these are, the alteration of the caption, in which, instead of the words "excesses," &c. I have substituted "in consequence of the wrongs committed by the subjects or citizens of either nation, or under colour of authority from it, or by others within the territory of either nation." An alteration in the mode of filling up vacancies in the commission, should a vacancy occur after the formation of the board, as it would prevent their going on, and be extremely inconvenient and expensive to wait the nomination from the United States of an American commissioner to fill a vacancy, which would now be the case. An article also is added to equalize the payment of the commissioners, and to provide for the payment of the expenses of the Board. We wish, also, the board to be vested with power to extend the time if they think proper in special cases, six months longer, so as not to exceed, in the whole, two years.

Your excellency will find the whole substanstially the same as the last, except with the addition of the claims for the acts of aliens, and I am particularly enjoined by my Government to request as early a decision as possible. Should your excellency not approve the form exactly as it is now sent, I will then thank your excellency to be so obliging as to favor me with one which you will sign; it being, however, necessary for me to state to your excellency that I do not consider myself as now at liberty to assent to any that shall not include the arbitration of the claims arising from the acts of aliens in the territories of each.

I repeat to your excellency my earnest request that you will be pleased to furnish me with your definitive answer for the information of my Government as early as possible, as I am particularly directed by them to endeavor to obtain and transmit it, with all the despatch in my power.

With sentiments of the most profound respect, I have the honor to be, your excellency's obedient humble servant,

CHARLES PINCKNEY.

His Excellency Don Pedro Cevallos, *First Secretary of State, &c. &c. &c.*

[Draught of the proposed convention referred to in Mr. Pinckney's letter to Mr. Cevallos, of May 23, 1803.]

Convencion entre Su Magestad Catolica y los Estados Unidos de America, sobre indemnizacion de perdidas, danos y perjuicios irrogados durante la ultima guerra en conseqüencia de los agravios cometidos por los vasallos ó ciudadanos de una ú otra nacion, ó baxo de su autoridad, ó por otros en el teritorio de una ú otra, durante la ultima guerra, contra el derecho de gentes ó tratado existente.

Deseando Su Magestad Catolica y el Gobierno de los Estados Unidos de America, ajustar amistosamente las demandas que han ocasionado en conseqüencia de los agravios cometidos por los vasallos ó ciudadanos de una ú otra nacion, ó baxo de su autoridad, ó por otros, en el teritorio de una ú otra, durante la ultima guerra, contra el derecho de gentes ó tratado existente, ha dado Su Magestad Catolica plenos poderes á este efecto á Don Pedro Cevallos, Su Consejero de Estado, Gentilhombre de Camara con exercicio, Primer Secretario de Estado y del Despacho Universal, Caballero y Gran Cruz de la orden real y distinguido de Carlos Tercero, Superintendente General de Correos y Postas en España é Yndias, y el Gobierno de los Estados Unidos de America, á Don Carlos Pinckney, ciudadano de dichos Estados, y su ministro plenipotenciario cerca de Su Magestad Catolica, quienes han convenido en lo siguiente:

1°. Se formará una junta compuesta de cinco vocales, de los quales, dos serán nombrados por Su Magestad Catolica, otros dos por el Gobierno de los Estados Unidos, y el quinto de comun consentimiento; y en el caso de no poderse convenir en el sugeto por quinto vocal, nombrara uno cada parte dexando la eleccion entre los dos á la suerte, y en caso del fallicimiento, enfermedad ó ausencia inevitable de algunos de estos, los nombrados comisarios restantes de la nacion á quien pertenece ó haya pertenecido el que se hallase ausente, sea por fallecimiento, enfermedad ó necesidad séran autorizados á nombrar y constituir otro en su lugar, y este devera hacer el mismo juramento, y cumplir con los mismos deveres; y se ha convenido que los comisarios han de ser respectivamente pagados segun convinieren las dos partes, cuyo convenio se havra de arreglar al tiempo de ratificar este tratado; y todos los demas gastos que resultasen de dicha comision serán pagados mutuamente por las dos partes, despues de investigados y admitidos por la mayoridad de los comisionados.

2°. Hecho asi el nombramiento prestará cado uno de los vocales el juramento de examinar, discutir, y sentenciar las demandas sobre que juzgaren con arreglo al derecho de gentes y tratado existente, y con la imparcialidad, que dicta la justicia, y no obrar en ningun caso en donde sean directa ó indirectamente interesados.

3°. Residirán los vocales y celebraran las juntas en Madrid, en donde en el prefixo termino de diez y ocho meses, ó en casos especiales á la discrecion de la mesa durante dos años, contados desde el dia en que, se junten, admitirán todas las demandas que á conseqüencia de esta convencion hicieren tanto los vasallos de Su Majestad Catolica como los ciudadanos de los Estados Unidos de America, que tuvieren derecho á reclamar perdidas, daños y perjuicios, en conseqüencia de los excesos cometidos por Españoles y ciudadanos de dichos Estados, ó baxo de su autoridad, ó por otros en el teritorio de una ú otra, durante la ultima guerra, contra el derecho de gentes ó tratado existente.

4°. Se autoriza por dichas partes contratantes á los vocales para oir y examinar baxo la sancion del juramento qualesquiera puntos concernientes á las referidas demandas, y á recibir, como digno de fé, todo testimonio ó evidencia de cuya autenticidad no puede dudarse con fundamento.

5°. Bastará el acuerdo de trés vocales para que sus sentencias tengan fuerza de irrevocables y sin apelacion, tanto por lo que respecta á la justicia de las demandas, como por lo que hace á las cantidades que se adjudicaren por indemnizacion á los demandantes; pues se obligan

[TRANSLATION.]

A Convention between His Catholic Majesty and the United States of America, for the indemnification of those who have sustained losses, damages, or injuries, in consequence of the wrongs committed by the subjects or citizens of either nation, or under color of authority from it, or by others, within the territory of either nation, during the late war, contrary to the existing treaty or the laws of nations.

His Catholic Majesty and the Government of the United States of America, wishing amicably to adjust the claims which have arisen in consequence of the wrongs committed by the subjects or citizens of either nation, or under color of authority from it, or by others within the territory of either nation, during the late war, contrary to the existing treaty or the law of nations: His Catholic Majesty has given, for this purpose, full powers to his excellency Don Pedro Cevallos, Councillor of State, Gentleman of the Bedchamber in employment, First Secretary of State and Universal Despatch, Grand Cross of the royal and distinguished order of Charles the Third, and Superintendent General of the Posts and Post Offices in Spain and the Indies; and the Government of the United States of America to Charles Pinckney, a citizen of the said States, and their minister plenipotentiary near His Catholic Majesty; who have agreed as follows:

1st. A Board of Commissioners shall be formed, composed of five commissioners, two of whom shall be appointed by His Catholic Majesty, two others by the Government of the United States, and the fifth by common consent; and in case they should not be able to agree on a person for the fifth commissioner, each party shall name one, and leave the decision to lot; and, hereafter, in case of the death, sickness, or necessary absence of any of those already appointed, the remaining commissioner or commissioners of the nation to which the commissioner so dead, sick, or necessarily absent belonged, shall be authorized to proceed to the appointment of another to replace him; and the new commissioner shall take the same oath or affirmation, and do the same duties; and it is agreed that the commissioners shall be respectively paid in such manner as shall be agreed between the two parties, such agreement being to be settled at the time of the ratifications of this convention. And all other expenses attending the said commissioners shall be defrayed jointly by the two parties, the same being previously ascertained and allowed by the majority of the commissioners.

2d. The appointment of the commissioners being thus made, each one of them shall take an oath to examine, discuss, and decide on the claims which they are to judge, according to the law of nations and the existing treaty, and with the impartiality justice may dictate, and not to act directly or indirectly in any case in which they are directly or indirectly interested.

3d. The commissioners shall meet and hold their sessions in Madrid, where, within the term of eighteen months, or, in special cases, at the discretion of the Board, two years, (to be reckoned from the day on which they may assemble,) they shall receive all claims which, in consequence of this convention, may be made, as well by the subjects of His Catholic Majesty as by citizens of the United States of America, who may have a right to demand compensation for the losses, damages, or injuries sustained by them in consequence of the wrongs committed by the subjects or citizens of either nation, or under color of authority from it, or by others, within the territory of either nation, during the late war, contrary to the existing treaty or the law of nations.

4th. The commissioners are authorized, by the said contracting parties, to hear and examine, on oath, every question relative to the said demands, and to receive, as worthy of credit, all testimony or evidence, the authenticity of which cannot reasonably be doubted.

5th. From the decisions of the commissioners there shall be no appeal; and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of the claims, as to the amount of the indemnification which may be adjudged to the

las partes contratantes á satisfacerlas en especie, sin rebaxa, en las epocas y parages señalados, y baxo las condiciones que se expresaren en las sentencias de la junta.

6°. La presente convencion no tendra ningun valor ni efecto, hasta que se haya ratificado por las partes contratantes, y se cangearán las ratificaciones lo mas pronto que sea posible.

En fé de lo qual, nosotros, los infrascriptos plenipotenciarios, hemos firmado esta convencion, y hemos puesto nuestros sellos respectivos.

Hecho en Madrid, á ——, de ——.

claimants; the said contracting parties obliging themselves to satisfy the said awards in specie, without deduction, at the times and places pointed out, and under the conditions which may be expressed by the Board of Commissioners.

6th. The present convention shall have no force or effect, until it be ratified by the contracting parties.

In faith whereof, we, the underwritten plenipotentiaries, have signed this convention, and have affixed thereunto our respective seals.

Done at Madrid, this —— day of ——.

Mr. Pinckney to Mr. Cevallos.

I have waited for some considerable time to have the favor of your excellency's reply to the representations I had the honor to make, in conformity to the orders of my Government, on the subject of the claims for captures and condemnations. I was hopeful the respectful manner in which our Government had treated the subject, by postponing their final decision until His Majesty could have time to decide on the propriety of admitting the arbitration of the claims for captures of our vessels by the French, within the territory of Spain, and condemnations in their ports, and the arguments adduced in support of the justice and equality of the arbitration proposed, would have long since convinced your excellency of the propriety of acceding to our proposition; and I am induced to flatter myself your excellency will still do so. In referring to the arguments which have been already so often and so much at length adduced in support of our claims, I shall now only say, that our Government, on a candid and deliberate review of the subject, are convinced that they never can, in honor to their nation, or in justice to its citizens, totally relinquish these claims; that they have again charged me, in the most positive terms, to request a definite and speedy answer from His Majesty. They well know that, according to substantial justice and the law of nations, they are warranted in demanding payment for all the vessels so illegally captured or condemned by the French; but, in that spirit of friendship and forbearance which has always governed their councils, and particularly as they respect His Catholic Majesty, they have forborne to make the demand for payment in the first instance, and have only asked for an equal and fair arbitration, which, it appears to me, on maturely reconsidering the subject, His Majesty will not refuse.

When two nations differ on a point like this, each equally entitled to form its own opinion, and sufficiently powerful to assert its honor and protect its rights, *and each seriously determined not to relinquish them*, there are no modes of terminating the difference but those of war or arbitration. Our Government, while seriously determined never to relinquish their claims, have long and amicably proposed the latter. They have again charged me to call for a definitive answer, in order that His Majesty's determination may be known before the next meeting of the Congress; I do, therefore, again most earnestly request of your excellency to favor me with a reply to the propositions I made for a new convention, and with the form of such a one as your excellency will approve, and of the terms on which you will consent to arbitrate the French captures and condemnations.

It is now uncertain whether Mr. Monroe will come on with the new commission extraordinary from our Government directed to him and myself *at all*, or if he should bring it, *when*; but if he does, its objects are entirely distinct from these claims, the urging the definitive answer to which my Government has again pressed on me in so serious a manner, that I am confident your excellency will have the goodness to favor me with as early a reply as possible.

I avail myself, with pleasure, on this occasion, to offer to your excellency the homage of the high respect and perfect consideration with which I have the honor to be, your excellency's most obedient, humble servant.

His Excellency Don Pedro Cevallos, *First Secretary of State, &c. &c.*

Mr. Pinckney to Mr. Cevallos.

Madrid, *July* 15, 1803.

Before your excellency gives thedefinitive answer to the propositions made to you by order of my Government —that answer which is probably to determine the relation hereafter to subsist between the two countries—I once more take the liberty of requesting you to reconsider the arguments that have been before used, and the extremely mild and moderate terms I have offered of only arbitrating claims, which the laws of nature and nations, as well as those of honor and justice, give us a right to demand compensation for, and that without reference.

Your excellency having fully conceded the point, that the French consuls had no right to exercise the power of condemning vessels in Spanish ports, I shall not trouble you with arguments on that subject; but when your excellency goes on to say that His Majesty, in having forbidden the exercise of this power by them, had done all that could be expected from him, and that he was not liable, by the law of nations, for the condemnations and sales made by the said consuls of American vesseis and cargoes, either before or after his prohiition, I not only differ with your excellency, but assert that, by the law of nations, His Majesty is expressly liabble for every condemnation and sale which the consuls were permitted to make in his dominions.

I presume your excellency will not deny that the authority which His Majesty has over the conduct of aliens within his territorial jurisdiction, makes him responsible to others for their conduct, as much, and for the same reasons, that he is responsible for the conduct of permanent citizens or subjects.

Your excellency will also allow that, unless otherwise specially provided for by treaty, according to the law of nations, the French consuls could only exercise the powers therein defined, and that the moment they stepped beyond them, and particularly to the injury of innocent aliens, trading under the sanction of a solemn treaty, it became a duty on His Majesty, not only to forbid the exercise of this unwarrantable and injurious power, but to see that his order was carried fully into effect. To merely issue an order to prohibit it, and not to see it carried into execution, is to do nothing; it operates as a delusion, because, by issuing the prohibition, you hold out an opinion to foreigners that no such a uthority exists, while, in fact, it is suffered to be executed to an extent and with a rigor never before heard of. Your excellency will not say Spain had not the power to prevent its exercise: because we well know she had, and the honor of her Government will not permit her for a moment to resort to this argument. She received the French consuls only on the footing of other consuls, and with the same privileges and powers, as she has expressly declared: if they exceeded these, to the injury of innocent neutrals, and, after being forbidden by His Majesty, still continued to do so, I presume the necessary means should have been used to prevent them. As these means were not used, and as Spain permitted them to continue the exercise of this unheard of authority, while she had the power to prevent it, and ought to have done so according to that principle of the law of nations which declares, that "qui non prohibet quando prohibere possit jubet," His Majesty is to be considered as much liable, in every respect, for these condemnations and violations of territory, as if they had been done by his own subjects, or by his own *express authority*.

In the equipment of privateers, and the condemnation of prizes in Spanish ports, His Majesty most surely had the same authority to restrain aliens as he had to restrain his own subjects from illegal acts towards other nations. Having this authority, his duty to other nations required him to exert it; and, failing in this duty, I am charged by my Government to repeat it to your excellency, as their decided opinion, that His Majesty has made himself liable to make reparation.

I beg leave to refer your excellency to the general representation made by my predecessor on this subject, on the 24th of January, 1800, and to those made by myself since my arrival, and to the rules established by Vattel, b. 3, §15, 95, 97, 102, and 104, which show how incompatible these aggressions are with the regulations prescribed by the law of nations for the government of neutral countries. I shall only add, that the United States consider this question as a point of national honor which it is impossible for them to relinquish; and I can assure your excellency, with great truth, and I am charged to do so, that it is one on which every branch of our Government is decided and unanimous; that having before refused to relinquish points of national honor, either to Great Britain or to France, they are determined not to do so to Spain; convinced that, if they did, they would have soon to meet similar questions with other countries; but that, having proved, as it is their duty to do now, that our rights must be respected, we shall then have some reason to hope they will remain in future unassailed.

The arbitration of the claims for illegal captures and condemnations by the French and their consuls, however interesting before, has become now, not only extremely important, but absolutely indispensable. War has again commenced between Great Britain and France; we know not to what other parts of Europe its flames will extend; the American commerce must never again be exposed to similar depredations, and their Government must, upon this occasion, show how far they are determined to protect it. Having arranged all their differences with Great Britain and France, it now rests solely to do so with Spain; to effect this, they have offered an equal and amicable arbitration. Your excellency will do me the justice to say, I have proposed and endeavored to accomplish this with all the calmness and moderation in my power, and, perhaps, with more patience than the nature and circumstances of the case warranted. It arose from the friendship I knew my Government had for Spain, and my earnest wish to preserve the peace of the two countries. The period has now arrived when my instructions require me to delay no longer, but to apply to your excellency for a prompt and decisive answer. I made this application to your excellency verbally yesterday, and I now repeat it in writing, and I earnestly hope it may be such a one as it will give me pleasure to transmit.

If your excellency could send me such definitive answer by the 20th instant, I will be obliged, as the American consul for Madrid leaves this on the 22d for the United States.

With sentiments of the most profound respect and perfect consideration, I have the honor, &c. &c.

CHARLES PINCKNEY.

Don Pedro Cevallos, *First Secretary of State, &c. &c.*

Mr. Cevallos to Mr. Pinckney.

San Ildefonso, 23 *de Agosto*, 1803.

Muy Senor mio:

En el prospecto de convencion ó tratado relativo á indemnizaciones que pase á V. S. de orden del Rey, se presto S. M. á todas las condescendencias que le inspiró su constante deseo de mantener la mejor inteligencia y mas perfecta harmonia con los Estados Unidos; pero V. S. creyó no obstante deber pretender e insistir siempre en que la España se debia renonocer responsable por todos los daños que los corsarios Franceses ocasionaron á los ciudadanos de los Estados Unidos, violando el territorio Español.

Sin embargo es mui facil hacer ver, y convencer plenamente, que semejante pretencion no está de acuerdo con el derecho de las naciones; que los exemplares que pueden citarse en su apoyo, siendo producidos por circunstancias politicas del momento, no se deben traher á conseqüencia para que sirvan de norma, ni menos pueden alterar los principios invariables del derecho natural; y que tampoco es conforme dicha pretencion á las relaciones y vinculos particulares con que se ligaron las dos Potencias por el tratado de 1795. Pero reputo por inutil el entrar en discusion detenida sobre estos puntos, ya porque nada de quanto podria decir seria desconocido á V. S., ya porque en varias ocasiones hemos discutido suficientemente sobre ellos, y ya finalmente porque la España puede impugnar la referida pretencion con fundamentos particulares y peculiarmente relativos al caso en qüestion.

Si por los apresamientos que hicieron los corsarios Franceses de buques y cargamentos Americanos, con violacion del territorio Español, hubiera de recaer sobre la España alguna obligacion á pagar indemnicaciones, nunca podria ser mas que una obligacion accesoria y condicional, y de la misma naturaleza que la de una fianza, hipoteca, ó prenda, cuya fuerza desaparece luego que el principal deudor satisface su obligacion, ó se le condona por el acreedor, renunciando este su derecho. Siendo esto indubitable, no lo es menos el que los Estados Unidos, habiendo renunciado, por la solemnidad de una convencion en favor de la Francia, principal deudor, el derecho que tenian á reclamar indemnicaciones por los perjuicios referidos, debe desaparecer la obligacion de la España, á quien á lo mas solo puede considerarse como hipoteticamente responsable.

Que los Estados Unidos han renunciado, en favor de la Francia, el derecho que podian tener á exigir, indemnicaciones por los perjuicios que experimentaron de parte de los corsarios Franceses, es un hecho fuera de toda duda, despues de la convencion concluida entre las dos Potencias el 8 Vendemiaire, del año 9, cuyo articulo segundo es como sigue:

" Les ministres plénipotentiaires des deux parties ne pouvant, pour le présent, s'accorder relativement au traité d'alliance du 6 Février, de 1778, au traité d'amitié et de commerce de la même datte, et à la convention en datte du 14 Novembre, de 1778, non plus que relativement aux indemnités mutuellement dues et reclamés; les parties negocieront ultérieurement sur ces objets dans un temps convenable; et jusqu'à ce quelles se soient accordées sur ce point, les dits traités et convention n'auront point d'effet."

2°. Se presento la dicha convencion al Senado de los Estados Unidos para su ratificacion. El Senado, tal vez, con el fin de cerrar á la Francia la puerta para que no pudiese renovar los tratados citados en el articulo segundo, no quiso ratificarla, si enteramente, no se suprimia el articulo segundo, y hecha esta supresion la ratificó; informado de lo qual el Gobierno Frances la ratificó, por su parte, en los terminos siguientes:

" Les consuls de la république ayant vu et examiné la convention conclue, arrêtée, et signée à Paris, le 8 Vendemiaire, l'an 9 de la république, l'approuvent en tout et en chaqu'un des articles qui sont contenus, déclarent qu'elle est acceptée, &c. Le Gouvernement des Etats Unis ayant ajouté, dans sa ratification, que la convention sera en vigueur pendant l'espace de huit années, et ayant omis l'article sécond, le Gouvernement de la république Françoise consent à accepter, ratifier, et confirmer la convention ci-dessus, avec l'addition qui porte que la convention sera en vigueur pendant l'espace de huit années, et avec le retranchement de l'article sécond: bien entendu, que par ce retranchement les deux états renoncent aux pretentions respectives qui sont l'objet du dit article."

Consentida esta estipulacion por el Gobierno de los Estados Unidos, resulta, por conclusion, que há renunciado perpetuamente el derecho á reclamar indemnicaciones del Gobierno Frances por los mencionados perjuicios; y asi lo informo, en el presente año, á la camara de representantes de los Estados Unidos, el committee encargado de informar sobre las solicitudes que habian presentado al Congreso varios negociantes perjudicados por las depredaciones de los Franceses.

Bien se hizo V. S. cargo en nuestra ultima conferencia del valor de esta respuesta; pero (sin duda porque á su zelo por la defensa de los intereses que le estan encargados, no le quedase el menor escrupulo de no haber tentado todos los medios que le sugeria su politica) pretendio impugnarla, queriendo imponer á la España la principal obligacion y responsabilidad, por los perjuicios que cerca de sus costas ó en sus puertos, ocasionaron los corsarios y tribunales Franceses á los ciudadanos de los Estados Unidos. Mas para satisfacer á esta replica y hacer ver que la obligacion principal no podia ser sino de la Francia, bastaria solo examinar el orden que los ciudadanos perjudicados

han seguido en sus reclamaciones, y el recurso que han hecho al Congreso, conociendo que por la renuncia que hizo su Gobierno en favor de la Francia, nada tienen que reclamar fuera de su pays; pero aun añadire otra reflexion y es, que sea la Francia la unica responsable por los excesos de sus corsarios, ó sea la España y la Francia juntas, si se quiere suponer; la obligacion es una, sola é indivisible, y disuelta por la renuncia de los Estados Unidos en favor de la Francia falta el supuesto necesario para la reclamacion de aquellos contra la España.

Aunque lo que dexo expuesto á V. S. es de tal fuerza intrinseca que no necesito de otro apoyo para arrastrar el convencimiento, no puedo menos de añadir á V. S. en confirmacion de lo mismo, que los jurisconsultos mas acreditados de los Estados Unidos, algunos de los quales *exercen empleos baxo el Gobierno Federal*, habiendoseles presentado la qüestion identica que discutimos, solo con el velo de ocultar los nombres de las tres Potencias, España, Francia, y Estados Unidos, y substituir en lugar de ellos las tres primeras letras del alfabeto para indicarlas, han pronunciado su dictamen uniforme deque la España no tiene obligacion alguna á satisfacer las indemnizaciones referidas, supuesta la renuncia hecha en favor de la Francia. Adjuntas, incluyo á V. S. copias literales de la qüestion propuesta á dichos jurisconsultos, que son de los mas celebres de Philadelphia y New York, y de las respuestas de ellos, cuyo original existe en mi poder. Por ellas verá V. S. que, en juzgar el Gobierno de España, que no es responsable á las mencionadas indemnicaciones, *juzga como los letrados mas afamados del pays de V. S.*, y que en haber procurado consultar el dictamen de ellos, no se le puede arguir de haber ido á buscar dictamenes *parciales* á los intereses de la España; antes bien ha obtenido de la rectitud de dichos letrados una confesion sincera del poco fundamento en que estrivan las reclamaciones de su proprio pays en esta materia.

Concluyo asegurando á V. S. que celebraria que la solicitud de los Estados Unidos fuese de naturaleza de poder acceder á ella mi Gobierno, para poder manifestar á V. S. tambien en esta ocasion que el gabinete de España no se separa del sistema de generosidad y condescendencia con que siempre se ha conducido en quanto ha pertenecido á los Estados Unidos; y aprovecho con gusto esta ocasion de repetir á V. S. mis deseos de complacerle, y deque nuestro Señor guarde á V. S. muchos años.

B. L. M. de V. S., su mas atento servidor,

PEDRO CEVALLOS.

Señor Don CARLOS PINCKNEY.

[TRANSLATION.]

ST. ILDEFONSO, *August* 23, 1803.

SIR:

In the project of a convention or treaty relative to indemnities, which I transmitted to you by order of the King, His Majesty yielded to all the condescensions with which he was inspired by his constant desire to maintain the best understanding and the most perfect harmony with the United States; but you have, nevertheless, thought it your duty to claim and insist that Spain ought to acknowledge herself responsible for all the injuries which the French privateers have occasioned to the citizens of the United States, by violating the Spanish territory.

It is, however, very easy for me to evince, and fully prove, that such a claim is incompatible with the law of nations; that the examples which may be cited in support of it, having been produced by political circumstances of the moment, ought not to be considered as serving for *a rule*, much less can they alter the invariable principles of natural law; and that as little is such a pretension conformable with the particular relations and ties by which the two nations are bound, in virtue of the treaty of 1795. But I think it useless to enter into a detailed discussion upon these points, as well because nothing which can be said would be unknown to you, as because on various occasions we have sufficiently discussed them, and also because Spain can impugn this pretension on principles which are special, and peculiarly relative to the case in question.

If by the captures which the French cruisers have made of American vessels and cargoes, by violating the Spanish territory, any obligation to pay indemnities could have fallen upon Spain, it never could have been more than an accessary and conditional obligation, and of the same nature with bail, a mortgage, or pledge, whose force is dissolved as soon as the principal debtor complies with his obligation, or is released by the creditor; the latter renouncing his right. This being indubitable, it is not less so that the United States, having renounced, by the solemnity of a convention in favor of France, the principal debtor, the right which they had to claim indemnities for the losses referred to, the obligation of Spain, who, at most, could only be considered as hypothetically responsible, must be dissolved.

That the United States have renounced, in favor of France, the right which they might have to demand indemnities for the losses which they have sustained from the French cruisers, is a fact beyond all doubt, since the convention concluded between the two Powers on the 8th Vendemiaire, 9th year, the second article of which is as follows: "The ministers plenipotentiary of the two parties not being able at present to agree relative to the treaty of alliance of the 6th February, 1778, to the treaty of amity and commerce of the same date, and to the convention of the 14th November, 1778, nor *relative to the indemnities mutually due and claimed*, the parties will hereafter negotiate upon these subjects at a convenient time; and, until they shall be agreed upon this point, the said treaties and convention shall have no effect." Secondly, the said convention was presented to the Senate of the United States for their ratification. The Senate, perhaps, with a view to shut the door against France, in order that the treaties cited in the second article might not be renewed, was not pleased to ratify it without the total suppression of the second article: and, this suppression being made, it ratified it. The French Government, being informed of this, ratified it, on their part, in the following terms: "The Consuls of the republic, having seen and examined the convention concluded, agreed upon, and signed at Paris, on the 8th Vendemiaire, 9th year of the republic, approve it in all and every of the articles therein contained, declare that it is accepted, &c. The Government of the United States having added in its ratification that the convention shall be in force during the space of eight years, and having omitted the second article, the Government of the French republic consents to accept, ratify, and confirm the above convention, with the addition which declares that the convention shall be in force during the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article." This stipulation having been agreed to by the Government of the United States, it results, as a consequence, that it has renounced forever the right to claim indemnities from the French Government for the aforesaid damages; and thus it was reported, in the present year, to the House of Representatives of the United States, by the committee appointed to consider the petitions presented to Congress by sundry merchants who suffered by the depredations of the French.

In our last conference, you seemed sensible of the weight of this reply; but (doubtless in order that, from your zeal for the defence of the interests confided to you, the smallest scruple might not remain of your not having attempted all the means suggested by your political skill,) you endeavored to impugn it, by striving to lay upon Spain the principal obligation and responsibility for the losses which, near her coasts, or in her ports, the French privateers and tribunals have occasioned to citizens of the United States. But to satisfy this reply, and to evince that the principal obligation can remain only with France, it will be sufficient merely to examine the course which the citizens injured have pursued in their claims, and in the application they have made to Congress, whereby they acknowledged that, by the renunciation which their Government made to France, they were deprived of the right of making a claim any where but at home; but I will, nevertheless, add another reflection, which is, that, whether France is alone responsible for the injuries done by privateers, or Spain and France jointly, if you choose to suppose it, the obligation is one, sole, and indivisible, and dissolved by the renunciation of the United States in favor of France; and thus fails the supposition necessary for their claim against Spain.

Although what I have remarked to you is of such intrinsic force that it needs no other support to arrest conviction, I cannot omit adding to you, in confirmation of the same, that the most esteemed lawyers of the United States, *some of whom hold offices under the Federal Government*, having had the same question which we are discussing presented to them, with only a concealment of the names of the three Powers, Spain, France, and the United States, and a substitution in their place of the first three letters of the alphabet to indicate them, have given their opinion uniformly that Spain is under no obligation to satisfy the indemnities referred to, on the supposition of the renunciation in

favor of France. Annexed, I enclose to you literal copies of the question proposed to the said lawyers, who are among the most esteemed of Philadelphia and New York, and of their answers, the original of which is in my hands. By them you will see that the Government of Spain, in judging that it is not responsible for the said indemnities, judges as do the learned in highest repute in the United States; and that, in having endeavored to consult their opinion, it cannot be argued that they procured opinions partial to the interests of Spain. It has rather obtained, from the rectitude of the said learned, a sincere confession of the slender foundation on which the claims of their own country on this subject rest.

I conclude, by assuring you I should be glad if the request of the United States were of such a nature that my Government could accede to it, in order to manifest to you equally on this occasion that the cabinet of Spain does not depart from the system of generosity and condescension with which she has always acted in whatever relates to the United States; and I improve, with pleasure, this occasion to repeat to you my desires to please you, and that our Lord would guard you many years, &c. &c.

PEDRO CEVALLOS.

CHARLES PINCKNEY, Esq.

ABSTRACT QUESTION.

The Power A lives in perfect harmony and friendship with Power B. The Power C, either with reason or without, commits hostilities against the subjects of the Power B, takes some of their vessels, carries them into the ports of A, friend of both, where they are condemned and sold by the official agents of Power C, *without Power A being able to prevent it.* At last a treaty is entered into, by which the Powers B & C adjust their differences, and in this treaty the Power B renounces and abandons to Power C the right to any claim for the injuries and losses occasioned to its subjects by the hostilities from Power C.

Quere.—Has the Power B any right to call upon Power A for indemnities for the losses occasioned in its ports and coasts to its subjects by those of Power C, after the Power B has abandoned or relinquished, by its treaty with C, its rights for the damages which could be claimed for the injuries sustained from the hostile conduct of the Power C?

Answer. We have considered the above case, and are of opinion that, on the general principles of the law of nations, the Power A is not liable to the Power B for acts done upon the vessels belonging to the subjects of Power B, by the Power C, within the ports of A, *the latter not being able to prevent it.* Nations are not, any more than individuals, bound to perform impossibilities.

But even leaving impossibilities out of the question, and admitting that the Power A could have prevented the injury which was committed by the Power C, but refused or neglected to do it, we are of opinion that, if the Power B has released or relinquished the same injury to Power C, in that case the Power A is no longer liable to any responsibility in damages on account of its acquiescence.

1st. Because it appears to us that, in the present case, the Power C is to be considered as the principal party, and the Power A merely as an accessory, and that it is in that relation to each other that their several acts and their respective liability to the injured party is to be considered: now, it is in the nature of all accessory things that they cannot subsist without the principal thing; and the principal trespass being done away by the release to C, the accessory offence of A must be done away likewise, according to the well known maxim of the law *accessorium sequitur principale.*

2d. Because a release or relinquishment of a right implies in law the receipt of satisfaction, and it is contrary to every principle of jurisprudence for a party to receive a double satisfaction for the same injury; and here the injury received by B from C and from A is essentially the same: the act of those two Powers were indeed different, but the effect which they produced was the same, and that effect only can be the object of compensation in damages.

3d. Because if the Power A could be compelled to make satisfaction to Power B for the injury which the latter has released or relinquished to C, that release or relinquishment would be defeated to every useful purpose, as the Power C would be liable to the Power A for the same damages from which it was intended to be discharged by the release of B. Now a release, as well as every other contract or engagement, implies that nothing shall be done by the grantor directly or indirectly to defeat its bona fide intent or effect. If, therefore, the claim preferred by B upon A will, if admitted, indirectly defeat the release granted to C, such claim must be pronounced to be illegal.

Upon the whole, we are of opinion that the release granted by the Power B to the Power C operates also a release to the Power A, for its participation in the injury which was the object of that release.

JARED INGERSOLL,
WILLIAM RAWLE,
J. B. McKEAN,
P. S. DUPONCEAU.

PHILADELPHIA, *November* 15, 1802.

Answer of the Attorney General of the District of New York to the same Question.

According to the above statement, I should have no doubt that B, having abandoned its rights to indemnity against C, would have no claim whatever against A, more especially as the case supposes it out of the Power of A to have prevented the transaction.

EDW. LIVINGSTON.

NEW YORK, *November* 3, 1802.

Mr. Pinckney to Mr. Cevallos.

MADRID, *August* 28, 1803.

I feel it my duty to reply to your excellency's letter of the 23d instant, which was handed to me a few days ago at the royal Sitio of San Ildefonso, the more especially as your excellency seems now somewhat to have changed the grounds of your defence. Formerly, I thought that the question between us rested upon the law of nations, and to that point I directed my arguments; but now, your excellency says, 1st, That we have received compensation; and 2d, (if I understand the application of the abstract question) That Spain was not able to prevent the injuries we suffered in her ports, from the citizens or subjects of a foreign nation. Before I enter into the discussion of these new topics, I must be permitted to observe, that they appear to me somewhat inconsistent with the first position taken by your excellency; for, if we have received compensation, it is a simple matter of fact, and at once does away the necessity of resorting to general principles, which are, unfortunately, but too apt to be misunderstood or misapplied even by those whose intentions are perfectly upright; on the contrary, if these were so evidently against us, as your excellency is pleased to say they are, I am surprised that a resort should be had to the confession that Spain was not the mistress of her ports. The tendency of these observations, and of others which might be drawn from the same source, (but that I do not wish to dilate upon the subject,) is to produce a conviction in my mind, either that your excellency apprehends that our claims cannot be resisted upon the general principles of the law of nations, or that it will, on some future occasion, be injurious to Spain to admit this doctrine. If I am mistaken, your excellency will, I hope, do me the honor to favor me with the arguments to show the application of general principles against us. Until then, I shall look upon this ground as abandoned, and endeavor to prove to your excellency that we did not, by rejecting the second article of the convention with France, relinquish our claim against Spain. It is admitted that, by this rejection, "the two States renounced the respective pretensions which are the object of the said article." Now these were (so far as relates to the present discussion) the indemnities mutually due and claimed. The question, then, is, what were the indemnities mutually due and claimed? To decide upon this, we are again brought back to general principles; and until it is shown, by the application of these, that our claim upon Spain is unfounded, it cannot be said that we have received compensation from France. The abstract question submitted to the learned

gentlemen of Philadelphia and New York does not fit the present case, as, in the statement made to them, it is affirmed that the Power B renounces and abandons to Power C the right of any claim for the injuries and losses occasioned to its subjects by the hostilities from Power C. Now this is taking for granted the very thing to be proved, and, consequently, any deductions drawn from such premises are inadmissible: the question ought to have been, did the Power A violate the laws of nations, by suffering the Power C to make free use of her ports in arming privateers to cruise against the vessels of Power B, and also, by suffering her to establish in the same courts for condemning and selling the said vessels when brought in as prizes? And if this is a violation of the law of nations, whether is the Power B to seek redress from the Power C or the Power A? Your excellency must admit that this is the simple question stripped of any extraneous matter; and if it is determined that the Power B has its recourse against the Power A, then no subsequent arrangement with the Power C can effect this claim, unless it expressly includes it. Does, then, the arrangement between France and the United States express the relinquishment of any claims which the latter may have upon Spain? It certainly does not, for Spain is not mentioned in this arrangement. Hence it follows, that if our claim against Spain is supported by the law of nations, or the principles of justice, it cannot be vitiated by our convention with France. Your excellency well knows that the practice of our Government, and the reclamations of my predecessor, show that we held Spain liable for the injuries we received in her ports; and this clearly proves that, by ratifying the convention with France, we meant not to relinquish our claims upon Spain; and I must suppose that your excellency did not, until very lately, think that we had done it, as I do not remember that you ever before advanced the opinion; and certainly, if it was well founded, there could not be a stronger argument against us, and I am sure it is one which would not have escaped the enlightened mind of your excellency.

There is another inaccuracy, as it applies to the present case, in the abstract question alluded to above, for it turns principally upon the inability of the Power A to prevent, within its ports, the aggressions of the Power C. This I presume could not have been the case with Spain, and the circumstance of an Algerine vessel being delivered up in Cadiz proves that it was not; but at all events, whatever might have been the inability of Spain, it was incumbent on her to make an effort proportionate to the object, and, if she then failed, her moral obligation ceased; but if, for wise and prudential considerations best known to herself, she chose not to make this effort, but rather to suffer the property of her friends to be sacrificed in her ports, this was the price which she paid for peace, and to those at whose expense the payment was made she is certainly bound in honor to make compensation. We admitted this reasoning when it operated against ourselves; for we paid the British for their vessels sold in our ports by the French, because we did not, at the time, think it prudent to use all our efforts to procure the restoration of them. This is precisely a case in point, and, having paid then, we have a better right to receive now.

I have thus endeavored to answer the objections of your excellency, and to show that nothing has been done on either side to impair that claim which accrues to us against His Majesty, from the general principles of justice, as sanctioned by the laws and usages of nations. I have so repeatedly urged the force of these principles in our favor, without receiving from your excellency more than a simple denial of my conclusions, that I cannot suppose it would be useful to say any thing more as to that point. It now only remains for me to inform your excellency, that I shall forward to the United States the letters which have passed between us, and also a detail of our conversations, that my Government may have this subject before them, as fully as it is in my power to place it. They will then determine what it is proper for them to do: but I cannot close this letter without reminding your excellency of the unpleasant situation in which they will be placed. Convinced that it can neither be the interest nor the intention of His Majesty to injure them, they will yet see with regret that, for some years past, the conduct of Spain has not been altogether as friendly towards them as they could have wished. I will not probe too deeply into the subject; but I feel it my duty to tell your excellency, that, in my opinion, something must be done on the part of His Catholic Majesty to adjust our well founded claims in an equal and honorable manner, or I fear he will lessen the friendship of the people and Government of the United States, which has hitherto been sincere and respectful; and I do hope that His Majesty will direct his minister in the United States to make to our Government some conciliatory propositions, which may tend to preserve a friendly and harmonious intercourse between our two nations; or, if it is more agreeable to His Majesty to make me the organ of these communications, I beg your excellency to believe that it would not be possible to impose on me a more pleasing task, for it is my most anxious wish to prevent a misunderstanding between our two countries, connected together by mutual wants, and freed from the jealousies of a rival commerce, or interfering or rival productions.

With sentiments of the most profound respect and perfect consideration,

I have the honor to be, your excellency's most obedient, humble servant.

His Excellency Don PEDRO CEVALLOS, *First Secretary of State, &c. &c. &c.*

8th CONGRESS.] No. 188. [2d SESSION.

GREAT BRITAIN AND FRANCE—PRIVATE ARMED VESSELS OF THE UNITED STATES.

COMMUNICATED TO THE SENATE, FEBRUARY 1, 1805.

To the Senate of the United States: JANUARY 31, 1805.

According to the desire expressed in your resolution of the 28th instant, I now communicate a report of the Secretary of State, with documents relative to complaints against arming the merchant ships and vessels of the United States, and the conduct of the captains and crews of such as have been armed.

TH: JEFFERSON.

The Secretary of State, to whom the President of the United States has been pleased to refer the resolution of the Senate of the 28th instant, requesting that there may be laid before the Senate such documents and papers, or other information, as the President should judge proper, relative to complaints against arming the merchant ships or vessels of the United States, or the conduct of the captains and crews of such as have been armed, has the honor to annex hereto:

1st. A copy of a letter addressed to the Secretary of State by the envoy of Great Britain, dated on the 31st of August last.

2d. An extract of a letter to the same, from the late chargé d'affaires of France, dated 6th May last, which was preceded and followed by other letters and conversations of the same gentleman, urging the subject upon the attention of the Government. It has been also urged, by the present minister of France, in his interviews with the Secretary of State.

Of the enclosures alluded to in the aforesaid letter and extract, the only authenticated statement, relative to the conduct of American private armed vessels, which has been received at this Department, is contained in the annexed letter from Mr. George Barnewall, of New York, and the document accompanying it.

All which is repectfully submitted.

JAMES MADISON.

DEPARTMENT OF STATE, *January* 21, 1805.

No. 1.

Mr. Merry to the Secretary of State.

PHILADELPHIA, *August* 31, 1804.

SIR:

I have received information respecting several vessels which have of late been armed in, and have sailed from, the different ports of the United States: some loaded with articles contraband of war, (gunpowder is said to be the general article,) others with cargoes of innocent goods, and others again in ballast. After the diligent inquiry which it has been my duty to make on so important a subject, I think that I can have the honor of stating to you, with certainty, that several vessels of the above description, which are mentioned to be schooner rigged, have sailed lately from the port of Baltimore, whilst others, of a larger size, even ships of considerable burthen, and completely equipped for war, have sailed from the port of Philadelphia, bound to the possessions of His Majesty's enemies in the East as well as West Indies. It is said, that the object of some of these equipments is to force a trade with the blacks in the island of St. Domingo; in which attempt, the public prints have stated so circumstantially, as to leave no doubt on the subject, that two American vessels have been captured by French cruisers, after making resistance; but I have strong reason to believe that the destination of others, particularly from the port of Philadelphia, has been with cargoes of contraband articles to the enemy's possessions in the East and West Indies. Let their destinations, however, be what they may, it cannot, I conceive, but be justly considered, that such armaments, on the part of the citizens of a neutral State, must be attended with consequences prejudicial to a belligerent Power, and may therefore be deemed rightly as offensive; for which reason, the law of nations has stated one of the first obligations of neutrality to be, that of abstaining from all participation in warlike expeditions. The armed vessels alluded to may become the property of the King's enemies, either by capture at sea, or by purchase in the ports to which they are destined, and are thus in readiness to be converted immediately into instruments of hostility against His Majesty; whilst, in another point of view, they are calculated to protect the vessels, when they are loaded with contraband articles, against the lawful search and detention of a lawfully commissioned cruiser, when the latter shall happen to be of inferior force. Indeed, I conceive that it may not be giving too great an extent to the principle of the law of nations, without attending to the nature of the cargo, to consider the very arms, ammunition, and other implements of war, with which such vessels are furnished, as contraband articles, when the vessels have been thus equipped without the authority of the nation to which they belong.

I understand, sir, that the armaments in question have, in fact, taken place under no commission or authority whatever from the Government of the United States. I have, therefore, thought it my duty to have the honor of making you acquainted with the information that has reached me on this subject; and if the observations which I have taken the liberty to make upon it should happily be conformable to the sentiments of the American Government, I can safely trust to their justice, as well as to their jealousy of observing the most strict neutrality in the present war, to take such measures as shall appear to them the most proper for suppressing the illegal proceedings complained of, on the part of those individual citizens of the United States who shall appear to be concerned in them.

I have the honor to be, with high respect and consideration, sir, your most obedient, humble servant,

ANT. MERRY.

The Hon. JAMES MADISON, *Secretary of State.*

No. 2.

Extract of a letter from the Chargé des Affaires of France, dated May 7, 1804, *and addressed to the Secretary of State.*

[TRANSLATION.]

The undersigned is informed, in a manner which leaves him no room to doubt it, that the American merchants who pursue this commerce, [meaning the commerce with St. Domingo,] publicly arm, in the ports of the United States, vessels which are intended to support, by force, a traffic contrary to the law of nations, and to repel the efforts which the cruisers of the French republic are authorized to make, in order to prevent it. These armaments have also for their object to cover the conveyance of munitions to the revolted of that colony. The Government of the United States cannot be ignorant of these facts, which are public: the consequences thereof have already been manifested in the West Indies, where the public papers advise that there have been actions between the French cruisers and American vessels carrying on this commerce.

In considering the matter merely under the view of the law of nations, it is manifest that American citizens, under the very eyes of their Government, carry on a private and piratical war against a Power with which the United States are at peace. The undersigned would be wanting in his duty if he did not vindicate, under such circumstances, the rights and the dignity of his Government, which are openly injured; and if he did not call the attention of Mr. Madison to the disagreeable reflections which the French Government would have a right to make, if the silence of the local authorities, respecting acts of this nature, should be imitated by the Government of the United States.

The French Government certainly could not see, without a profound regret, that, after having given to the United States the most marked proofs of the desire to place the good understanding of the two nations upon the most immoveable foundations, by abandoning national interests, which might have eventually produced collisions, individual interests should now be permitted to compromit this good understanding. Its regret would be still much greater, if, when the dignity and the safety of France are openly injured in the United States, by their citizens, the American Government should preserve, respecting these violations, a silence, which would appear to offer an excuse, and even a sort of encouragement, to all the excesses which cupidity may attempt. Besides that, the peace of the two nations cannot but be seriously compromitted by the proceedings of the individuals, and by the reprisals to which they must necessarily lead: this state of things would infallibly tend to diminish the amicable dispositions which the two Governments wish to cultivate.

No. 3.

NEW YORK, *September* 6, 1804.

SIR:

The sufferings of innocent individuals induce me to the liberty I now take of submiting the following statement to your consideration:

In the month of June last, I despatched the ship Hopewell, Preserved Sisson, master, and the brig Rockland, —— Akens, master, with suitable cargoes, destined for Aux Cayes, in the island of Hispaniola; the former armed for defence with twelve six pound cannon and two twelve pounders with small arms, &c.; a crew of thirty-five in number, besides passengers: the latter with eight six pounders, small arms, &c., and a crew of twenty in number, besides passengers. Both these vessels were regularly cleared at the custom-house of this district, and sailed on their intended voyage on the 17th of June. In the prosecution of which, they were met with and captured by a privateer belonging to individuals of the island of Guadaloupe, whither they were carried, and their crews put into close confinement. I beg leave to refer you to the document enclosed for the particulars of the situation in which those unfortunate men are placed; and have the honor to be, &c.

GEO. BARNEWALL.

JAMES MADISON, Esq. &c. &c.

GUADALOUPE, POINT PETRE, *July* 26, 1804.

SIR:

No doubt ere this you have heard of the capture of the Hopewell and brig Rockland. Owing to S. W. and S. S. W. winds, was obliged to go to the eastward of Bermuda, in lat. 27° 38′, long. 61° 57′, on the 30th of June, at 3, A. M. Saw a brig which appeared to be dogging us, and at daylight she bore down on us, hoisted an English ensign, and fired a gun to leeward: we were then under all the sail we could set; but finding she came up with us very fast, we hoisted American colors, and fired a gun to leeward, and shortened sail. I hailed the Rockland, and desired Captain Akens to keep on our lee bow, and near us, as I wished to speak the privateer first, and know what he was, before we attempted any thing. She was then on our weather quarter; the Rockland not keeping in her station, dropping more to leeward, and nearly on our lee quarter; the privateer was then almost within hail of us, but immediately up helm and run along side the Rockland, and commenced firing under English colors, which was returned from the brig. The privateer being between us and the brig, prevented my firing until I got in a situation to fire clear of the Rockland, which was in less than a moment, when we commenced firing to the best advantage we could: the Rockland fired only one broadside and some musketry, when she was boarded; they only left three men on board, sheered off, and gave us a broadside, and attempted to board us, but was repulsed by our quarter gun pikes and musketry; they then kept clear of our pikes, and played continually with all their men, with nothing but musketry. Our men seeing their shipmates falling, most of the landsmen quit their quarters: the privateer seeing this, attempted the second time to board us, by cutting our nettings, and overpowered us by numbers; was obliged to haul down our colors, and quit the deck, otherwise be cut in pieces; we had three killed, four badly wounded, and two slightly wounded; the first who fell was poor Mr. Bird; he was standing near me; he received one ball through his body, and one through his head, and never after spoke a word. I begged him some time before to go below, and prepare his papers: he said they were already prepared, and would not quit the deck; in consequence of which all his papers were found. It was not my intention to engage the privateer, unless I thought we were sure of getting clear; but the Rockland commencing so quick, I could not then avoid it; but even had we suffered them to board us, they would have made a prize of us; the passengers on board were sufficient to condemn us; upwards of one hundred letters were found with them directed to different parts of St. Domingo, and, among the passengers, there were two noted generals who were well known by the Frenchmen; and among Mr. Bird's papers were found instructions from Mr. Lapierre pointing out the whole plan of the voyage. Many other letters were found with Mr. Bird's papers, all of which tended to condemn the ship, which they showed me at Point Petre when I was examined.

When they boarded us, nothing saved our lives but their thinking we were English, and asked us how we dare engage under American colors; and did not believe we were Americans even after we arrived. After the Rockland was boarded we engaged the privateer close on board for forty minutes. When the black general, a passenger, found we were captured, he ran below with a pistol, with an intention to blow the ship up, and with much difficulty we prevented it. He set all the cartridges on fire in the cabin and steerage, which was in pouch tubs, and only my laying the magazine scuttle over, saved the ship and our lives. When he found he could not blow the ship up, he put the pistol to his head, and blew his own brains out. The privateer took out all the passengers, officers, and men except myself, carpenter, two boys, and one of our men badly wounded. The privateer continued with us until we arrived in this port, which was on the 17th July, and was immediately put altogether in a most miserable prison with nothing to eat but stinking beef and coarse bread, and very short even of that. They will not suffer me to see any Americans, nor have any communication with any body. There is a schooner called the Snake in the Grass, bought in New York and fitted out at Salem with five guns, taken and brought here a few days before me: one of the mates is allowed to go out at times, and this was the only opportunity I had to write. They say that orders have gone to America, that every vessel bound to St. Domingo, if taken, shall be treated as pirates. God only knows what they mean to do with us. I beg you will do all in your power to get our Government to claim us, otherwise I dont know what they may do: they seem to be inveterate against the Americans, and even told me every ship and captain's name that was armed from New York.

Captain Akens had his mate killed, and one man, and several wounded, himself wounded, and died at this place on the 22d instant.

The schooner Snake in the Grass was commanded by James Mansfield, who is also in prison, with all his men. The vessel will be condemned, although they did not fire a shot. As no protest can be made here, I thought it best to let the officers sign this letter with me. Several large privateers are getting ready to go down in the bite after the Americans. The privateer that took us was the brig Ferbriskey, Captain Antwan, with ten long French sixes, two twelve pound carronades, one long eighteen pounder, and one hundred and fifty men. The French seem to be very inveterate against the Americans, and insult us as they pass the prison. All that I can say more is to request you to do what you can with our Government, to claim us as Americans. I think the manner in which the French privateer engaged us, under English colors, will be a sufficient reason for them to claim us. All that I can say more is, that your ship and property were defended with spirit, until overpowered by numbers.

I am, sir, with respect, your most obedient servant,

P. SISSON,
MAHLON BENNET,
JAMES ROSS, Jun.

GEORGE BARNEWALL, Esq.

N. B. You will please to excuse any fault in this letter, as I am so closely watched.

UNITED STATES OF AMERICA, *State of New York, ss:*

I, William Popham, Notary Public, duly admitted and sworn, dwelling in the city of New York, and having power by commission, under the great seal of the State of New York, to attest deeds, wills, and all other writings, and also to administer oaths, and grant certificates thereof, do hereby certify, declare, and make known unto all persons to whom these presents shall come, or may in anywise concern, that the foregoing is a just, true, and perfect copy of an original letter, (whereof it purports to be a copy) this day handed to me by George Barnewell, of the city of New York, merchant, in order to have a notarial copy made thereof; I, the said notary, having carefully compared and examined the said copy, with the said original letter, and found the same to agree therewith word for word, and figure for figure; and I the said notary do hereby further certify, and declare, that, upon the day of the date hereof, before me personally came and appeared Dominick Purcell, of the said city of New York, gentleman, who being by me duly sworn, did solemnly depose and declare, that he was well acquainted with the handwritings and signatures of Preserved Sisson, the master, and Mahlon Bennet, the first mate of the ship Hopewell of this port, and that he verily believes the names "P. Sisson and Mahlon Bennet," set and subscribed to the said original letter, are of the respective handwritings and signatures of the said Preserved Sisson and Mahlon Bennet; and he further deposeth and sayeth, that James Ross, Jun., who hath also signed the said original letter, sailed from this port in the capacity of second mate of the said ship Hopewell; and further he sayeth not.

DOMINICK PURCELL.

Of all which, I, the said notary, do now make this public act, that the same may serve, and be of full force and value, as of right it shall appertain.

In testimony whereof, the said Dominick Purcell hath subscribed the foregoing deposition, and, I, the said notary, have hereto subscribed my name and affixed my seal of office, at the city of New York, the twenty-first day of August, in the year of our Lord one thousand eight hundred and four, and of the independence of the United States of America the twenty-ninth.

WILLIAM POPHAM, *Notary Public.*

8th CONGRESS.] No. 189. 2d SESSION.

DENMARK.

COMMUNICATED TO CONGRESS, FEBRUARY 5, 1805.

FEBRUARY 5, 1805.

To the Senate and House of Representatives of the United States:

The Secretary of State has lately received a note from the Danish chargé des affaires, claiming, *in the name of his Government*, restitution, in the case of the brig Hendrick, communicated to Congress at a former session; in which note were transmitted sundry documents, chiefly relating to the value and neutral character of the vessel, and to the question whether the judicial proceedings were instituted and conducted without the concurrence of the captain of the Hendrick. As these documents appear to form a necessary appendage to those already before Congress, and throw additional light on the subject, I transmit copies of them herewith.

TH: JEFFERSON.

I, David Matthew Clarkson, at present of the island of St. Bartholomew, merchant, do most solemnly declare and swear, that I was residing in the island of St. Christopher, in the town of Basseterre, as agent for the United States, in the month of October, one thousand seven hundred and ninety-nine, when the Danish brig Hendrick, Peter Scheelt, master, of Altona, was brought into that port by the United States' brig of war called the Pickering, Benjamin Hillier, commander. And I do further swear, that said brig and her cargo were libelled as a prize for a salvage by said Benjamin Hillier in the British court of Vice Admiralty at the said island, and that it was proceeded against the said brig and cargo upon the said libel at the instance of the captors, and not at the instance of neutral Captain Peter Scheelt; and in every part of the transaction of said vessel and cargo, the said captain refused to give any advice in the management of the same, alleging that, the property being neutral, he had taken the requisite steps in making such protests as would fully justify him to the owners and others concerned, and made no doubt *ample recompense* would be made elsewhere.

DAVID M. CLARKSON.

Before me, Andrew Bergstedt, Justiciarius in the island of St. Bartholomew, personally appeared Mr. David Matthew Clarkson, a merchant living in the town of Gustaria, island aforesaid, who, on his solemn oath, taken before me according to law, deposes and says, that the foregoing declaration which he did sign before me, does not contain any thing but what he knows to be true, that the whole tenor thereof is true, and nothing but the truth.

Done in Gustaria, on the island of St. Bartholomew, this 5th day of July, 1804, in presence of Charles Frederick Warderman and Matthew Winfield, witnesses, who have hereunto set their names, together with me, the Justiciarius aforesaid.

BERGSTEDT, *Justiciarius.* [L. S.]

Witness, G. F. WERDERMAN,
MATTHEW WINFIELD.

A true copy of or from the original.

RICHARD SODERSTROM.

Extract of Mr. David M. Clarkson's letter to Richard Soderstrom, dated

JULY 4, 1804.

"With respect to your obtaining a certificate from the marshal of St. Kitts, of his having served a monition on Peter Scheelt; I must observe he never did, nor is it the custom to do so; but when a monition issues, it is fixed on the court-house door, and no where else. Perhaps Captain Scheelt never saw it or was told of it; and if he never went to that place, he could never see it.

"All libels for captures made by the American ships of war were made by their commanders through me as their agent, by petition to the judge, and not otherwise in any instance whatever."

True copy of the original.

RICHARD SODERSTROM.

[TRANSLATION.]

Here before the court of justice of the Chief President of this town, on this day, John Humphreys, citizen and merchant of this town, sole owner of the Danish ship Hendrick, before commanded by Captain Peter Scheelt, made his oath and saith, that he is the sole owner of the Danish brig ship Hendrick, bought for his own account at London, and afterwards, according to the annexed charter-party, No. 1, having let this ship for the stipulated freight in the month of May, 1799, to the Hamburg merchants mentioned in said charter-party, bound on a voyage from Hamburg to Cape François, and from there back to Hamburg; that, after having legitimated himself to be sole owner of the said ship, according to the annexed Latin certificate, No. 2, and the annexed English translation thereof, No. 3, he had received due passports for such a voyage; and the abovementioned ship having set sail under the command of Captain Peter Scheelt, but has been taken and seized on such voyage by a French privateer, and retaken by the United States' ship Pickering, commanded by Benjamin Hillier, Esq. and brought to St. Kitts, where, however, the ship and cargo have been acknowledged to be neutral property; but because it had been retaken from the French privateer, the Court of Vice Admiralty has adjudicated the half of the amount of ship and cargo to be paid to the American ship of war, and the expenses to be paid by the owners of the ship and cargo; and that after the sale having been performed, the half amount has been paid to the American ship of war at St. Kitts. The damage and loss thereof arisen, consists, according to the annexed account, No. 4, after having been deducted at St. Christopher per saldo, received 2757 ‖ 6, bco. in banco 64,983 3, say sixty-four thousand nine hundred and eighty-three marks three shillings banco. The freight, mentioned in this account, is, according to the annexed charter-party, No. 1, the least, and sufficiently proved by the original charter-party; the amount of the ship, like the calculated insurance premium, is, by the annexed certified copy of the original policy of insurance, No. 5; after which the ship has been taxed on 20,000 marks banco, and by the annexed bill of taxation of the sworn taxer, and ship carpenter at Altona, John Henry Wordsman, who has taxed said ship on 17,500 marks banco, to which the equipping, amounting to about 2,500 marks, is to be added; yet so the sum of 20,000 marks banco, and that also the sum mentioned in said account per saldo of 64,983 ‖ 3, is the true and very sum which he has to ask for the indemnification of his ship, as I do hereby certify as chief of this town.

Witness my proper handwriting, and approved town seal, Altona, before the court of justice of the Chief President, the 8th November, 1803.

C. L. V. STEMANN, [L. S.]

His Royal Danish and Norwegian Majesty's Privy Councillor, and Chief President of this town, Knight, &c.

Conformable with the German original,

G. G. R. KAHTGEN, *Notary.* [L. S.]

[TRANSLATION.]

ALTONA, *June* 1, 1799.

We, burgomaster and counsellors of the town of Altona, do hereby certify and declare, that this day, the 29th of the month of June, in the year 1799, appeared before us, John Humphreys, dwelling and residing in the town of Altona, and by the oath with which he has assermented his fidelity to His Majesty, our sovereign King, he made his declaration that the ship or vessel, named Hendrick, of the burden of fifty lasts of commerce, belongs to the port of Altona, and that the said ship or vessel Hendrick is truly and avowedly the property of him, the subject of His Majesty, our sovereign, only; and that the said ship or vessel is now destined to go from the port of Hamburg to the port of Cape François, in the island of St. Domingo; and further, laden with the merchandises mentioned in the manifest, in place of that of the custom-house officers, there being no custom-house in this place; and that the said deponent also declares on oath, that the said ship or vessel is belonging to His Danish Majesty's subjects only; and does not contain any prohibited goods destined for any of the parties now at war.

In witness whereof, we have ordered this certificate to be signed by the secretary of this town, and the town seal affixed thereto.

Ex commissione senatus,

S. H. GERCKEN, [L. S.] *Secretary.*

ALTONA, JUNE 1, 1799.

We, the abovementioned burgomasters and counsellors, do likewise attest, that Peter Scheelt, master and subject of His Majesty the King of Denmark, Norway, &c. has, by means of a solemn oath, declared before us, that to his, the said master's, knowledge, with his consent and will, nothing has been transacted, nor shall be transacted, against the contents of the abovementioned certificate; and further, that he will not misapply neither the said certificate nor the King's passport.

In fidem, S. H. GERCKEN.

Conformable with the original,

STEMANN.

[The following *reports* relate to the same subject.]

JANUARY 3, 1804.

Mr. J. C. SMITH, from the Committee of Claims, to whom was recommitted, the 26th ultimo, a report of the same committee on a motion relative to a provision for the relief of the owners of the Danish brigantine Hendrick, together with sundry accompanying documents, made the following supplementary report:

That your committee have procured from the Secretary of State the original invoice of the cargo of the Hendrick, an authentic translation of the charter-party, an account of sales of the brig and cargo at St. Christopher, and an additional amount of sales, which, together with a representation made by the agent of the Danish owners to the Danish minister resident in the United States, are herewith presented. From these documents, it is presumed that the estimate of the value of the vessel and cargo, contained in the report of the Secretary, will appear to be correct.

No other facts relative to the case having come to the knowledge of the committee since their former report, they offer to the House the following resolution, to wit:

Resolved, That the sum of —— dollars ought to be appropriated out of any moneys in the Treasury not otherwise appropriated, to enable the President of the United States to make such restitution as shall appear to be just and equitable to the owners of the Danish brigantine called the Hendrick, and her cargo, which were re-captured by an American armed vessel in the year 1799, and sold, by order of the Vice Admiralty Court, in the British island of St. Christopher.

Representation of the agent of the Danish owners.

WASHINGTON CITY, *February* 8, 1803.

SIR:

In capacity of attorney in fact for the late owners of the brig Hendrick and her cargo, I think it incumbent on me to lay their case before you, and to request your interference with the Government of the United States in their behalf, having not been able to obtain the least redress during these several years past, but have been sent from the executive to the courts of justice. I, from these motives, must now trouble you for to endeavor to obtain justice, as the learned gentlemen at law insist upon, that the case is so conducted and managed by the officers of the navy and the American agent and consul at St. Kitts, as to impede all transactions at court.

The case is that of a bona fide neutral vessel and cargo taken by the French whilst going to one of their colonies, retaken by an American vessel of war, carried into a British island, and there condemned, on the very day of her arrival, for the payment of an exorbitant salvage, almost equivalent to a total loss: under such circumstances of oppression and unfair combination, and by such a *mockery of legal proceedings*, as render it one of those cases of flagrant injustice, which it has ever been the pride as well as the duty of Governments to redress, when they had the means in their power, which I conceive to be the case in the present instance. I have no doubt, therefore, but what your application to a Government so eminently distinguished for its love of justice as that of the United States, will not fail of meeting with the desired effect.

Permit me now, sir, to state to you the particulars of the case, and the object of the intended application to the American Government.

The brig Hendrick sailed from Altona in July, 1799, bound to Cape François, having a cargo of beer, wine, and other articles, the produce of Hamburg, Spain, and Altona, belonging to sundry shippers, all Danes and Hamburgers.

The brig was unarmed, was regularly owned, commanded, manned, and documented as a bona fide Danish vessel. The documents respecting the cargo were also perfectly regular, as being bona fide neutral property.

On the 3d of October, 1799, she was captured by a French privateer from Guadaloupe. Although those privateers captured almost every thing they met with on the high seas, yet the authorities of the island paid great respect to the Danish flag; and Danish vessels, when carried in, were generally released without delay, often with restitution of damages. The fact is notorious, and is attested by the letters of the Governor General of the Danish islands to the American Secretary of State, whereof a copy is conveyed herewith.

On the 8th she was re-captured by the United States' ship Ganges, Captain Tingey, and afterwards carried into St. Kitts, by the United States' brig Pickering, Captain Hillier, where she arrived on the 10th of the said month on which day the captain entered his protest in due form. On the same day, the captain was brought before a court of Vice Admiralty, and there examined on the standing interrogatories, as is usual in all cases of capture and re-capture; and, on the same day, the vessel was adjudged, together with her cargo, to pay a salvage to the re-captors of one-half part of the gross appraised value.

A condemnation of a neutral vessel and cargo, on the very day of her being carried into port, is I, believe, sir, a thing unheard of in the annals of civilized nations. But the manner in which this act of injustice was perpetrated, when considered in all its details, is calculated to excite a blush at the degeneracy of human nature.

I have the honor, sir, of enclosing herewith, together with the other papers relative to this case, what has been delivered as an exemplification of all the records of these proceedings, and which, I believe, does really contain all the documents that are on the files of the court in that particular case.

The first thing which is to be observed in this singular document is, that the several papers it contains are copied therein in an inverted order, whether from inattention or design I cannot positively say. The libel of Captain Tingey, which is very long and very formal, and which ought to have been placed next after the Captain's examination, is, on the contrary, placed at the end of the proceedings, immediately before the sentence. If this has not

been done out of mere slovenliness in the copying clerk, it is possible that it may be connected with an attempt that manifests itself in some part of the proceedings, to make the Danish captain appear as the libellant, (as, in fact, he is in several instances thus called, though, in other places, he is properly styled as claimant,) and such he really was: for this instrument, which appears filed in his name, is a claim in form and in substance, and Captain Hillier, of the brig Pickering, who comes in after him, with a kind of petition to claim the prize as the true recaptor, calls it, in true technical terms, the claim or allegation filed by Captain Peter Scheelt in the above cause.

The object, if there be any design in the matter to make Captain Scheelt appear in the light of a libellant, would evidently tend to make it appear that Captain Tingey and Captain Hillier were forced by him into a foreign Court of Admiralty, and to argue therefrom, that, it being his own exploit, he had no right to complain of the consequence.

But, without admitting the inference, the record itself shows that there could be no foundation as to the fact: for Captain Tingey's libel does not appear in the form of an answer, or of an incidental application, as, for instance, the petition of Captain Hillier, but is the regular form of a libel introductory to a suit. Secondly, Captain Scheelt's examination on the standing interrogatories, before any other proceedings took place, exhibits him in his real situation of defendant, in a cause respecting a prize; and lastly, (and this is not the least singular circumstance displayed in these strange proceedings,) Captain Scheelt's claim, though regularly dated on the 10th of October, is marked as filed only on the 11th, the day after the sentence was pronounced. I think it strongly presumable, sir, that this claim, by which Captain Scheelt is made to demand restitution of the vessel and cargo, on a payment of a reasonable salvage, (an admission every neutral captain, of the smallest understanding, it is supposed, will readily object to, if exhibited at all, for the circumstance of its being filed after sentence pronounced seems to authorize every suspicion on that score,) was exhibited without his knowledge, or without his being apprised of the real contents thereof. It is not signed by him, but by a Mr. Carney, who styles himself his proctor, and does not appear in any subsequent stage of the proceedings.

It is, however, succeeded by an affidavit, which appears to have been signed by him, but which has no direct reference to the claim, and expresses nothing relative thereunto. Now, a claim, to be regular, must not only be signed, but expressly and directly sworn to by the party claimant; it may, therefore, be presumed that only the affidavit, but not the claim, is that of Captain Scheelt. These surmises may appear harsh, yet there is sufficient evidence on the face of these proceedings to justify every degree of suspicion. The sentence itself contains, on the face of it, the clearest evidence of combination and fraud. If credit is to be given to it, there exists no doubt but that Captain Scheelt was not heard at all, or, if he was heard in form, it was through the corrupt medium of the advocate of Captain Tingey. In order to understand this, it is necessary to copy a part of the sentence itself:

"Proclamation being made, the Court being called and seated, Mr. Mardenbrough, advocate and proctor for Captain Benjamin Hillier, his officers, &c., dispensing with the return of the monition, and agreeing on the part of the captors and recaptors to the cause now coming on, the libel or allegations was thereupon opened by Mr. Tuckett, King's counsel and advocate for the libellants, the following evidence was produced and read, viz. &c. And after hearing Mr. Tuckett fully and at large on the part of the libellants, the substance of the claim to the brig and cargo on the part of the captors, as their prize, was then opened by Mr. Mardenbrough; and the same, with the certificate of the agent and consul thereto annexed being read, and Mr. Mardenbrough fully and at large heard on the part of the captors, and Mr. Tuckett heard in reply, and it appearing to the Court, &c., the Court does decree," &c. Captain Scheelt being called in the remaining part of the sentence sometimes the claimant, and sometimes the libellant. Now, this Mr. Tuckett, the King's advocate, who is stated here to have replied to the arguments urged by Mr. Mardenbrough in behalf of the captors, was, in fact, Captain Tingey's advocate, and signed as such to his libel, claiming the vessel and cargo as his prize. Mr. Carney, who, in the former part of the proceedings, appears as Captain Scheelt's proctor, does not appear to have been heard at all. It is therefore evident that Captain Scheelt was made sport of, and that the whole matter was managed and carried on by the adversaries, and his name made use of to serve their purposes.

It would be an endless task to point out all the inconsistencies of these proceedings. Among those there is a very remarkable one, that the cause is opened in the name of the United States' frigate *Adams*, and that no mention is made of her throughout the remainder of the record. Another, that Captain Hillier and Captain Tingey appear to be preferring adverse claims against each other as recaptors, but that the sentence does not decide between them, though the argument is managed by their advocates answering and replying to each other; but the Court generally decrees salvage to the recaptors. It is to be remarked, also, that, by way of excuse for bringing on the trial and judgment on the very day that the vessel was carried in, Captain Hillier's advocate is stated to dispense, on the part of the captors, with the return of the monition, (while, in fact, if any one had a right to dispense with the return of that formality, it could be nobody else but the claimant, whose consent was not even asked;) and the clerk who exemplifies the papers certifies that the monition could not be found. It is more probable that it never existed. Such is the manner in which this valuable neutral vessel and cargo (acknowledged by the decree to be such) were disposed of, as they were of course sold to pay the salvage.

The cargo alone had cost the owners 98,914 banco marks, which, at 34½ cents per mark, make	$34,125 33
Value of the vessel and freight, with insurance on same,	10,374 67
Nett value of vessel and cargo when taken,	$44,500 00

Out of which, after deducting the salvage, costs, and loss, there remained no more for the claimant out of the proceeds of both vessel and cargo than £3,454 8*s.* 4*d.* West India currency, which, at 8*s.* 3*d.* per dollar, make $8,374 41, which may be considered as almost equal to a total loss to the owners, when $36,125 59 is taken away to pay the captors' salvage, charges on the sales of vessel and cargo, paid to the United States' agent, and law charges, and commissions again for claiming the vessel and cargo, and loss sustained in the sale of the vessel and cargo. It is also necessary for me state how this immense sum of $36,125 59 is disposed of. By the accounts from St. Kitt's, which is also herewith, it appears that one-half the amount of the forced sale of vessel and cargo was paid to the United States' agent, D. M. Clarkson, say,

£5,922 3*s.* 9½*d.* which, at 8*s.* 3*d.* per dollar, make		$14,356 82
This Mr. Clarkson charges as follows:		
Bell, punch, and negroes, attending the sale, and 2½ per cent. commissions,	£310 12 2	
Sundry charges specified, and commission and storage, at 7½ per cent.,	1,083 12 3	
And Mr. D. L. Abarband charges sundry disbursements and law charges, per accounts,	682 19 1	
And again, commission for endorsing bills and claiming the vessel and cargo,	390 12 2	
	£2,467 15 8 is	$5,982 50
Total paid, salvage and charges,		$20,339 32

Which is a total loss to the owners, without calculating either profit or interest, to which is to be added the loss on the sales of the vessel and cargo of $15,786 27, making together a bona fide loss of $36,125 59, as before stated. If to this sum, or to the first cost, $44,500, a profit should be added—or say that only 3½ years' interest should be added, $7,586 37 more ought to be paid to the owners of this large property; so that the claim which they, in my honest opinion, are entitled to, is, in all, the first foregoing sum of $36,125 59

And 3½ years' interest, 7,586 37

$43,711 96

Besides the above, there was on board the Hendrick a small adventure of a Mr. Koch, which was sold by Mr. D. M. Clarkson for the gross sum of £349 16*s.*, out of which he deducts for salvage £170 10*s.* 6½*d.* and costs and charges £32 16*s.* 9½*d.* making, together, £203 7*s.* 4*d;* this sum ought also to be included, and makes, in dollars, at 8*s.* 3*d.*	493 01
Thus forming an aggregate sum of - - - - - - -	$44,204 97

It is not, however, sir, on the irregularity of these proceedings in point of form, nor on the immense loss to my constituents, which has been the consequence, that I place the real merits of this case, but on the intrinsic injustice of the decree itself, apparent on the face of it. The enormous salvage of one-half of the gross amount of the property is stated to have been given in conformity to the regulations of the American navy, which are certified together by the American consul or agent, who acted also in the capacity of agent for the recaptors. [See the decree, and also the petition of Captain Hillier, of the brig Pickering, and the account and settlements between the parties.]

These regulations (as the consul's certificate is not transcribed at length) I presume to be the act of Congress, passed on the 2d of March, 1799, entitled "An act for the government of the navy of the United States;" in the seventh section of which (4th vol. Laws of the United States, page 472.) there is a clause respecting salvage, which really allows a salvage of one-half on recaptured property which shall have been upwards of ninety-six hours in possession of the enemy. I thus presume, because I am ignorant of any other act of Congress which answers the description of regulations for the navy, nor indeed of any other legislative provision existing at that time on the subject of salvage. But this section of the said act of Congress never was intended by the Legislature of the United States to be applied to cases of recapture of neutral property, but was only applicable to recaptures of the property of the subjects of co-belligerent states. It was thus very properly decided by the Supreme Court of the United States in the case of the Hamburg ship Amelia, Hans Frederick Seaman, master, which was a recapture from the French, which rendered her loss certain had she been carried into a port of France, as she was laden with British goods, which were prohibited by the regulations of that country. Yet, in that case, the Supreme Court allowed only to the recaptors a salvage of one-sixth of the nett value of the property recaptured. The Court (if the printed report of the case is to be relied on) declared, in substance, that it was not under the act of March, 1799, nor under any other act of Congress, that they granted salvage in that case, but by an application of the principles of the laws of war and of nations. A similar decision was lately given by the circuit court of the United States for the Pennsylvania district, in the case of the Charming Betsey; in which case, it was said by the court (if I understand right, as I was present at the time,) that none of the acts of Congress respecting salvage could be construed as applicable to recaptures of neutrals; but that the granting of salvage on neutral property was authorized by the law of nations in certain cases, that is, when there existed an imminent danger of condemnation in the country of the captor.

I shall not presume, sir, to controvert here doctrines which have been laid down by such high and respectable authorities as the courts of the United States. It is my duty respectfully to submit to them, as I conceive it to be my privilege to solicit their benefits whenever they tend to my favor.

With this view, therefore, I think that I can with propriety draw the following inferences from the facts above stated:

1st. That the decree of the Vice Admiralty Court of St. Kitt's is erroneous, inasmuch as it is founded on a misapplication of a law of the United States, declared to be inapplicable by a solemn decision of the Supreme Judiciary of this country.

2d. That it is intrinsically unjust, as the courts of the United States, in the most favorable cases of recaptures of neutrals, (I mean in cases the most favorable to the recaptors,) never have granted more than one-sixth of the nett proceeds; whereas, in this case, one moiety of the gross proceeds has been decreed.

3d. That this case is extremely unfavorable to the recaptors, as the recaptured vessel sailed under the Danish flag, that was highly respected by the French authorities; and, as to herself, she was, as well as her cargo, bona fide Danish and Hamburg property, had no prohibited articles on board, and her papers were in the most regular order.

4th. That, consequently, she was in no danger of being condemned in a French port; and, therefore, the courts of the United States, had the case been brought before them, would not, according to their own principles, have granted any salvage to the recaptors.

5th. That, independent of the intrinsic injustice of this decree, the proceedings were carried on in an irregular, vexatious, and oppressive manner; that the prosecutors in this unjust procedure were officers of high military rank under the United States; and the person who led the court into error, by a certificate given on mistaken grounds, was the consul of the American Government himself, acting, at the same time, as agent for the adverse party.

6th. That the neutral owners have been, therefore, considerably injured, and are entitled to receive satisfaction somewhere.

I am well aware, sir, that it has been the custom of the Government of the United States not to render satisfaction for the misconduct of its officers, before regular proceedings, in a court of justice, have been gone through: but, in a case so flagrant as the present, I flatter myself it is too liberal and too just not to remunerate, in some degree, the innocent sufferers, and who have suffered by palpable error and mistake; which error and mistake was occasioned by one of its officers—an officer to whom foreign Courts of Admiralty generally gave full faith and credit, as to his statements of the laws of his country. I therefore am induced to hope, that, if you will take the trouble to lay this case officially before the Government of the United States, it will not hesitate to pronounce it a case in which it ought to interfere, and that, eventually, such justice will be rendered by the Government to my constituents, as the extreme hardships which they have experienced, and the losses they have sustained, evidently seem to require.

At foot, is a specification or list of the documents referred to in the preceding part of this letter.

I have the honor to be, &c.

R. SODERSTROM.

PETER BLIKER OLSEN, Esq.,
Minister resident from the court of Denmark near the United States.

FEBRUARY 20, 1804.

Mr. DANA, from the Committee of Claims, to whom was referred a message from the President of the United States transmitting sundry documents from the Danish chargé des affaires, claiming, in the name of his Government, restitution in the case of the brigantine Hendrick, together with the report and documents heretofore presented, made the following report:

That the documents accompanying the President's message contain evidence in support of the claim, corroborative of that submitted to the examination of the committee, at the last session of Congress; particularly in relation to the neutral character of the vessel, to the question, whether the judicial proceedings were instituted and conducted with the consent of the captain of the Hendrick, and the value of the vessel and cargo. Upon a careful examination of these documents, and a review of those heretofore filed in this case, your committee are confirmed in their opinion (given to the House at the last session) that the honor and justice of the United States require that the Executive should be enabled to indemnify the owners of the brig Hendrick and cargo, against the losses occasioned by the conduct of our officers; they, therefore, offer to the House the following resolution:

Resolved, That the sum of —— dollars ought to be appropriated out of any moneys in the Treasury not otherwise appropriated, to enable the President of the United States to make such restitution as shall appear to be just and equitable to the owners of the Danish brigantine called the Hendrick, and her cargo, which were captured by an American armed vessel in the war, 1799, and sold, by order of the Admiralty Court, in the British island of St. Christopher.

8th CONGRESS.] No. 190. [2d SESSION.

SPAIN.

COMMUNICATED TO CONGRESS, DECEMBER 9, 1805, AND FEBRUARY 18, 1813.*

[CONFIDENTIAL.]

To the Senate and House of Representatives of the United States: DECEMBER 6, 1805.

The depredations which had been committed on the commerce of the United States during a preceding war, by persons under the authority of Spain, are sufficiently known to all: these made it a duty to require from that Government indemnifications for our injured citizens. A convention was accordingly entered into between the minister of the United States at Madrid, and the minister of that Government for Foreign Affairs, by which it was agreed that spoliations committed by Spanish subjects, and carried into ports of Spain, should be paid for by that nation; and that those committed by French subjects and carried into Spanish ports should remain for further discussion. Before this convention was returned to Spain with our ratification, the transfer of Louisiana by France to the United States took place; an event as unexpected as disagreeable to Spain. From that moment she seemed to change her conduct and dispositions towards us. It was first manifested by her protest against the right of France to alienate Louisiana to us, which, however, was soon retracted, and the right confirmed. Then high offence was manifested at the act of Congress establishing a collection district on the Mobile, although, by an authentic declaration, immediately made, it was expressly confined to our acknowledged limits, and she now refused to ratify the convention signed by her own minister under the eye of his sovereign, unless we would consent to alterations of its terms, which would have affected our claims against her for the spoliations by French subjects carried into Spanish ports.

To obtain justice, as well as to restore friendship, I thought a special mission advisable; and accordingly appointed James Monroe minister extraordinary and plenipotentiary, to repair to Madrid, and, in conjunction with our minister resident there, to endeavor to procure a ratification of the former convention, and to come to an understanding with Spain as to the boundaries of Louisiana. It appeared at once that her policy was to reserve herself for events, and, in the mean time, to keep our differences in an undetermined state: this will be evident from the papers now communicated to you. After nearly five months of fruitless endeavor to bring them to some definite and satisfactory result, our ministers ended the conferences without having been able to obtain indemnity for the spoliations of any description, or any satisfaction as to the boundaries of Louisiana, other than a declaration that we had no rights eastward of the Iberville, and that our line to the west was one which would have left us but a string of land on that bank of the river Mississippi. Our injured citizens were thus left without any prospect of retribution from the wrong-doer; and, as to boundary, each party was to take its own course. That which they have chosen to pursue will appear from the documents now communicated. They authorize the inference, that it is their intention to advance on our possessions, until they shall be repressed by an opposing force. Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided. I have barely instructed the officers stationed in the neighborhood of the aggressions, to protect our citizens from violence, to patrol within the borders actually delivered to us, and not to go out of them but when necessary to repel an inroad, or to rescue a citizen, or his property; and the Spanish officers remaining at New Orleans are required to depart without further delay. It ought to be noted here, that, since the late change in the state of affairs in Europe, Spain has ordered her cruisers and courts to respect our treaty with her.

The conduct of France, and the part she may take in the misunderstandings between the United States and Spain, are too important to be unconsidered. She was prompt and decided in her declarations that our demands on Spain for French spoliations carried into Spanish ports, were included in the settlement between the United States and France. She took at once the ground, that she had acquired no right from Spain, and had meant to deliver us none eastward of the Iberville; her silence as to the western boundary leaving us to infer her opinion might be against Spain in that quarter. Whatever direction she might mean to give to these differences, it does not appear that she has contemplated their proceeding to actual rupture, or that, at the date of our last advices from Paris, her Government had any suspicion of the hostile attitude Spain had taken here. On the contrary, we have reason to believe that she was disposed to effect a settlement, on a plan analogous to what our ministers had proposed, and so comprehensive, as to remove, as far as possible, the grounds of future collision and controversy on the eastern as well as western side of the Mississippi.

The present crisis in Europe is favorable for pressing such a settlement, and not a moment should be lost in availing ourselves of it. Should it pass unimproved, our situation would become much more difficult; formal war is not necessary, it is not probable it will follow, but the protection of our citizens, the spirit and honor of our country, require that force should be interposed to a certain degree. It will probably contribute to advance the object of peace.

But the course to be pursued will require the command of means which it belongs to Congress exclusively to yield or to deny. To them I communicate every fact material for their information, and the documents necessary to enable them to judge for themselves. To their wisdom, then, I look for the course I am to pursue, and will pursue with sincere zeal that which they shall approve.

TH: JEFFERSON.

No. 2.

SIR: DECEMBER 6, 1805.

In order to give to Congress the details necessary for their full information of the state of things between Spain and the United States, I send them the communication and documents now enclosed. Although stated to be confidential, that term is not meant to be extended to all the documents, the greater part of which are proper for the public eye: it is applied only to the message itself, and to the letters from our own and foreign ministers, which, if disclosed, might throw additional difficulties int he way of accommodation. These alone, therefore, are delivered to the Legislature in confidence that they will be kept secret.

TH: JEFFERSON.

The PRESIDENT *of the Senate.*

No. 3.

[CONFIDENTIAL.]

To the Senate of the United States: FEBRUARY 18, 1813.

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 18th January, 1813.

JAMES MADISON.

* Although these messages are of different dates, the papers transmitted exhibit the posture of affairs with Spain at the date of the first message, and, in many cases, were only duplicate copies of the same paper.

No. 4.

DEPARTMENT OF STATE, *February* 17, 1813.

The Secretary of State, to whom was referred the confidential resolution of the Senate of the 18th instant, has the honor, in compliance therewith, to submit to the President the following papers:

1st. Instructions given by the Secretary of State to Charles Pinckney, Esq., minister plenipotentiary of the United States at Madrid, under date of the 6th February, and 10th April, 1804; and to Robert R. Livingston, of 31st January, 1804.

2d. The correspondence between Charles Pinckney, Esq. and the Spanish Government relative to the ratification of the convention of 1802.

3d. Correspondence between the Secretary of State and the Marquis de Casa Yrujo, on the same subject.

4th. Instructions given by the Secretary of State to Messrs. Monroe and Pinckney, under date of the 15th April, 8th July, 26th October, 1804; 4th May, and 23d May, 1805.

5th. A letter from Mr. Monroe to M. Talleyrand of 8th November, 1804; and a letter from M. Talleyrand to General Armstrong of 21st December, 1804, in reply thereto.

6th. The correspondence between Messrs. Monroe and Pinckney and the Spanish Government.

These papers communicate all that passed between the dates specified in the resolution, on the subject matter thereof; no negotiation was ever entered into with Spain, under the instructions to Messrs. Armstrong and Bowdoin, nor was there ever any negotiation with France, either for the cession of East Florida, or for indemnities for French seizures, and condemnations in the ports of Spain, during the late war with France.

All which is respectfully submitted:

JAMES MONROE.

I. Instructions from the Secretary of State to Mr. Pinckney and to Mr. Livingston.

Mr. Madison, Secretary of State, to Mr. Pinckney, minister to Spain.

DEPARTMENT OF STATE, *July* 29, 1803.

SIR:

You will have learned, doubtless, from Paris, that a treaty has been signed there, by which New Orleans and the rest of Louisiana is conveyed to the United States. The Floridas are not included in the treaty, being, it appears, still held by Spain. The enclosed copy of a communication, from the Spanish minister here, contains a refusal of His Catholic Majesty to alienate any part of his colonial possessions. A copy of the answer to it is also enclosed.

At the date of this refusal, it was probably unknown that the cession by France to the United States had been, or would be made. This consideration, with the kind of reasons given for the refusal, and the situation of Spain, resulting from the war between Great Britain and France, lead to a calculation that, at present, there may be less repugnance to our views. The letter, herewith addressed to Mr. Monroe, gives the instructions under which the negotiations are to be pursued. Being for your use, as well as his, it is unsealed, and in your cipher; a copy in his having been forwarded to Paris.

In case Mr. Monroe should not have arrived, but be expected at Madrid, you will forbear to enter into negotiations on this subject, unless they should be brought on by the Spanish Government, and the moment should be critical for securing our object on favorable terms. The maximum of price, contemplated by the President, will be found in the instructions. At this price the bargain cannot be a bad one. But, considering the motives which Spain ought now to feel for making the arrangements easy and satisfactory; the certainty that the Floridas must, at no distant period, find a way into our hands; and the tax on our finances, resulting from the purchase of Louisiana, which makes a further purchase immediately less convenient; it may be hoped, as it is to be wished, that the bargain will be considerably cheapened. Under such circumstances, it would not be proper to accede to terms which, under others, might have been admissible.

In case Mr. Monroe should be obliged to decline or postpone his visit to Spain, I have requested him to give you his ideas on the expediency of your proceeding or not in the negotiation. The advantage given him by his opportunity of scanning the policy of Great Britain and France, in relation to Spain, and of estimating the course of the war, will render his opinion on that point worthy of your confidence.

You will observe, in the answer to the Marquis de Yrujo's communication, a merited animadversion on the motives assigned for the restoration of the deposite. The United States can never admit that this was of favor, not of right; nor receive as a favor what they demand as a right.

As the indemnifications claimed from Spain are to be incorporated in the overtures for the Floridas, it will be advisable to leave them, although within your ordinary functions, for the joint negotiations of yourself and Mr. Monroe. In these, as proceeding from an extraordinary mission, the subject can be pressed with greater force and more probable effect. Should Mr. Monroe, however, not be likely soon to join you, and there be a prospect of extending the convention, not accepted here, to the claims admitted in it, you will continue to urge them on the justice of the Spanish Government; and in terms, and a tone, that will make it sensible of the impolicy of disappointing the reasonable expectations of the United States.

I have the honor to be, &c. &c.

JAMES MADISON.

CHARLES PINCKNEY, Esq.

Extract of a letter from the Secretary of State of the United States to Robert R. Livingston, then their minister plenipotentiary in France.

DEPARTMENT OF STATE, *January* 31, 1804.

The convention with Spain, which was not agreed to at the last session of Congress, has been resumed and ratified during the present. The objection to it was, that it did not provide, in sufficient extent, for repairing the injuries done to our commerce, particularly in omitting the case of captures and condemnations by French cruisers and consuls, within Spanish responsibility. As the convention does not abandon the omitted cases, but merely leaves them for further negotiation, it was judged best, on the whole, not longer to deprive that class of our citizens, who are comprehended in the convention, of the benefit of its provisions. The claims of the others will be pursued with due attention; and may, perhaps, be advantageously brought into the negotiation with which Mr. Monroe and Mr. Pinckney will be jointly charged. Such of them as Spain refused to submit to arbitration, as proceeding from French citizens, and not from Spanish subjects, are clearly supported by strict justice, and by the soundest principles of public law. French citizens, within the jurisdiction of Spain, were, for the time, subjects of Spain. Spain had a right to their allegiance, and was responsible for their conduct. As well might she say that a murder or robbery, committed by a Frenchman on an American, in the streets of Madrid, was to be punished or redressed by France alone, not by her, as pretend that the illegal proceedings of Frenchmen, within Spanish jurisdiction, in the case of spoliations on our commerce, are to depend on France, not on her, for indemnification. Supposing France to be liable eventually, Spain is liable in the first resort, and can be relieved from it only by showing that she exerted all the reasonable means in her power for preventing and correcting the wrong, without being able to succeed

in either. At first she seemed sensible of this. Her plea was, in substance, that circumstances did not permit her to control the conduct of French agents and citizens within her jurisdiction. This plea being not very honorable to her sovereignty, or sufficiently established by proof; and being not very consistent with the satisfaction which she may find it expedient to yield to other nations, particularly to Great Britain, whose commerce is, at this time, suffering like injuries from French cruisers and consuls; it has given place to the plea that the erasure of the second article of our convention with France, in 1800, releases Spain as well as France; because France being liable, in justice to Spain, for the indemnities paid by the latter to the United States, would indirectly be deprived of the benefit of that release to her. To this the reply is given by the remarks already made. The injury proceeded from Spain. To Spain we look for reparation. Her claim for reimbursement on France is a question between her and France. It may be just, or not just, according to circumstances unknown to the United States. Spain may have found, for any thing we know, an equivalent for this use of her ports, and her permission in advantages yielded by, or expected from France. To this the fact may be added, that indemnification has throughout been claimed from Spain and not from France; or, if from France, the application has been neither patronized, nor authorized by the Government of the United States. Applications of this sort may have been made by individual sufferers: but, it is believed, that they have, in no instance, received the countenance of the American legation at Paris. In is maintained, however, on the part of Spain, that a resort in form has been had to the French Government, in such cases. Will you make the inquiry and communicate the result? It will not be amiss to know the truth, as it may the more effectually silence the sophistry of Spain. But, should the result justify the assertion on her side, it will not vary the merits of the question. The resort of individuals to the French Government could not be pretended to have that effect. If made under the voluntary auspices of an American minister it might have been unknown to, or disapproved by the Government here. Nay, if made by order of the Government itself, it would not preclude a just resort to Spain, unless accompanied by a positive or clearly implied discharge of the latter from her responsibility.

"It has been thought proper to give you this view of the subject that it may guide the communications thereon, which it may be expedient for you, at any time, to hold with the French Government."

Extract of a letter from the Secretary of State to Charles Pinckney, Esq. then minister plenipotentiary of the United States at Madrid.

DEPARTMENT OF STATE, *February* 6, 1804.

The Senate having resumed at the present session the convention with Spain, postponed at the last, have thought proper to ratify it, and the President has completed the act on the part of the United States. The instrument is now returned to you with these sanctions, in order to be exchanged for the ratification of His Catholic Majesty. You will hasten this formality as much as possible, and forward the result to the Government here, that no time may be lost in procuring to our citizens the benefit stipulated to them. To favor despatch, as well as to guard against casualties, duplicates and even triplicates will be proper.

In concurring in this partial provision for the indemnities due from Spain, it is to be particularly understood that it proceeds from no other considerations than a wish to shorten the delay of relief to that portion of the claimants who are included in the provision, and a determination to avail the residue of the reserve, expressly made in behalf of their claims by the act of the convention. When the decision of the Senate was postponed at the last session, it was justly hoped that, before the succeeding one, the Spanish Government would have yielded to the reasonableness and justice of giving to the provision the extent required by the United States; in which case, the arrangements would have been simplified, and a foundation laid at once for closing all controversies on the subject. The final refusal of Spain to concur in these views has been thought to give a preference to the course now adopted.

None of the pleas urged by the Spanish Government can in the least invalidate the justice of the claims for injuries committed by French citizens or agents within her jurisdiction.

If His Catholic Majesty be sovereign in his own dominions, aliens within them are answerable to him for their conduct, and he, of course, is answerable for it to others. This is a principle founded too evidently in reason and usage to be controverted. As well might Spain say that a theft or robbery, committed in the streets of Madrid by a Frenchman on an American, is to be redressed by France, and not by her, as pretend that redress is to be so sought for spoliations committed by cruisers from, or condemnations within, Spanish ports. Nor is there any room for the distinction between the injuries proceeding from the French cruisers and the French consuls. With respect to the consuls, their acts were either authorized or not authorized by Spain: if authorized by Spain, Spain is answerable for giving them the authority; if not authorized by Spain, they could not be authorized at all; the law of nations giving them no such authority, and France having no right to give it; and being acts without authority, they are not to be regarded as consular acts, but as much the acts of private individuals as the cruises or any other irregularities committed or instituted by French citizens within the jurisdiction of Spain. To say that the consuls derived their authority from the sanction given by Spain to the authority derived from France, (without which sanction, positive or permissive, it is clear that the authority of France, within the jurisdiction of Spain, would be a nullity,) is still to rest the condemnation by the consuls on the authority of Spain, and to leave her responsible for them.

Under every aspect, therefore, Spain is bound to do justice in this case to the citizens of the United States, unless she not only pleads a duress, suspending her free agency, and prostrating her national honor, but proves the reality of this duress; and not only proves this duress, but proves, moreover, first, that she did every thing in her power to prevent the evil; next, that she did every thing in her power to obtain reparation for it; and, lastly, that, in tolerating the evil, she did not deliberately and wilfully surrender the neutral rights under her protection to advantages, positive or negative, obtained or expected by herself from France.

The suggestion that France was resorted to for redress is unfounded. It does not appear that any such resort was authorized by the Government of the United States, whilst the claims against Spain have been uniform and pressing; nor is it believed that any interpositions have proceeded from the American legation at Paris. Had, indeed, such interpositions taken place, they would in no respect lessen the obligations of Spain. Individuals may have made their applications to the French Government, but it will not be pretended that the merits of the question can be affected by that circumstance.

The plea on which it seems that the Spanish Government now principally relies is, the erasure of the second article from our late convention with France, by which France was released from the indemnities due for spoliations committed under her immediate responsibility to the United States. This plea did not appear in the early objections of Spain to our claims. It was an after thought, resulting from the insufficiency of every other plea, and is certainly as little valid as any other. The injuries for which indemnities are claimed from Spain, though committed by Frenchmen, took place under Spanish authority. Spain, therefore, is answerable for them; to her we have looked, and continue to look, for redress. If the injuries done to us by her resulted in any manner from injuries done to her by France, she may if she pleases resort to France, as we resort to her. But whether her resort to France would be just or unjust, is a question between her and France, not between either her and us, or us and France. We claim against her, not against France. In releasing France, therefore, we have not released her. The claims, again, from which France was released were admitted by France, and the release was for a valuable consideration in a correspondent release of the United States from certain claims on them. The claims we make on Spain were never admitted by France, nor made on France by the United States; they made, therefore, no part of the bargain with her, and could not be included in the release. The only supposition on which Spain could turn us over to France would be, that of her being in a state of absolute duress, of her being merely the staff by which the blow was given by France. But even on this supposition, the injuries done by France, through Spain, could not by any fair interpretation, be confounded with the injuries released to France, by which could be meant such injuries only as proceeded from her own immediate responsibility, and as were, in the ordinary course of things, chargeable on her.

The last plea under which refuge has been sought by Spain against the justice of our claims is, the opinion of four or five American lawyers, given on a case stated, without doubt, by some one of her own agents. An argument of this sort does not call for refutation, but for regret that the Spanish Government did not see how little such an appeal from the ordinary and dignified discussions of the two Governments, by their regular functionaries, to the authority of private opinions, and of private opinions so obtained, was consistent either with the respect it owed to itself, or with that which it owed to the Government of the United States; that it did not even reflect on the reply so obvious, that four or five private opinions, however respectable as such, could have no weight against the probability that other lawyers had been consulted, whose opinions were not quoted, because they were not the same; and that, if the Government here could descend to the experiment, little difficulty could be found in selecting more numerous authorities of the same kind, not only in the United States, but among the jurists of Spain.

Extract:—The Secretary of State to Charles Pinckney, Esq.

DEPARTMENT OF STATE, *April* 10, 1804.

SIR:

The footing on which your last communications with Mr. Cevallos left the subject of the South American claims of our citizens, requires little to be added to what has heretofore been said in relation to them. I shall observe only, that there is a difference between your statement and construction of the Spanish ordinances and those of Mr. Cevallos; on which I cannot undertake to decide, without a fuller view of the question than I have the means of taking. On the arrival of Mr. Monroe, he will join you in the discussion and the provision due to our citizens may, perhaps, be incorporated with the principal negotiations which will then be undertaken. In the mean time, you will be under no restraint, from taking advantage of any favorable change in the disposition of the Spanish Government, for obtaining justice from it. This is the more to be desired, as it will simplify the transaction, committed jointly to yourself and Mr. Monroe, and leave applicable to other contested cases any sum that may be stipulated by the United States in that transaction, and which will probably be inadequate to the aggregate of the cases.

According to information already received, many vessels, belonging to citizens of the United States, have suffered from irregularities in the West Indies, in which Spanish authorities have, in some way or other, participated, and for which, of course, redress will lie against the Spanish Government; and new cases are daily added. As soon as the requisite statements can be made of them, they will form a ground for claiming just reparation. In the mean time, you will represent, generally, to that Government, the illegal and unfriendly practice which exists, and the right which the United States have to expect from the justice of His Catholic Majesty, and his regard to the friendship and harmony of the two nations, immediate instructions to his officers in the West Indies which may put an end to the practice.

II. Correspondence between Mr. Pinckney and the Spanish Government relative to the ratification of the convention of 1802.

Mr. Pinckney to Mr. Cevallos.

MADRID, *January* 11, 1804.

SIR:

I had the honor lately to inform your excellency of the ratification and exchange of ratifications of the treaty and convention, respecting the cession of Louisiana; I have now the honor to inform your excellency, that I have since received another despatch from the Secretary of State, informing me that Congress have passed an act authorizing and enabling the President to take possession of and occupy the said territory, as ceded by France to us; and have provided for the temporary government thereof, by means calculated to maintain and protect the inhabitants of Louisiana in the free enjoyment of their liberty, properties, and religion. They have also passed another law, for furnishing the means to pay the sums which they have given to the French republic for the same.

In consequence of this, the President of the United States has issued a joint commission to General Wilkinson, the general commanding the forces of the United States, and Governor Claiborne, of the Mississippi State, to receive from the Prefect of Louisiana, or person authorized, the territory in question, and to possess and occupy the same in the name of the United States.

I should have contented myself with barely making the official communication of these events, if the late communication of your excellency and your letter did not impress me with a belief that there was something in the observations of your excellency, and the apparent unwillingness of the Spanish Government, either to arrange our pre-existing differences and claims, or to cordially acquiesce in the cession of Louisiana, which required an answer, and such a one as should still go to prove the justice, the moderation, and the friendship of our Government for Spain.

As I do believe things are growing to a serious height between the two Governments, such as may, possibly, produce war; while we can, with honor, and with something like equal and honorable terms, and before any event occurs, or at least before we know, officially, of any, which may prevent all discussion, and drive things to extremities, I am to request the serious and early attention of your excellency to the following observations. There are three subjects of discussion between the Spanish and American Governments:

1st. The actual cession of Louisiana.
2d. The proposed cession of Florida.
3d. The claims of American citizens.

As to the first, it may be said, on the part of the United States, that they long ago foresaw the difficulties which would arise from any other nation but themselves possessing the mouth of the Mississippi, and endeavored, by every friendly means, to do them away. They made various propositions to Spain, which were rejected; and in the interim, the Spanish officer at New Orleans deprived the citizens of the United States of the deposite stipulated for in the treaty of 1795: this roused the feelings of the whole nation, and their Government, true to their professions of respect and friendship for Spain, and, at the same time, convinced of the necessity of applying some effectual remedy to the evil, sent to Europe an extraordinary mission to treat on the subject. At this time, the Spanish Government officially announced that they had ceded Louisiana to France, and that we must direct ourselves to that Government for any acquisition of territory which might be convenient to us. Our ministers at Paris made this acquisition: hence accrues to us a right founded on justice.

On the part of Spain it is said, that Louisiana was ceded to France, under a promise from that Power not to part with it. I presume that the French Government will be able to show that this promise could not be supposed to bind them under the circumstances in which they found themselves last spring; but be this as it may, the promise was neither an equitable nor a legal obligation on the United States, because it had not been made known to them. Repeatedly and earnestly did I ask your excellency upon what terms Louisiana was ceded to France; for twelve months I could get no answer; at last I was told by your excellency, on the 31st March, that Louisiana was ceded to France, "avec la même étendue qu'elle a actuellement entre les mains de l'Espagne, et qu'elle avoit lorsque la France la possédoit, et telle qu'elle doit être après les traités passés subséquemment entre l'Espagne et d'autres Etats;" and as no mention was made of any restriction, when it was known that we wished to purchase, we had a right to suppose that there was none. But, even if there could be any doubt, it is cleared up by your excellency's letter to me on the 4th of May; for your excellency there tells me, in express terms, that my Government "podrá dirigirse al Gobierno Francés para negociar la adquisicion de territorios (en Luisiana) que convengan á su interes."

From these letters, which were remitted to our ministers extraordinary at Paris, and to our Government, it is clear, the United States were in possession of official intelligence that the country was ceded; nor did the least hint drop from Spain of any secret article. She had sold, or exchanged, and conveyed the territory to France; it was a fact known to all Europe, and officially announced to us; it was equally known that we wished that country, and the reasons of our doing so are such as the world must approve. We have fairly bought and furnished the means of paying for it; and if, after all this, Spain should refuse her acquiescence, and, to possess it, war should be the consequence, I leave it to the enlightened mind of your excellency to judge who are in the right, and what must be the opinion of every impartial nation as to the procedure. But why should Spain refuse her acquiescence? She has shown already that she did not consider the keeping of Louisiana as indispensable or necessary to her; it was originally a French colony, and never came into the possession of Spain until 1763; it, therefore, cannot claim that sort of affection which old countries sometimes entertain for colonies originally established by themselves, and considered as parts of their family. Nor can Spain give that as a reason, as she has always seemed to consider Louisiana and Florida as temporary possessions, little valuable to her; nor has she ever hesitated to part with them, when she found it her interest to do so; and, if she has had no objection to part with them to other Powers, why should she not wish to see them in our hands? Is she more jealous of us than of others? Have we more power, more ambition, or are we more capable of doing her injury, than Great Britain or France? If she thinks so, she mistakes most egregiously the character of our people, the nature of our Government, or the true interests of a country devoted only to peaceful and honorable pursuits. Does she suppose we have less affection for Spain than the Governments I have mentioned, which have each, in their turn, possessed Florida and Louisiana? This question is at once answered, by saying, that, while we benefit, we cannot rival or interfere with each other; that our commerce is extensive, and mutually advantageous; and that these are the situations which are generally the parents of a sincere and lasting affection between nations: there is but one possible mode of our differing or interfering, and that is, by the collision of unsettled boundaries. Let us now forever remove the possibility of this collision. We offer to come forward honorably and openly on this subject; I am hopeful Spain will do the same, and that I shall soon receive such propositions from your excellency as I shall be authorised to accept.

As to the second subject of discussion, it has been urged, on the part of the United States, that Florida was desirable to them from its local situation; that, by getting it, they should avoid the necessity of submitting to similar evils to those they had suffered in Louisiana; that this country was of little or no use to Spain; that it cost her much money to maintain it; that it greatly increased the probability of her being engaged in war, and lessened her means of supporting it; and that the Spanish capital and industry employed in the trade of that country might be much more advantageously employed in carrying on the commerce of the more fertile provinces of South America. These reasons, it was supposed, would have much weight; yet, the Government of the United States were willing to pay a fair price for it. They had turned their attention to the subject, and saw that misunderstandings must sooner or later arise, and they proposed, with honest intentions, the means they thought most likely to prevent it.

On the part of Spain it is said, that the system adopted by His Majesty, not to part with any portion of his dominions, prevents him from acceding to the wishes of the American Government; and that, moreover, he is bound, by treaties, not to dismember his American empire. It is not recollected that any other reason is assigned, and to these it may be answered—

1st. That it is unwise to adhere to any general system contrary to the dictates of sound policy; and

2d. That no opposition will or can, with propriety, be made by any foreign Power, to the cession of Florida to the United States; for that country has changed masters so often since the treaty of Utrecht, that it, at least, is exempted from the general restriction of that treaty; nor, until lately, has been much value annexed to it by Spain. Other arguments might be adduced; but, as it is known that neither the interest of France nor England will be injured by this cession, there are reasonable grounds to suppose that neither of them will object to it; and, if they do not, it is presumed that no other Power will. These reasons, then, lose their strength, and leave the naked question of expediency. This, in fact, is the only point for His Majesty's ministers to inquire into; and if they, in their wisdom, determine that it would be for the interest of Spain to part with this province, no foreign nation would have the unkindness to oppose it, nor should any general system be suffered to do it. The reasons before mentioned, and which were detailed on a former occasion, prove the actual value of this country to Spain is small; and if it is supposed that it acts as a protection or frontier to any other of her dominions, it is a mistake; it may be the means of bringing about a rupture, which might endanger the others, but it can never be the means of protecting them. It may, and but too probably will, happen, that the seeds of dissension sown in that country will spread to others, where dissension, but for this, would never have been known. If it is believed (and it is hoped it will be) that ambition does not direct the views of the American Government, then no suspicion can be entertained of the sincerity of their declarations, and its proper weight will, of course, be given to their opinions. But even if it was supposed for a moment, that they were guided by ambition, would it not be wise and prudent in Spain to deprive them of all pretext for the further gratification of this passion, by giving up to them, upon reasonable terms, (and upon no other is it asked,) a province which is of no use to her, and one which must fall into the hands of her neighbor if she chooses to attack it. This is an idea but little connected with the real question; for the conduct of the Government of the United States leaves no room to suppose that they are guided by ambition. The wish to *purchase* a barren and almost uninhabited country could not arise from such a passion; it has its source in the wisdom and prudence of those who view this purchase as the best and readiest means of settling present disputes, and of establishing, upon a solid basis, future peace and friendship between Spain and the United States.

On the 3d topic, viz. the claims of American citizens, little remains to be said, for the subject has been discussed in all its various forms; and the result is, a difference of opinion between the two Governments. One or the other must be wrong; and, as it is presumed that it is equally the interest and the wish of both that the difference should be amicably arranged, it becomes expedient to refer it to some impartial tribunal, as the only means of accomplishing this desirable end. To this the Government of the United States will agree, although they themselves have paid those who had similar claims upon them without a reference, and might, therefore, with some degree of propriety, insist upon receiving payment in the same way.

The importance of the foregoing subjects call for the serious attention of both Governments, and it is believed that, if they are properly investigated, no material difference of opinion can exist. Peace, harmony, and friendship, it is presumed, are equally the interest and the object of both, and justice and friendly acts are the only means by which to obtain and perpetuate them. Spain certainly ought not to feel a disposition to treat us unjustly or unkindly, and we ask nothing but what we are willing to pay for, or have a right to insist on.

Your excellency well knows how much and how anxiously I have always desired to accommodate every difference between the two countries; fearing that these are increasing, and that things are rushing to a point from which it will be difficult to recede, in the amicable and honorable manner in which an accommodation may yet take place, as the friend of the peace and harmony of the two countries, I seize the present moment still to offer to receive any amicable and reasonable propositions that may have a tendency to produce the arrangements and cession which we have so long and ardently wished.

Having reason to suppose your excellency has received, by a packet, the same late and important intelligence I have of the critical state of things between the two countries, you will at once perceive the reason of my renewing my application at this time, and of my so earnestly requesting an answer. Your excellency will, I am sure, be convinced that it flows from that ardent desire for the peace and friendship of the two countries, which has always governed the numerous endeavors I have made to preserve them, and which have been such as I trust will impress your excellency with the conviction of their having been open, sincere, and always with the best intentions.

I have the honor to be, &c. &c.

CHARLES PINCKNEY.

His Excellency Don Pedro Cevallos, *First Secretary of State, &c. &c.*

Mr. Pinckney to Mr. Cevallos.

MADRID, *June* 1, 1804.

SIR:

Since I had the honor to see your excellency, I have received your letter (31st May) on the subject of an act of Congress, passed by that body, relative to the collection of duties in a district near the Mobile, which you say is a violation of the territory and sovereignty of His Majesty, and which you request me to transmit to my Government. It being their practice to send all the acts of the session at the end of it, there has not yet been time for me to receive these acts, nor have I any information or instructions relative to this particular business; all, therefore, I can do at present is to comply with your request, and transmit your letter by the first safe conveyance. Permit me, on this subject, to remind your excellency, that, on the first intelligence being received of the cession of Louisiana, I communicated verbally to your excellency and the Prince of Peace the contents of an official letter I had received from Mr. Livingston and Mr. Monroe, informing me that they considered great part of West Florida, as so called by the English, as included. Such letter could not have been written to me officially by them, without their having been so informed by the French plenipotentiary and Government. The price paid is a proof of the territory being considered as extremely extensive, and if, as must most probably be the case, these were the bounds detailed by the French, it becomes undoubtedly a question between the French and Spanish Governments and our own; and for this reason, I shall immediately send a copy of your letter to me to Mr. Livingston, our minister at Paris, for his information and that of the French Government. It not being the interest of either France, Spain, or the United States to differ about this or any other questions, I am sure that a little examination and moderation will soon accommodate it. Apprehending, however, that your excellency may, from the tenor of your letter to me, make this a reason for not ratifying the convention, or of adding such clauses to it as may defeat or delay its ratification, and depending very much upon your excellency's friendship for the United States, and strong sense of the great importance it is to both our countries to be on the most cordial and friendly terms, I again take the liberty of recommending to your excellency to have the convention ratified as it is, and without addition: this will be to the United States so strong a demonstration of the sincere friendship of His Majesty, that I am sure it will be attended with the best effects; whereas, should it now be refused or delayed, or clogged with additions, it will serve to increase the irritation and animosity of the two countries, and only widen a breach which may now easily be closed.

The great point for the consideration of our two nations is this: Is it the interest of both to be at peace and friendship with each other? or can a slip of territory nearly barren, or the refusal of the ratifications of the convention, be an equivalent for the expense and consequences of embroiling two nations which ought so strongly and affectionately to be united? Your excellency, I know, thinks with me on this subject, that it is better to conciliate than irritate. Let, therefore, the different questions between our Governments be kept separate. On the subject of the claims and convention for their arbitration, we have long since agreed to suffer that to be ratified as it is. This will be a strong proof to our Government that Spain wishes peace and friendship, and relies confidently on the well known good faith, honor, and moderation of the United States, for an amicable and just arrangement of limits. On this subject a new negotiation can take place; it will then be the negotiation of neighbors having extensive concerns with each other, and among whom questions must sometimes arise; but let them be the questions not only of neighbors, but of friends, and unattended by any circumstances to irritate. Do not show the United States that you have no confidence either in their honor or justice—qualities on which they value themselves more than on power or wealth; but show to them that Spain, having the most perfect confidence in both, will rigidly and honorably adhere to what she promised, and has no doubt the United States will do the same. This is the conduct I wish your excellency to pursue, and I think I know the United States sufficiently to be convinced they will meet it with sincerity and cordiality.

Your excellency sees by this letter the strong reliance I have on your excellency's being, upon all occasions, the promoter of the peace and friendship of the two countries; and on this confidence I have the honor to subscribe myself

Your excellency's most obedient and very humble servant,

CHARLES PINCKNEY.

His Excellency DON PEDRO CEVALLOS, *First Secretary of State, &c.*

Mr. Pinckney to Mr. Cevallos.

MADRID, *June* 22, 1804.

SIR:

Believing it not to be agreeable to your excellency, I probably should not have again troubled you either with personal or written applications on the subject of the exchange of ratifications of the convention, after having done all I could to persuade your excellency of the policy and propriety of so doing. I should have contented myself with having done my duty, and in requesting and urging upon you the necessity of an early and definitive answer to send to my Government; transmitting which, I should then have left it to them to decide, as the rights and interests of our citizens, and the sacred honor and character of our nation, may require. I have, however, just received accounts of such a nature, as render it necessary or proper I should make one appeal more to your excellency's love of justice, and to your wish to preserve the harmony of the two countries; and, should this fail, I will then give up the idea of our remaining long in friendship or peace, and consider it as almost an impossible thing. I think your excellency, in reading this letter, and recollecting circumstances, must view it in the same light, and will at least appreciate the motives which have given rise to it. Be assured that nothing but the pressing importance of the subject, and the difficulty of amicably receding from the point, to which the refusal or delay to ratify as it now is will bring us, would induce me to do so.

To show your excellency that this opinion is too well founded, we have nothing to do but to go back and examine the conduct of Spain for six years, and we shall find that, during that time, there has been such a series of treatment to the vessels, cargoes, and in many instances persons of our citizens, as no man could believe, who has not an opportunity to examine the archives of our mission to this court. The individual sufferings have been incredible, and the property lost of immense value. There is scarcely a part or a port of His Catholic Majesty's dominions in Europe and America, that has not been the scene and witness of their sufferings. Sufferings, such as I believe no people ever before endured from a nation to whose coasts they went under the solemn protection of treaties, the laws of nations, and, in many instances, express royal orders or permissions from the King. Nor was the unfriendly treatment of Spain confined only to the acts of her own subjects, while we were in difference with France; contrary to the treaty and every principle of the law of nations, she permitted the French cruisers to carry in hundreds of our vessels, and proceed to their condemnation and sale in Spanish ports. If your excellency will only throw your eye over the vast and melancholy pile of reclamations on these subjects now in your office, I have no doubt you will readily confess that there perhaps never existed such a collection of wrongs, sufferings, and damages, permitted by one nation towards another, with which she professed to be in peace and friendship. I will venture to say that it is such as no nation, having the same power to assert their rights and protect their citizens as we have, would have so long suffered without some kind of redress.

And yet, under all these accumulated injuries and sufferings of our citizens, under the breach of solemn treaties, of the laws of nations, and, in many instances, violations of the honor of our flag, what has been the conduct of the United States? Always mild and moderate, in every step of these oppressions and injuries, we have applied for redress in the most respectful terms; we have relied on the justice and magnanimity of His Majesty and his Government for nearly eight years, until our citizens who were concerned were nearly all ruined, such as have been for years personally attending to their claims, exhausted in their resources and fatigued with the useless attendance and absence from their families, have nearly all returned to their homes, abandoning to their Government their rights and claims, and are now incessantly applying to her to see them redressed. Such, too, has been the serious and formal appeal of the great commercial cities on this occasion, so solemnly have they pressed it, that it has now become

my duty to apply in the most urgent manner for a definitive answer, whether His Majesty will ratify the convention as it was made or not? considering any alteration at this time as amounting to a refusal. On His Majesty's love of justice alone I rely for such an answer as will be agreeable to our Government. I entreat your excellency to reperuse some of the letters I have written to you on this subject. In these, I intimated to your excellency the astonishment of the people of the United States at the apparent determination of Spain to consider them as enemies. Although many of their acts from 1796 to 1802 were oppressive and unfriendly, our citizens were hopeful they were occasioned by the war, and that at a proper time they would be redressed; they still, therefore, continued to view the friendship of the two nations as a certain thing, because they were neighbors; their commerce was extensive and mutually valuable; and it was impossible for them to be rivals. These generally being the solid foundations of friendship between Governments, our citizens had a well founded right to expect a firm and increasing one with the subjects of Spain. It was, therefore, with great surprise they viewed their losses and sufferings, the neglect of their claims, and their general treatment for the last six or eight years. Your excellency will be astonished when I inform you that, on an accurate survey by persons who have examined them, not one case of seizures or damages in thirty has been redressed by Spain. I am sure that, out of the applications made on other subjects, the proportion of refusals has been as great. It has now become almost a regular thing for us to ask and to receive refusals to every application. These, added to the impression made on our citizens by the conduct of Spain as it respected Louisiana, have led to the opinion that Spain really has no wish to remain long on friendly terms with us; or else why did she so quietly consent to restore Louisiana to France, and appear so content that the French should have it, and the moment she found it was to come to the United States, show such displeasure, and do every thing in her power to prevent it? There can be but one answer, which is, that Spain considered Louisiana, while in the hands of France, as in the hands of her friends, and as about to be delivered to those whom she did not view as such. I can assure your excellency that the whole of our situation and concerns, taken together, have led to a point sufficiently important for your excellency's interference, because with difficulty I shall think your excellency is not a friend to the United States, or that you wish to see any serious difference with us. At the same time, I do believe that on the present moment it depends to prevent those differences; for I am sure, if this convention is returned without being ratified as it is made, and ratified by our Government, that it will, perhaps, afterwards be too late for us to benefit by your excellency's friendship and interference. I wish to speak with candor and friendship to your excellency, because I well know the temper and disposition of our country and its Government, and the manner in which they have received the losses and injuries they have sustained from Spain for the last six or eight years. I am certain they will consider the refusal to ratifiy, or to give an answer, or the throwing of obstructions in the way so as to postpone it, as such evidence of hostility on the part of Spain as to put an end to all further amicable discussion.

The questions of our claims on Spain, and the convention to arbitrate them, are of an old date: they existed long before any question respecting Louisiana arose. In point of priority, they ought to be the first attended to and settled. It is for that purpose, therefore, I have so earnestly solicited your excellency to use your powerful and well merited influence to have the convention ratified as it is, as that will open the way to the peaceable and friendly arrangement of the other question respecting the limits of Louisiana—a question totally separate and distinct, and which, having originated from our purchase from France, becomes a question which France must arrange between Spain and us: she is bound in honor and justice, no less than in interest, to do so. For this purpose, I have officially applied to the French ambassador here, and, have sent a copy of your letter to Paris, to be laid before the French Government. But I again entreat your excellency not to let this be given as a reason for refusing to ratify the convention. It is because I believe that this will be the sole mode of amicably arranging all our other differences, that I so earnestly press it upon your excellency, and because I also believe that, in the present state of things, the refusal or delay to answer will be the means of putting a close to all further amicable discussion.

With sentiments of the most profound respect, I have the honor to be, &c.

CHARLES PINCKNEY.

His Excellency Don PEDRO CEVALLOS, *First Secretary of State, &c., Madrid.*

[TRANSLATION.]

M. Cevallos to Mr. Pinckney.

MADRID, *July* 2, 1804.

SIR:

I have received your letter of the 22d ultimo, in which you have thought proper again to urge the immediate ratification of the convention concluded on the 11th August, 1802, for indemnification of the losses, damages, and injuries sustained during the last war, in consequence of the excesses committed by individuals of both nations against the law of nations or the existing treaty. In answer, I can do no less than begin by stating to you that it appears extraordinary enough that you should consider any delay in the ratification of said convention, on the part of the Spanish Government, as a wrong done to your Government, when that of the United States had taken up almost two years in the examination before the ratification on her part; during which time, if any injuries have resulted to the interested, either Spaniards or Americans, they are certainly not to be attributed to the Government of Spain. On her part, there always has existed the greatest desire to terminate, in a friendly manner, the question of indemnities, which are the object of the said convention; and His Majesty is disposed to ratify it, but under certain limitations or conditions, which will in nowise alter the material part of the convention, and which cannot be displeasing to the United States, since they emanate from the sacred principles of the justice, peace, and friendship of the Governments on which it is founded.

The first of the said conditions is, that a time should be designated within which notice may be given to the subjects of His Majesty, who have reclamations to make to the commissioners who are to be appointed, and to enable them to prepare the documents necessary for establishing their claims. The reason of this condition is very obvious, and its necessity proceeds from the slowness of the American Government in ratifying the convention, for it is evident that the reclamations of the Spaniards and Americans respectively cannot be made, unless each Government should notify the persons respectively interested to bring forward their demands; and the Spanish Government has not been able, nor ought it to have circulated such notices, being in doubt whether the American Government would or would not ratify the convention—a doubt which, in the session before the last of Congress, had increased to such a degree, as almost to make it evident that it would not be ratified; the general report being that the Senate of the United States had rejected it, which prevented the anticipation of any notice for the Government of the Spaniards interested.

The second limitation or condition, founded on the most rigorous justice, is, that the sixth article of the said convention, which relates to the injuries done by French cruisers to American vessels, on the coast and in the harbors of Spain, should be suppressed. This article was inserted, because it was made a question whether Spain was or was not responsible for the said injuries and damages. You sustained the affirmative, and I the negative, with arguments which I have not seen combated, except by actions which do not invalidate them. Subsequently, in my letters under date of the 23d August and 5th October last, to which I refer, I proved to you, in the most solid manner, supported by the opinions of the most eminent jurists in the United States, that, according to the convention concluded between France and the United States the 8th Vendemiaire, year 9, it could no longer be doubted that the United States had not the smallest right to exact indemnities from the Government of Spain for the injuries done by French privateers on her coasts and in her harbors. To these incontrovertible reasons may be added that which results from the ninth article of the treaty of 30th April, 1803, between the United States and France, relative to the cession of Louisiana; from which article, it evidently results that the French have satisfied the Americans for the injuries in question. There is no reason, then, why there should be retained in the convention which is to be ratified an article by which the United States reserve a right which they certainly have not, inasmuch as they have already received

competent satisfaction from France. Under these circumstances, the suppression of the beforementioned article takes nothing from the essence of the convention; nor, in reality, can it be called a suppression which removes an article that has become notoriously and absolutely null from its own nature.

The third condition, entirely conformable to the pacific desires of the United States, is that which requires the revocation of the part of the act of the Congress of the said States, approved on the 24th February last, which has manifestly violated the rights of the sovereignty of His Majesty, by empowering the President to exercise authority and establishing custom-houses within a territory which belongs to the crown of Spain. His Majesty being, as he is, persuaded, that through a mistake only could there have been introduced into the said act the expressions which assail the rights of his sovereignty, does not doubt that the United States will give, in relation to the said act, those explanations which may be most conformable to the justice he claims, and the most conciliating and respectful to the rights of his crown.

Under these three conditions, His Majesty is disposed to ratify the convention of the 11th August, 1802; conditions which, as I said before, do not alter either the nature or the essence of it; for the first of them is nothing more than that a certain time should be allowed for His Majesty's subjects to receive notice that the convention was agreed on, and that they might prepare to support their claims; the second relates only to the suppression of an article which is null in itself; and the third emanates from the necessity of preserving that respect which sovereigns reciprocally owe to each other.

Besides what relates to the ratification of the convention of the 11th August, you go on in your beforementioned note to accumulate complaints which, although they have no connexion with the present affair, I have not been able to pass unnoticed. You say that Spain having opposed herself to the alienation of Louisiana, proves little attachment or friendship on our part towards the United States; but if you had made the proper use of your logic and policy, (*politica,*) you would have drawn from this action, the certainty of which I do not dispute, very different conclusions. It is not uncommon that the Governments, the most united by system and by interest, suffer discordances arising from the vicinity of their territories; nor is it uncommon that those which know the importance of peace, and the facilities there unfortunately are by which it may disturbed, should avoid an approximation of their territories. The views of Spain have been sound and political, and decently manifested; and if you had drawn your deductions from this view of the subject, you would have honored not less the talents than the just and friendly intentions of the King my master.

As to the rest, it does not appear to be in conformity to a conciliating spirit, which is that which you say animates you, to recapitulate old complaints for wrongs which Spain did not commit, and complaints for wrongs which are completely done away; France having given satisfaction for the damages occasioned by them.

I renew to you the testimonies of my constant esteem and consideration, and pray God to preserve your life many years.

PEDRO CEVALLOS.

Mr. Pinckney to Mr. Cevallos.

MADRID, *July* 5, 1804.

SIR:

I shall proceed without delay to give your excellency that decisive answer to yours of the 2d, and to take those definitive measures which my instructions and duty now make necessary; but before I do so, and in order to be correct, I wish your excellency to say whether I am to understand your letter in this sense: that if the second condition, which respects the suppression of the claims for French spoliations, within the Spanish territory, and the third, the repeal of the law passed by Congress in February, are not agreed to, His Majesty will not ratify the convention. I request your excellency merely to answer me this question; and if you answer me affirmatively, that is, that His Majesty will not ratify without those conditions, then to return me the ratifications and papers prepared and sent you some time since to Aranjuez.

I wish to have your excellency's answer as quickly as possible, as on Tuesday I send a courier with circular letters to all our consuls in the ports of Spain, stating to them the critical situation of things between Spain and the United States, the probability of a speedy and serious misunderstanding, and directing them to give notice thereof to all our citizens, advising them so to arrange and prepare their affairs as to be able to move off within the time limited by the treaty, should things end as I now expect. I am also preparing the same information for the commander of our squadron in the Mediterranean, for his own notice and government, and that of all the American merchant vessels he may meet.

I confess, after the style of your excellency's letter of the 31st May, on the subject of the late law of Congress, and the manner in which you annex to the ratification of a convention you yourself had signed, the humiliating conditions of our Government previously suppressing a claim of great magnitude, and which they consider as a point of national honor, and also of repealing an act lately passed with all the deliberation and solemnities prescribed by our constitution, I see little hope of an amicable accommodation, particularly when I tell you that, in my two last despatches, lately received, I am charged by my Government to repeat to your excellency, that not one shilling of the property claimed by the citizens of the United States from Spain for French spoliations, within the ports and territories, or on the coasts of Spain, has ever been relinquished to, or paid, or provided for, by France, in any mode, or even claimed from her; her provisions having been all for other claims arising elsewhere, and totally distinct from these; and further, that the United States are determined, at every risk, never to abandon this claim.

I earnestly repeat my request to have your excellency's answer as soon as possible; and am, with much respect, your excellency's obedient and very humble servant,

CHARLES PINCKNEY.

His Excellency DON PEDRO CEVALLOS, *First Secretary of State, &c. &c.*

[TRANSLATION.]

Mr. Cevallos to Mr. Pinckney.

JULY 8, 1805.

SIR:

I have received your letter of the 5th instant, in answer to mine of the 2d, respecting the ratification of the convention concluded on the 11th August, 1802, and having given an account to His Majesty of the terms in which it was conceived, it could not but appear to him little conformable to the friendly relations between the two Governments, which you have it in charge to promote on the part of the United States, and which His Majesty takes every occasion on his part to encourage.

In the midst of a discussion which is itself a proof of the sincerity and real disposition with which it is wished to terminate the question of reclamations which are the object of the said convention, when I presented to you the motives there were for desiring to add in the ratification two or three circumstances which do not alter the substance of the convention, nor take any thing from its object, it is not possible to comprehend the motive for your breaking out in the decisions, not to say threats, contained in your said letter, nor why you should proceed, as you say you will, to instruct the consuls and commandants of the vessels of your nation to give notice of the critical situation of affairs between Spain and the United States, with an anticipation certainly not called for by the spirit of conciliation which you say animates you. It is not easy to conceive how your instructions can authorize you to proceed to these extremes, which are incompatible with the present state of a negotiation hitherto conducted in terms the most conciliating. If, in the year 1803, during the session of Congress, when it was notorious that the Senate of the United States had suspended the ratification of the convention which now occupies us, the minister of His Majesty

should have proceeded in the manner you have now done, what opinion would the Government of the United States have formed? They ought to have believed, and they surely would have believed, that the minister of His Majesty had exceeded his instructions, and that his Government could not have authorized a proceeding so extraordinary. Almost two years the Government of the United States deliberated whether they ought, or ought not, to ratify the convention, and you pretend to find it extraordinary, and not only extraordinary but disrespectful to the United States, that the Government of Spain should manifest the difficulties which occur, supporting itself on the principles of the most rigorous justice, and promising itself that the American Government would do no less than to take them into consideration. In the mean time, you, without entering into an examination of them, without transmitting them to your Government, consider them as a sufficient reason for terminating all discussion respecting the ratification, and to designate Monday as a time for a final answer, to be conceived in the precise terms, yes or no; as if such a peremptory answer could be demanded on controverted points, and respecting some of which I have not yet had the honor of seeing a single reply from you. The King cannot persuade himself that such language is conformable to the moderation which he appreciates in the American Government.

The peace of two nations, whose reciprocal interests require a good understanding, is an object too important to be compromitted so lightly; and it is not to be believed that the Government of the United States will think differently, who, without doubt, have not forgotten the repeated proofs of friendship which the Government of Spain has given them from the commencement of their independence, nor that it distrusts the integrity of a Government which it has so often found ready to hear with impartiality, and to decide with justice and with generosity, on all kinds of reclamations.

The convention, whose ratification now occupies us, originated in the desire of both Governments to terminate speedily the question of the claims of individuals of both nations, for the reciprocal injuries which are mentioned in it. These claims always could have been, and can now, by the nature of them, be brought forward in the corresponding tribunals of each country, respectively, and be decided according to the law of nations and the existing treaties, as being the law of both countries; but it was wished, by means of the convention, to give the greater facility and promptitude, by forming a commission which should decide upon them in the manner therein stated. After the conclusion of the convention, which, however, left both Governments at liberty to ratify it or not, and, consequently, although an effort should be made on the part of one of them to suspend the ratification, it could not give place to well founded complaints on the part of the other, on the ground that it prevented their subjects from establishing their claims, because a recourse was always to be had to the tribunals, which was what was rigorously due to them, and the prevention of which could alone give cause for such complaints. But leaving this apart, as it is not the point in question, let us examine what are the motives which could have given rise to your proceedings: having seen my letter of the 2d instant, none other is perceived but what arises from the second and third limitations under which I told you His Majesty was disposed immediately to ratify the convention. But if you examine them as they ought to be examined, you will see that the suppression of the sixth article does not alter the essence of the convention, since, as that article neither grants nor denies the right which may belong to the Americans, by reason of the injuries occasioned on the coasts, and in the ports of Spain, by French privateers, but leaves it such as it is, it is clear, that, by its insertion in the convention, that right does not require greater force than it has itself, if it has any. We have discussed this right both before and since the formation of the convention. I have demonstrated to you that such a right does not exist, by arguments which I have not yet seen combated. I have shown you that if there had been any, it ceased to exist after the convention between France and the United States, concluded on the —— Vendemiaire, 9th year; France having given satisfaction for it, not by paying money as you seemed to suppose I had said, when you replied to me that the United States had not received a cent from France on account of these injuries, but by way of compensation and of conciliation, which is as legitimate a mode of dissolving obligations as payment itself. I have sent you the opinions of the most eminent jurists of the United States, conforming entirely to my mode of thinking. I have told you of the positive answer of the ambassador of France, (Bonaparte,) that satisfaction was given for the injuries for which the United States claimed compensation from Spain; and my last letter of the 5th of October, in which I stated all this to you, has had no reply or answer. There is then a well founded reason for believing that the American Government is persuaded that such a right does not belong to it, and it is not proper to leave in a treaty which is to be ratified clauses relative to rights, satisfied or renounced, especially when, by their insertion in a treaty or convention, they do not acquire, as I have said to you before, either force or validity.

The second condition, which you consider indecorous and humiliating for the United States, appears to me to be quite the contrary. His Majesty is persuaded that the intention of Congress has not been to usurp the rights of his sovereignty. He has not, nor does he, demand the revocation of the act, nor of its provisions, which relate to the internal regulation of the country, but a satisfactory explanation of the clauses of the eleventh section, which impinge the rights of the crown of Spain. You say that this is irrelevant to the question, and relates to pretensions which the United States separately establish. I do not know what these pretensions can be respecting territories which indubitably belong to His Majesty; but I know that, although it should be supposed there might be such pretensions, the wrong would still exist, it having disturbed the pacific possession in which His Majesty finds himself, to legislate and exercise authority over the said territories; and, from its nature, demands that a corresponding and satisfactory explanation, preliminary to all discussion whatever, should be required. Be pleased to recollect the arguments and the vigor with which the members of your Government exclaimed when they saw themselves deprived of the deposite at New Orleans by the act of a Spanish agent; and you will see how a Government, which values its honor, must resent being despoiled of its rights. Recollect also, that the Government of the United States had immediately recourse to the justice of the King my master, desiring that, in the first place, the deposite at New Orleans should be restored, and that afterwards any difference or transaction which might exist between the two Governments should be discussed. His Majesty acceded to it with that justice which characterizes him, and in the same manner now hopes and confides that the United States will desire to give the most satisfactory explanations respecting the offensive expressions which are founded in the said act.

Reflections of this kind ought, in my opinion, to have appeared to you worthy of the attention of your Government, and ought to have induced you to have transmitted them to it without proceeding to the extremes of which your said letter treats, which, in truth, do not correspond with the pacific desires of which you have always spoken.

Under these circumstances, the King, acquainted with your determination of terminating every ulterior explanation relative to the convention, and not being able to persuade himself that the Government of the United States has authorized the part which you have thought proper to take, has resolved to despatch an extraordinary courier to the United States, and by this means to make that Government acquainted with the state of the negotiation, renewing the observations made in the discussion, manifesting the moderation, the conviction, and the conciliating manner with which this Government has proceeded, and leaving that of the United States, on seeing your letters, to judge of the said affair. If they have reciprocated the friendly dispositions of the Government of Spain, His Majesty flatters himself to terminate, by this means, the actual difference which is, from its nature, very far from arriving to the extremes which you suppose it has arrived at.

I reiterate, &c.

PEDRO CEVALLOS.

Mr. Pinckney to Mr. Cevallos.

JULY 14, 1804.

Your excellency asked me if I would put under my signature the request to have the original ratification and forms of exchange, which I sent prepared to you, returned to me, as your excellency has refused to ratify except on conditions totally inadmissible; and also, the notice I gave you that I was, in consequence thereof, preparing to leave Madrid and return to the President and Congress of the United States; and that, when I had prepared and arranged

my affairs, and could fix a day, I would send for my passports. Your excellency will please to consider this letter as complying with your desire. And as I shall leave Madrid shortly, the respect I owe my Government, and the opinion of others, make it necessary for me to state with moderation the reasons which compel me to do so.

I must refer your excellency to the letters which I have written to you for the last two years on all the various subjects of complaint we had against the conduct of many of His Majesty's official servants in his dominions both in Europe and America, and on the claims arising therefrom; and they will show, not only with what justice, but with what mildness and real friendship these claims and complaints have been urged. After the signing the convention, one made entirely in favor of Spain, by postponing, for the present, the arbitration of the French claims, and the point of holding the session of the commissioners in Madrid, instead of any part of the United States, as I wished, supposing it would be the means of laying the foundation for an amicable arrangement of all our differences, the tenor of my letters was ever peculiarly mild and friendly. I heard, during this time, of many acts of the Spanish Government with surprise, but forebore to express it, under the idea that they would soon see their true interest in cordially meeting our friendly advances. I rejoiced when circumstances permitted the Government of the United States to ratify the convention, partial as it was, because in that I thought I perceived the hope of permanent peace; it was, therefore, with pleasure I hastened to communicate the event to your excellency, not doubting that my communication would have been met with equal cordiality. On presenting, however, the ratification for exchange, my concern was equal to my surprise at finding not only a hesitation, but what appeared to me a determination, by some means, to avoid it. In consequence of this, I have used every exertion in my power to produce the ratification; no proper means by personal application to those whose influence I thought ought to have been exerted in its favor, or by letter, were left untried. My letter of the 1st June will always remain an unanswerable proof of the amicable spirit with which I urged the measure, and of my conciliatory efforts to prevent your making the limits of Louisiana a condition to the ratification. It was written in consequence of your letter of the 31st May, which plainly discovered to me that it was in vain to hope either for a ratification, or for any thing like friendship, or scarcely peace, from Spain. I saw at once that, if she could bring herself to speak in a style so authoritative and improper (not to say more of it) of the act of a Government as much distinguished for its justice and honor as for its moderation, she must be averse to every approach which could lead to an accommodation. In this letter you plainly call the act of Congress of which you speak an outrage and an insult to His Majesty's sovereignty, endeavoring to smooth it over by saying you hoped the President and Congress were not aware of what they did; adding, thereby, the reproach of precipitancy as well as ignorance of their rights and duties; and concluding with saying, in very direct terms, that such a law lessens their good name—language that a monarch may hold to his vassals, or a country to one which she has humbled, but which, to the unbroken spirit of the United States, will not certainly be very pleasing.

As much as this extraordinary letter of yours astonished me, and will, I am sure, my Government, and notwithstanding its style and and manner were alone sufficient to justify my present measures, I again attempted to produce a reconciliation. From the long standing of most of our claims, and the multiplicity of your excellency's avocations, I supposed it not impossible you might have forgotten a number of them, and that the really dangerous and critical state of things did not strike you, or, (to speak plainly,) unless your aim was war, you would not take the irreparable step of rejecting the only means which appeared likely to prevent it; in which rejection, whilst it added unspeakably to our wrongs, our Government could see nothing but determined enmity or the part of Spain. With a view, therefore, to prevent your excellency from taking this step, I made another conciliatory effort, and wrote my letter of the 22d June, in which I gave you a summary view of our situation, urging, in the most friendly terms, the necessity of ratifying the convention, and leaving the other questions to future amicable arrangements. Extraordinary and unexpected as was the language and tenor of your letter of 31st May, this of 2d July still more astonished me. In answer to the application of our Government, merely to exchange the ratification, you have ventured to dictate two previous and degrading conditions; the former desiring the total suppression of our claim for French captures and spoliations within the territory and on the coast of Spain, and condemnations by the French Consuls within the ports of this kingdom—a claim as great, or greater than that provided for by the convention; one equally just and binding, and which I have repeatedly had it in charge from my Government to say to you never was relinquished to France in any manner, or for any consideration, nor provided for by her, nor included or spoken of in any settlement with that Power; but, on the contrary, always was, and is still, considered by the United States as a point of national honor which they never will abandon without an arbitration or an equivalent; and your excellency must know that, by our agreeing to the suspension of this article in the convention, we should abandon the claim; for certainly this is what you meant and repeatedly called for. To the degrading and humiliating condition of our previously abandoning and suppressing this claim, you have added another still more so if possible. Instead of mildly and amicably applying for some equal and friendly mode to ascertain the limits of Louisiana, you have at once proceeded to determine them yourself; and, without leaving to the American Government either the time or a mode to show, or to endeavor to show, that they are right, you have undertaken to decide in your own case; and have not only authoritatively called upon them, in your letter of the 31st May, immediately to revoke a part of a solemn act of their Legislature, (your words being "que revoque la parte del acto,") but have, in that of the 2d July, ventured to make it another condition, on which alone you will consent to ratify a convention signed by yourself, and which you had always acknowledged that His Majesty was bound in honor and justice to consent to.

I have repeatedly told your excellency that, as to the two questions of abandoning the French claims, or consenting to any thing to affect the limits of Louisiana, my instructions are as positive as possible never to abandon the one, or enter into any contract, or even negotiation, respecting the other. The measure, therefore, of my sending these conditions to the United States, which you mention, and waiting for their reply, was not only wholly improper, but would have been contrary to my instructions, which were by every possible means to expedite the ratification.

I well know that it is utterly impossible for your excellency, without having been there for some time, to be acquainted with the sentiments, character, or feelings of the American people, and being so, that you may doubt the correctness of the opinions I give; but, be assured, there is not a man in the United States, or its Government, who will not consider the refusal to ratify except on such conditions as you proposed, and the very proposing them, as a national indignity, and expect from me, the depositary of their views and public honor here, the measure I mean to take. It is as much the duty of a minister to assert the rights of his nation, and to refuse to receive or discuss degrading or affrontive propositions, as it is to promote mutual harmony and good understanding. Your excellency says that the measures I now pursue are not consistent with my usual and former friendly professions; to which I reply, that it is with much concern I have observed that your excellency's conduct, for the last twelve months, and since the cession of Louisiana, has been very little conformable to the amicable sentiments you now wish me to believe you possess; whilst mine, you well know, have always been sincere and active in endeavoring to conciliate and preserve peace. My Government is informed of all that has passed, and will be of all that is now doing, and are the best judges. Your excellency had it, however, in your power to show whether your professions were sincere, by never making these propositions, because you were long told, before you did make them, how extremely inadmissible and improper they would be considered, or after they were made, and you found the humiliating light in which they were viewed by withdrawing them, and consenting to ratify the convention, extending the time for receiving the claims to six or eight months, or to twelve months, as I told you you might, and I even proposed it to you.

In speaking of striking out the sixth article, your excellency does not appear to me to be aware of the nature of the proposition you have made; in remarking on this subject you say, "que la supresion del articulo 6, de la convencion en nada altera la esencia de esta, pues como en dicho articulo no se concede ni se niega el derecho que puede competir á los Americanos por razon de las perjuicios ocasionados en las costas y puertos de Espana, por los corsarios Franceses, serio que se dexa subsistir tal qual es para lo sucesivo: es claro que por su insercion en la convencion no adquiere mayor fuerza que la que puede tener por si solo si tiene." Your excellency certainly knows that it is an established principle of the law of nations that, in framing treaties or conventions, which have for their object the continuance of peace, or the accommodation of differences, all points or claims for injuries or damages, which are intended to be reserved, must be mentioned, or otherwise they will be considered as relinquished; and

this was my reason for inserting it in the convention. Our object in framing that instrument was, the amicable settlement of all differences arising from spoliations on our trade, contrary to treaties and the law of nations, and for which we hold Spain liable. Had we, therefore, said nothing about the French captures or condemnations within her territories or ports, or should we now agree to strike out the sixth article, there is not a man, who knows any thing of the law of nations, who will not instantly say that we had abandoned them; and if your excellency was not convinced of this, why have you so perseveringly endeavored to suppress it?

By the law of nations, "a monarch cannot, in honor, refuse to ratify a convention made by a minister with full powers, unless it can be proved that the minister had remarkably and openly deviated from his instructions, or the monarch has some other very strong reasons for so doing, but they must be very strong." Now, according to this principle, I deny positively, from your own statement of the conditions, that His Majesty has any sufficiently strong reasons to justify the not ratifying this convention: it cannot be because you made it contrary to your instructions; for you are now, and were then, his first Secretary of State, and signed it under his own eye, and in his own palace: neither can it be on account of the suppression of the sixth article; for all that can now be known about it was known then, and the relinquishment to France of other and totally distinct claims, of which you speak so much, and without the least weight, was as much in existence as it is now: for that convention was made in 1800, two years before the present; nor would it be considered, by the law of nations, a very honorable thing to refuse the ratification on the ground of a small part of one of the Floridas, which, you say, Congress have encroached upon, when it is well known that the whole value of both the Floridas would not cover the claims which this convention is intended to provide for. To endeavor, therefore, to get rid of the ratification, on account of a dispute about a small slip of those colonies, will not, I suppose, be viewed by our Government, or any neutral or impartial one, as that honorable right which, according to the law of nations, can alone justify a Power in refusing to ratify a convention formed by a minister fully authorized. Having high respect for His Majesty's honor and justice, I am very unwilling to believe he could have authorized you to refuse to ratify the convention on these grounds, or to hold such language, or make such demands of the United States, as they have, upon all occasions, manifested great respect for his person and Government. Be assured that our own would have regarded the refusal alone with great seriousness; but coupled with these degrading conditions of totally abandoning the French claims, by the suppression of the sixth article, and, as it were, commanding the repeal of a law of Congress without allowing us time to consult and examine or defend it, are so high an indignity, that I am convinced, had I not determined to refuse all discussions upon the subject of admitting them as conditions of the ratification, as well as to be the instrument of transmitting them to my Government, and, finding you insisted on it, had I not also immediately determined to leave Madrid, and put an end to all discussions on the conditions proposed here until the President's pleasure be known, I should not only have met with his disapprobation, but that of every man in a country where every individual feels himself personally interested in the honor and character of his Government.

The case your excellency quotes of the Intendant of New Orleans does not apply; that was a flagrant breach of a solemn treaty, and deprivation of a right secured by that treaty, and daily used, and indispensable to a numerous portion of our citizens, which, as your excellency well knows, was the reason why the Senate did not ratify the convention during that session, and was the cause of the inevitable delay that took place, and for which a Spanish agent was blameable, whom your minister declared instantly to our Executive had no authority to do so: while the law you complain of is the act of a Government, so constructed as that it is impossible for them to proceed without that due examination which is necessary to prevent precipitate, and generally leads to just, decisions of a Government, as remarkable for its attention to the rights of foreigners as to those of their own citizens; and which, no doubt, will be able to maintain the propriety of any law it has passed, by strong and unanswerable arguments. And here let me remark to your excellency, that it was not on account of the time you may have taken to answer my first application to ratify, that I objected, and wrote my letter of the 5th of July; for if you had taken much more, although I should not have considered it as worthy of Spain to think of a revenge of that kind, for the unavoidable delay the convention met with in the Senate, on account of the shutting the deposite of New Orleans, yet I should have waited some time longer; but it was to the answer itself of the 2d of July, when made, and to the refusal to ratify, except upon the degrading conditions you annexed, which I objected; and it is upon this answer, and this alone, that I grounded my proceedings.

Believing, as I solemnly do, that when the refusal to ratify, except on these degrading conditions, be made known in the United States, this affair cannot be amicably arranged without such sacrifices or concessions, on the one part or the other, as no people, having a national character to support, will be ready to make; and as I am sure we shall not, there appears to me a great probability of a misunderstanding; and so believing, it is my indispensable duty not to conceal it from the citizens of the United States in the ports of Spain, who are, or may be, interested, and indeed are always applying to me on the subject of the convention, well knowing it was the only mode to preserve friendship or peace between the two countries. The same duty required of me a similar communication to the commander of our ships in the Mediterranean, for his notice, and of that of our merchant vessels, that they should, using their own discretion, avoid making too free with the Spanish ports or coasts, during the state of uneasiness and uncertainty which now exists. This indispensable part of my duty your excellency seems, improperly, to feel as a menace, when a moment's reflection should have convinced you it was a duty I could not avoid. How, indeed, was it possible to neglect it? or what other opinion can we form, but that, when the United States see the convention returned, and with conditions so humiliating and inadmissible, they will give up all hope of payment here, and, however unwillingly, still be inevitably compelled to seek some mode of paying themselves? Having this view, therefore, of the business, how unpardonable would it have been in me not to warn our citizens of it, and prevent their being lulled into security, and surprised at a moment when they least suspected it.

Your excellency complains of my fixing a short day, and requiring a positive answer. The reasons are obvious; you were to leave Madrid with the court in a short time. It was at least three months since you knew that the convention was ratified, for I have a right to believe you knew it before I did; you had, therefore, full time to consider it; and as my former experience had convinced me, that, on a question not agreeable to you, it would be difficult for me to obtain an answer for a long time, the proposing of these conditions, and my public duty, made it necessary for me immediately to know, and that in the shortest time possible, if you would ratify or not without them; and, certainly, after the manner in which you treated our Government, in your letter of the 31st of May, and that of the 2d of July, your excellency could not expect any other conduct on my part. There was another reason which gave me a right to consider all discussions on the conditions as out of the question, which was, that my two letters in June, copies of which I send here annexed, had anticipated the question of the conditions proposed, and had shown you the impossibility of my suffering them to be incorporated into the ratification; and this was done before you formally proposed them, as I had received notice you intended it, and endeavored to prevent your doing so.

In all the differences between Great Britain and France, the United States have uniformly maintained their rights with a firmness that has done them honor, in the opinion of every nation: and, as I have often told your excellency, it is not now to Spain, or any other country, they will yield them. My letter of the 22d of June, and the previous friendly one of the 1st of June, (both of which I annex, and desire your excellency, in any use you may make of them, to consider as a part of this,) while they state the sufferings of our citizens, and the wrongs the convention is intended to remedy, will, at the same time, show my unwearied exertions, and the mildness with which I attempted to persuade your excellency to ratify it.

In speaking, as your excellency does, that it is general, in all countries, on questions of this kind, to resort to the ordinary tribunals, I only remark, that your excellency well knows how painful it has been to me to be continually representing the sufferings and losses of our citizens, and the delays attending their applications to the tribunals here—delays of such an extent, as to impress them with the opinion that a recourse to the tribunals of Spain can seldom be viewed as the proper means to obtain the rights of American citizens; that the years and means necessary to pursue their claims, through those channels, were infinitely more ruinous than the first loss; and that it was essential for our Government decidedly to interfere; and, for the truth and justice of this remark, I appeal to every unfortunate American citizen who has had business here for the last six years.

How far the conduct of your excellency, in refusing to ratify, and bring into effect the only mode that remained of arranging them peaceably, will go to strengthen the opinion just given, is left for you to decide. After what has happened, our citizens will very much doubt whether there was ever any serious intention here to ratify the convention as it was made; and, if it is now ratified, I shall always believe it was entirely owing to the measures my duty made it necessary for me to pursue. I form this opinion by reading your excellency's letter of the 9th, in which I am pleased to see you begin, at last, to have some value for the friendship and peace of the United States; and to find there is a point of indignity or neglect, beyond which even their moderation will not go. I am, therefore, led to hope that the messenger, who you say is to sail for the United States, will carry out the convention fully ratified, without limitation or condition, and with orders to arrange it agreeably to the United States.

This I advise your excellency most sincerely to do. I have always done so, until your letter of the 2d of July, in the most mild and friendly terms, and with the greatest deference and respect to Spain; and, had your excellency proceeded in the same way, it would have been no less honorable to your talents, than to the justice and friendly intentions of His Majesty, which you so often mention.

Your excellency must perceive that the measures I have adopted were rendered indispensable by the respect I owe my Government; it being my duty to defend them from the charge of having lightly or inconsiderately legislated upon important subjects, and thereby outraged and usurped the rights of others. It was equally my duty to defend, and preserve inviolate, the well founded claims of a numerous and deserving class of our citizens, whose legal and meritorious exertions, while they contribute to increase the enterprise, and extend the commerce of the United States, have the fullest right to demand, and will always be sure to receive, the cordial and unceasing support of their Government.

With this explanation of the reasons which will compel me to leave Madrid, and with the determination and orders to keep our citizens in Spain constantly warned against being lulled into security by any notification or information which they may receive, except from their Government or its officers, I end this letter. It has become my duty to return to the President and Congress of the United States, in order to give them, and, through them, to my fellow-citizens, such statements and opinions, as can alone be properly done in person. To them I shall refer the question, well knowing that, in their hands, the rights, the character, and the sacred honor of a free people are always safe.

III. Correspondence between the Secretary of State and the Marquis de Casa Yrujo, on the ratification of the convention of 1802.

[TRANSLATION.]

The Marquis de Casa Yrujo to the Secretary of State.

OCTOBER 13, 1804.

SIR:

By the communications I have made to this Government, and the translation of the correspondence between His Excellency Don Pedro Cevallos and Mr. Pinckney, minister of the United States to His Catholic Majesty, you are informed of the just motives His Catholic Majesty has for not ratifying the convention pending between our two Governments, except on certain conditions, founded on the most rigorous justice, and necessary, as well to the honor of his sovereignty, as to the protection of the interests of his subjects. That His Majesty has the right to propose the alteration which he may judge proper for these objects, before the ratification, is indisputable, not only from the expression which is found in the seventh article of the said convention, which says, "the present convention shall have no force or effect until it be ratified by the contracting parties," but from many other antecedent examples, as that which occurred at the exchange of ratifications at Paris at the treaty of peace of 1763, of which I verbally informed you; and, lately, in the treaty of limits between England and the United States; the latter, as is understood, having refused to ratify a part of it, in consequence of the acquisition of Louisiana.

By order of the King my master I have renewed here the opposition made by His Majesty to the ratification of the said convention, except under the conditions which were proposed in Madrid to the beforementioned minister of the United States, one of which was the entire suppression of the sixth article of the convention; but, having recollected that, from insisting on this point, the consequence might be the complete annulment of a convention by which the King my master, animated by the sentiments of justice which characterize him, desired to do justice to the citizens of the United States who might have suffered during the last war by the excesses of his commanders or subaltern officers, contrary to the existing treaty and the law of nations, and more and more to prove that the King my master proceeds in this affair with the liberality and frankness which always mark his conduct towards the United States, I am authorized to say to you that His Catholic Majesty will accede to the ratification of the said convention, under the following conditions:

1st. The Government of the United States will suppress or modify, as I proposed to you in one of my letters in the month of March past, the eleventh section of the act of Congress of the 24th of February last, and on which His Excellency Don Pedro Cevallos has made like complaints to the American minister in Madrid; or, if it should be more agreeable to this Government, it will declare to me in writing, through you, that, by the said eleventh section of the beforementioned act, it had not intended to offer any insult to His Catholic Majesty, nor any aggression upon the rights of his sovereignty, and that the Executive, as the true interpreter of the said law, shall declare that the object or intention of what is contained in the said section is and ought to be only applicable to the territory of the United States, and not to the country belonging to and in the actual possession of His Catholic Majesty; it being well understood that, until the commission destined to the demarcation of limits shall have decided by common consent that the territory claimed by the United States did not belong to His Majesty, but to the said States, they, nor the President authorized by them, shall make no change in it, nor publish laws, nor establish custom-houses, nor any other species of regulations in said territory; but, on the contrary, that they should leave things *in statu quo*, as they were before the resolution of Congress complained of. Moreover, there shall be given the corresponding notoriety to this act of ratification on the part of the United States, in a mode that, without in any manner compromitting its dignity, may prove that satisfactory explanations were given on this point to His Catholic Majesty.

2d. His Catholic Majesty being informed that the mercantile operations of the citizens of the United States, out of some of which, without doubt, their reclamations will grow, have extended to the most distant possessions of His Majesty, as well in America as in the Philippine islands, and, from the great distance of these points, and the interruption to which the navigation to them is subjected during a great part of the year, the term of eighteen months prescribed to the commissioners by the thirtieth article to receive all the reclamations must be short, it becomes necessary that the term should have a reasonable extension; and this is requisite, to the end that the subjects of the King, living at so great a distance, may draw the advantage which is due to them from the beforementioned convention.

3d. Although, as has been made apparent, by reasons which His Majesty has not as yet seen combated, that the complete suppression of the sixth article would be conformable to entire justice, nevertheless, thinking that my master will not oppose himself to the retention of the said article, if an alteration is made in its phraseology, which, without diminishing the right of the United States, should give more clearness to the intentions of His Majesty, contained in the said article, the sixth article should be expressed in terms nearly as following:

"The beforementioned plenipotentiaries not having been able to agree on the principle of the claims originating in the excesses of the foreign privateers, agents, consuls, or tribunals in their respective territories; Spain considering herself not responsible for these, as appears both from the circumstances and the time of the offence, as well as from the character of the measures afterwards taken by the United States with France; and the United States, on the contrary, claiming from Spain the amount of the damages and injuries arising from that source, both Governments have expressly agreed that each Government reserve to itself, (as is done by this convention,) not only for itself, but also for its subjects and citizens, respectively, all the rights which they may now have; it being well understood that

the ratification by His Catholic Majesty of the present convention ought not, nor shall not, be considered as an acknowledgment on his part of any right, or that of the United States, to such reclamations and pretensions, nor as a renunciation by His Majesty of the exceptions which result from the conventions between France and the United States."

Under these conditions, which the King flatters himself will appear just to the American Government, His Majesty is ready to ratify the beforementioned convention: and from the moderation, and even liberality, so clearly manifested in these, it will remain apparent, that if the said convention should not take effect, it ought not to be attributed to the want of frank and friendly dispositions on the part of the King my master.

God preserve you many years.

THE MARQUIS DE CASA YRUJO.

Mr. Madison, Secretary of State, to the Marquis de Casa Yrujo, minister of His Catholic Majesty.

DEPARTMENT OF STATE, *October* 15, 1804.

SIR:

Your letter of the 13th instant, communicating certain conditions which His Catholic Majesty considers as proper to be annexed to his ratification of the convention of August 11th, 1802, now depending between the two Governments, has been laid before the President. One of these conditions refers to a section in an act of Congress passed on the 24th day of February last, regarded by His Catholic Majesty as disrespectful to his sovereignty, and requires, as a reasonable preliminary to the ratification of the depending instrument, that the said act should be freed, by authentic exposition, from the apparent import at which umbrage has been taken. It could not be learned by the President without some surprise, that the law in question should have given rise to complaint, and much more that it should be made a reason for suspending the final sanction of His Catholic Majesty to an instrument deliberately formed, and awaiting that single formality only for its completion. The President had certainly a right to expect that a legislative act, depending essentially for its effect in the particular case on his discretion, would have been left to the regular exposition and execution, before it should become the object of criticism and complaint from any foreign Government. He had a right, consequently, to prescribe this answer, when the act above cited was first made a subject of representation; and he might even now be justified in resting on this sound principle the reply to the representation which is repeated in the communication just received from you. Yielding, nevertheless, to the disposition of the United States to maintain the most friendly understanding with Spain, and to that frankness which is dictated by the integrity of his views, he charged me with the candid explanations which were contained in my letter of March the 19th last. These explanations, when received by His Catholic Majesty, cannot fail to satisfy him, that the United States, not less careful to forbear than ready to resent real insults, could not have meditated, by the act complained of, the slightest disrespect to his rights or his sovereignty; and as the most definite proof of the sentiments entertained for His Catholic Majesty, I am now charged to enclose for his information the executive act of the President, founded on, and of a nature equally public with, the act of Congress aforesaid; by which it will be seen that, in expounding and applying the latter, there is the most exact conformity to the assurance given in the letter of March the 19th; that the operation of the 11th section would take place within the acknowledged limits of the United States, and would not be extended beyond them, until it should be rendered expedient by friendly elucidation, and adjustments with the Spanish Government. In order to hasten those, a special mission to Madrid was some time since provided for; and if the destined minister extraordinary has not already repaired thither, the instructions, which will now be repeated, if no unfavorable considerations present themselves, may be expected soon to have that effect. In the mean time, the President concurs with the Spanish Government in the expediency of leaving things precisely *in statu quo*. And he persuades himself that it will be deemed equally expedient on both sides, to give to this precaution its full effect, by a mutual forbearance to increase unnecessarily either within or on the borders of territories, the limits of which remain to be adjusted, military provisions of any kind, which, by exciting jealousies on one side or the other, may have tendencies equally disagreeable to both.

The other condition proposes to remodel the terms of the sixth article of the convention, which leaves for subsequent discussion the particular class of claims therein described. The President does not conceal his regret at seeing the ratification of the convention clogged with a condition which, if persisted in, could not easily be reconciled with that delicacy in such transactions which he has always felt a pleasure in ascribing to His Catholic Majesty, or with that desire which His Catholic Majesty has so often professed, to multiply proofs of his friendly sentiments towards the United States. If the preceding condition had not been the result of a misconception, which can now no longer exist, it might have had a natural source in the sensibility, not unbecoming a magnanimous Government, and might have been urged by the considerations, it had reference to an event subsequent to the first assent given by His Catholic Majesty, and which, although distinct from the intrinsic merits of the convention, might raise a question how far the completion of it was permitted by a new state of things. The condition relating to the sixth article is of a character altogether different. The article, as it now stands, was negotiated under the eye and with the approbation of the Spanish Government. All the principles, all the facts, all the authorities of public law, were, at that time, the same as at present. And there can be the less reason for attempting to unsettle what was then decided, as the period of negotiation was sufficiently protracted for the most minute examination and the maturest reflection. If it be said that the alteration proposed would be in words only, and not in the meaning of the article, may it not with greater propriety be answered that, on that supposition, it cannot be of such importance as to be pressed as a condition which would require all the delay, and all the forms of a new stipulation, and which might have the effect of frustrating the convention altogether? For, without entering into a comparison of the article in its present terms with the substitute proposed, it is obvious that the difficulty of adjusting a form of expression—a difficulty not inconsiderable originally—would be much increased by the necessity of seeking in the relation of the new to the old article, as well as in the terms of the new, the precise construction which ought to be given to it.

Were it necessary to enforce these observations by an inquiry into the right of His Catholic Majesty to withhold his ratification in this case, it would not be difficult to show that it is neither supported by the principles of public law, nor countenanced by the examples which have been cited. According to the former, such a refusal ought to be founded either on a departure of the negotiating minister from his instructions, or on intervening occurrences, or on some surprise or deception. Neither of these can be alleged. The Spanish Government itself was privy to the negotiation, leaving, consequently, its final act of ratification the merest ceremony. No new facts connected with the subject have come to light. The negotiation was so long on foot, and so fairly conducted, that neither surprise nor deception can possibly be pretended. In every such case, besides, the motive for refusal ought to be of great and evident importance. In the present case, the very argument for the change destroys the importance of it, since the change is alleged to be in the words, and not in the meaning, of the article. As to the examples cited, they bear no analogy to the case to which they are applied. In that of the treaty of peace at Paris of 1763, the plea, on the British side, is understood to have been a matter deeply interesting, which was discovered and declared by the negotiator himself on the very day of his signing the instrument. The other example of the conditional ratification here of a late convention with Great Britain is still more dissimilar; being occasioned by an important event—the acquisition of Louisiana by the United States—which might have given to one of the articles a scope contemplated by the instructions of neither party, nor within the knowledge or intention of either when signed by the negotiators. Another distinction absolutely decisive is, that the conditional ratification proceeded from the Senate, who, sharing in treaties on the final ratification only, and not till then even knowing the instructions pursued in them, cannot be bound by the negotiation like a sovereign, who holds the entire authority in his own hands. When peculiarities of this sort in the structure of a Government are sufficiently known to other Governments, they have no right to take exception at the inevitable effect of them.

With respect to the enlargement of the time for the assembling of the commissioners, which can be done without any remodification of the convention, the President's respect for the wishes of His Catholic Majesty will not permit him to refuse his concurrence; although he does not himself perceive the necessity or advantage of it. The commissioners who may be appointed on the part of the United States will accordingly be apprised that their proceedings are not to be commenced till the month of May next, unless further inquiry shall satisfy His Catholic Majesty that an earlier day will not be inconvenient.

On a view of the whole subject, as it now presents itself, the President infers, with confidence, that His Catholic Majesty, recollecting that the claims to be adjusted under the convention are of the most incontestable character, and finding that a disappearance of every other obstacle to his ratification leaves to him the sole decision between adhering to or relinquishing a condition, for which there cannot be a reason now which did not exist, and was not known at first, and which, as represented on his part, would otherwise be of too little importance to be turned against the act of his own plenipotentiary, entered into with his own privity, will pursue the course which is prescribed, not less by his delicacy, or rather his good faith, than by his love of justice, and the friendship subsisting between Spain and the United States.

In pressing thus the consummation of the suspended instrument, the President cannot be influenced by any peculiar advantage given by the terms of it to the United States. He well knows, as has been just noticed, that the claims therein provided for cannot ultimately be disallowed; and that the convention, if carried into effect in its present form, will still leave for subsequent accommodation several questions deeply interesting to the subsisting relations. If he indulges a solicitude on the occasion, it is because the state of the transaction has justly led the claimants into preparations and expectations, which would involve many in useless expense, and all in disappointment and disgust; because he regards the convention as a step towards a satisfactory adjustment of other depending and accruing questions; because a completion of it will dissipate appearances, which have already begotten inquietudes on both sides, and may embarrass an intercourse desirable and valuable to both; because, in a word, it will be a pledge of future justice, at the same time that it guaranties the present harmony between the two nations. These are considerations which cannot surely be entitled to less weight with the Spanish Government than is allowed to them by that of the United States.

It will be added only, that, considering the disadvantages of every kind incident to the present state of uncertainty, and particularly that the arrangements here, preparatory to the execution of the convention, must be regulated by something more positive than an inference, however reasonable, that the instrument will receive from His Catholic Majesty an unqualified ratification, I need not remind you of the utility which would result from such assurances as your knowledge of the views of your Government may enable you to express to this, that the event may now be relied on. On this point, I shall hope for the favor of as early an answer as you can make it convenient to transmit for the information of the President.

I have the honor to be, &c.

JAMES MADISON.

IV. Instructions given by the Secretary of State to Mr. Monroe, and to Messrs. Monroe and Pinckney.

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *July* 29, 1803.

SIR:

The communications by Mr. Hughes, including the treaty and conventions signed with the French Government, were safely delivered on the 14th instant. Enclosed is a copy of a letter written in consequence of them to Mr. Livingston and yourself.

On the presumption which accords with the information given by Mr. Hughes, that you will have proceeded to Madrid, in pursuance of the instructions of the 17th February last, it is thought proper to observe to you, that although Louisiana may, in some respects, be more important than the Floridas, and has more than exhausted the funds allotted for the purchase of the latter, the acquisition of the Floridas is still to be pursued, especially as the crisis must be favorable to it.

You will be at no loss for the arguments most likely to have weight in prevailing on Spain to yield to our wishes. These colonies, separated from her other territories on this continent by New Orleans, the Mississippi, and the whole of Western Louisiana, are now of less value to her than ever; whilst to the United States they retain the peculiar importance derived from their position, and their relations to us through the navigable rivers, running from the United States into the Gulf of Mexico. In the hands of Spain they must ever be a dead expense in time of peace; indefensible in time of war, and at all times a source of irritation and ill blood with the United States. The Spanish Government must understand, in fact, that the United States can never consider the amicable relations between Spain and them as definitively and permanently secured, without an arrangement on this subject, which will substitute the manifest indications of nature for the artificial and inconvenient state of things now existing.

The advantage to be derived to your negotiations from the war that has just commenced will certainly not escape you. Powerful, and it might be presumed effectual, use may be made of the fact that Great Britain meant to seize New Orleans with a view to the anxiety of the United States to obtain it; and of the inference from that fact, that the same policy will be pursued with respect to the Floridas. Should Spain be engaged in the war, it cannot be doubted that they will be quickly occupied by a British force, and held out on some condition or other to the United States. Should Spain be still at peace, and wish not to lose her neutrality, she should reflect that the facility and policy of seizing the Floridas must strengthen the temptations of Great Britain to force her into the war. In every view it will be better for Spain that the Floridas should be in the hands of the United States than of Great Britain; and equally so that they should be ceded on beneficial terms by herself, than that they should find their way to us through the hands of Great Britain.

The Spanish Government may be assured of the sincere and continued desire of the United States to live in harmony with Spain; that this motive enters deeply into the solicitude of their Government for a removal of the danger to it which is inseparable from such a neighborhood as that of the Floridas; and that, having by a late convention with Great Britain adjusted every territorial question and interest with that nation, and the treaty with France concerning Louisiana having just done the same with her, it only remains that the example be copied into an arrangement with Spain, who is evidently not less interested in it than we are.

By the enclosed note of the Spanish minister here, you will see the refusal of Spain to listen to our past overtures, with the reasons for the refusal. The answer to that communication is also enclosed. The reply to such reasons will be very easy. Neither the reputation nor the duty of His Catholic Majesty can suffer from any measure founded in wisdom and the true interests of Spain. There is as little ground for supposing that the maritime Powers of Europe will complain of, or be dissatisfied, with a cession of the two Floridas to the United States, more than with the late cession of Louisiana by Spain to France, or more than with the former cessions through which the Floridas themselves have passed. What the treaties are subsequent to that of Utrecht, which are alleged to preclude Spain from the proposed alienation, have not been examined. Admitting them to exist in the sense put upon them, there is probably no maritime Power who would not readily acquiesce in our acquisition of the Floridas as more advantageous to itself, than the retention of them by Spain. Shut up against all foreign commerce, and liable at every moment to be thrown into the preponderant scale of Great Britain, Great Britain herself would unquestionably have no objection to their being transferred to us, unless it should be drawn from her intention to conquer them for herself, or from the use she might expect to make of them in a negotiation with the United States. And with respect to France, silence at least is imposed on her by the cession to the United States of the province ceded to her by Spain, not to mention that she must wish to see the Floridas, like Louisiana, kept out of the hands of Great Britain; and has, doubtless,

felt that motive in promising her good offices with Spain for obtaining these possessions for the United States. Of this promise, you will, of course, make the proper use in your negotiations. For the price to be given for the Floridas, you are referred, generally, to the original instructions on this point. Although the change of circumstances lessens the anxiety for acquiring immediately a territory which now, more certainly than ever, must drop into our hands, and, notwithstanding the pressure of the bargain with France on our treasury, yet, for the sake of a peaceable and fair completion of a great object, you are permitted by the President, in case a less sum will not be accepted, to give two millions and a quarter of dollars, the sum heretofore apportioned to this purchase. It will be expected, however, that the whole of it, if necessary, be made applicable to the discharge of debts and damages claimed from Spain, as well those not yet admitted by the Spanish Government as those covered by the convention signed with it by Mr. Pinckney, on the 11th day of August, 1802, and which was not ratified by the Senate, because it embraced no more of the just responsibilities of Spain. On the subject of these claims, you will hold a strong language. The Spanish Government may be told plainly that they will not be abandoned any further than an impartial tribunal may make exceptions to them. Energy in the appeal to its feelings will not only tend to justice for past wrongs, but to prevent a repetition of them in case Spain should become a party to the present war.

In arranging the mode, the times, and the priorities, of paying the assumed debts, the ease of the treasury is to be consulted as much as possible: less is not to be done with that view than was enjoined in the case of the French debts to our citizens. The stock to be engaged in the transaction is not to be made irredeemable without a necessity not likely to arise; and the interest, as well as the principal, should be payable at the Treasury of the United States. The only admissible limitation, on the redemption of the stock, is that the holder shall not be paid off in less than about one-fifth or one-fourth of the amount in one year.

Indemnifications for the violation of our deposite at New Orleans have been constantly kept in view in our remonstrances and demands on that subject. It will be desirable to comprehend them in the arrangement. A distinction, however, is to be made between the positive and specific damages sustained by individuals, and the general injuries accruing from that breach of treaty. The latter could be provided for by a gross and vague estimate only, and need not be pressed as an indispensable condition. The claim, however, may be represented as strictly just, and a forbearance to insist on it as an item in the valuable considerations for which the cession is made. Greater stress may be laid on the positive and specific damages capable of being formerly verified by individuals; but there is a point beyond which it may be prudent not to insist even here; especially as the incalculable advantage accruing from the acquisition of New Orleans will diffuse a joy throughout the Western country, that will drown the sense of these little sacrifices. Should no bargain be made on the subject of the Floridas, our claims of every sort are to be kept in force.

If it be impossible to bring Spain to a cession of the whole of the two Floridas, a trial is to be made for obtaining either, or any important part of either. The part of West Florida adjoining the territories now ours, and including the principal rivers falling into the Gulf, will be particularly important and convenient.

It is not improbable that Spain, in treating on a cession of the Floridas, may propose an exchange of them for Louisiana beyond the Mississippi, or may make a serious point of some particular boundary to that territory. Such an exchange is inadmissible. In intrinsic value there is no equality; besides the advantage given us by the western bank of the entire jurisdiction of the river. We are the less disposed also to make sacrifices to obtain the Floridas, because their position and the manifest course of events guaranty an early and reasonable acquisition of them. With respect to the adjustment of a boundary between Louisiana and the Spanish territories, there might be no objection to combining it with a cession of the Floridas, if our knowledge of the extent and character of Louisiana were less imperfect. At present, any arrangement would be a step too much in the dark to be hazarded; and this will be a proper answer to the Spanish Government. Perhaps the intercommunications with the Spanish Government on this subject, with other opportunities at Madrid, may enable you to collect useful information and proofs of the fixed limits, or of the want of fixed limits, to Western Louisiana. Your inquiries may also be directed to the question, whether any, and how much, of what passes for West Florida, be fairly included in the territory ceded to us by France? The treaties and transactions between Spain and France will claim particular attention in this inquiry.

Should no cession whatever be attainable, it will remain only for the present to provide for the free use of the rivers running from the United States into the Gulf. A convenient deposite is to be pressed as equally reasonable there as on the Mississippi; and the inconveniency experienced on the latter, from the want of a jurisdiction over the deposite, will be an argument for such an improvement of the stipulation. The free use of those rivers for our external commerce is to be insisted on as an important right, without which the United States can never be satisfied; and without an admission of which, by Spain, they can never confide either in her justice or her disposition to cultivate harmony and good neighborhood with them. It will not be advisable to commit the United States into the alternative of war, or a compliance on the part of Spain; but no representation short of that can be stronger than the case merits.

The instruction to urge on Spain some provision for preventing, or rectifying by a delegated authority here, aggressions and abuses committed by her colonial officers, is to be regarded as of high importance. Nothing else may be able to save the United States from the necessity of doing themselves summary justice. It cannot be expected that they will long continue to wait the delays and the difficulties of negotiating, on every emergency, beyond the Atlantic. It is more easy, and infinitely more just, that Spain and other European nations should establish a remedy on this side of the Atlantic, where the source of the wrongs is established, than that the complaints of the United States should be carried to the other side, and, perhaps, wait till the Atlantic has moreover been twice crossed in procuring information for the other party, without which a decision may be refused.

The navigation of the bay of St. Mary's is common to Spain and the United States; but a light-house, and the customary water marks, can be established within the Spanish jurisdiction only. Hitherto, the Spanish officers have refused every proper accommodation on this subject. The case may be stated to the Government of Spain, with our just expectation that we may be permitted either to provide the requisite establishments ourselves, or to make use of those provided by Spain.

This letter will be addressed to Madrid; but as it is possible that you may not have left Paris, or may have proceeded to London, a copy will be forwarded to Paris, to be thence, if necessary, sent on to London. In case it should find you either at Paris or London, it must be left to your own decision how far the call for you at either of those places ought to suspend these instructions. Should you decide to go to Madrid, it may be proper first to present your credence to the French or British Government, as the case may be; and to charge a fit person with the public business during your absence. Should you even be at Paris, and your commission filled up for London, it may be best to proceed first to London, if the call to Madrid be not very urgent.

I shall write to Mr. Pinckney, and inform him that this letter is intended for his use jointly with yours; though addressed to you alone, because in part not applicable to him. Should you suspend, or have suspended, your visit to Madrid, you will please to write to him also, giving him your ideas as to the expediency of prosecuting the object of the joint instructions or not until you can be with him.

I have the honor to be, &c.

JAMES MADISON.

The Secretary of State to James Monroe, Esq. their minister extraordinary, jointly with Charles Pinckney, Esq. to the court of Spain, dated

DEPARTMENT OF STATE, *April* 15, 1804.

SIR:

It being presumed that, by the time of your receiving this communication, the negotiation with which you were charged by my letter of the 5th January last, will no longer require your presence in London, the President thinks

it proper that you should now proceed to Madrid, and, in conjunction with Mr. Pinckney, open a negotiation on the important subjects remaining to be adjusted with the Spanish Government. You will understand, however, that besides the consideration how far your immediate departure may be permitted by the state of our affairs with the British Government, or by events unknown at this distance, you are at liberty to make it depend in a due degree on the prospect of active co-operation or favorable dispositions from quarters most likely to influence the councils of Spain. It will be of peculiar importance to ascertain the views of the French Government. From the interest which France has in the removal of all sources of discord between Spain and the United States, and the indications given by her present Government of a disposition to favor arrangements for that purpose, particularly in relation to the territory remaining to Spain on the eastern side of the Mississippi, and from the ascendancy which the French Government has over that of Spain, of which a recent and striking proof has been given in the prompt accession of the latter on the summons of the former, to the transfer of Louisiana to the United States, notwithstanding the orders which had been transmitted to the Spanish envoy here to protest against the right to make the transfer, much will depend on, and much is expected from, the interposition of that Government, in aid of your negotiations. Mr. Livingston has been instructed to cherish the motives to such an interposition, as you will find by the extract from my letter to him herewith enclosed; and if you should take Paris in your way to Madrid, as is probable, you will not only be able to avail yourself of all his information, but will have an opportunity of renewing the personal communications which took place during your joint negotiations.

The objects to be pursued are, 1st, an acknowledgment by Spain that Louisiana, as ceded to the United States, extends to the river Perdido; 2d, a cession of all her remaining territory eastward of that river, including East Florida; 3d, a provision for arbitrating and paying all the claims of citizens of the United States not provided for by the late convention, consisting of those for wrongs done prior to the last peace, by other than Spanish subjects, within Spanish responsibility, for wrongs done in the Spanish colonies by Spanish subjects or officers, and for wrongs of every kind for which Spain is justly responsible, committed since the last peace. On the part of the United States, it may be stipulated that the territory on the western side of the Mississippi shall not be settled for a given term of years, beyond a limit not very distant from that river, leaving a spacious interval between our settlements and those of Spain, and that a sum of —— dollars shall be paid by the United States in discharge of so much of the awards to their citizens. It may also be stipulated, or rather may be understood, that no charge shall be brought by the United States against Spain, for losses sustained from the interruption of the deposite at New Orleans.

The subjoined draught puts into form and into detail the arrangement to which the President authorizes you to accede; relying on your best efforts to obtain better terms, and leaving to your discretion such modifications as may be found necessary, and as will not materially affect the proportion between the gains and the concessions by the United States.

Art. 1. § 1. Spain acknowledging and confirming to the United States the cession of Louisiana, in an extent eastwardly to the river Perdido, cedes to them forever all the territory remaining to her between the Mississippi, the Atlantic, and the Gulf of Mexico, together with all the islands annexed thereto, either whilst the Floridas belonged to Great Britain, or after they became provinces of Spain.

Or, if the article be unattainable in that form, Spain cedes to the United States forever all the territory, with the islands belonging thereto, which remain to her between the Mississippi, the Atlantic, and the Gulf of Mexico.

§ 2. Possession of the said territory shall be delivered to a person or persons authorized by the United States to receive the same, within —— days, or less, if practicable, after the exchange of the ratifications of this convention. With the said territory shall be delivered all public property, excepting ships and military stores, as also all public archives belonging to the provinces comprehending the said territory.

§ 3. Within ninety days after delivery of possession, or sooner, if possible, the Spanish troops shall evacuate the territory hereby ceded; and if there should be any Spanish troops remaining within any part of the territory ceded by France to the United States, all such troops shall, without delay, be withdrawn.

§ 4. Spanish subjects within the ceded territory, who do not choose to become citizens of the United States, shall be allowed eighteen months to dispose of their real property, and to remove or dispose of their other property.

§ 5. The inhabitants of the ceded territory shall be entitled to the same incorporation into the United States, and to the same protection in their religion, their liberties, and their property, as were stipulated to the inhabitants of the territory ceded to the United States by the treaty of the 30th April, 1803, with the French republic.

Art. 2. § 1. It is agreed that, for the term of —— years, no lands shall be granted, nor shall persons who may have settled since October 1, 1800, on lands not granted prior thereto, be permitted to continue within the space defined by the following limits, to wit: by a limit consisting on one side of the river Sabine, or Mexicano, from the sea to its source; thence, a straight line to the confluence of the rivers Osages and Missouri; and by a limit on the other side, consisting of the river Colorado, (or some other river emptying into the bay of St. Bernard,) from its mouth to its source; thence a straight line, to the most southwestwardly source of the Red river, with such deflections, however, as will head all the waters of that river; thence, along the ridge of the highlands which divide the waters belonging to the Missouri and the Mississippi from those belonging to the Rio Bravo, to the latitude of the northernmost source of that river; and thence, a meridian to the northern boundary of Louisiana.

§ 2. Such of the settlements within the foregoing limits, not prohibited by article 2, section 1, as were not under the authority of the Government of Louisiana, shall continue under the authority of Spain. Such as were under that authority shall be under the authority of the United States. But the parties agree that they will respectively offer reasonable inducements, without being obliged to use force, to all such settlers to retire from the space above limited, and establish themselves elsewhere.

§ 3. The Indian tribes within the said limits shall not be considered as subject to, or exclusively connected with, either party. Citizens of the United States and Spanish subjects shall be equally free to trade with them, and to sojourn among them, as far as may be necessary for that purpose; and each of the parties agrees to restrain, by all proper and requisite means, its respective citizens and subjects from exciting the Indians, whether within or without the said limits, from committing hostilities or aggressions of any sort on the subjects or citizens of the other party. The parties agree, moreover, each of them, in all public transactions and communications with Indians, to promote in them a disposition to live in peace and friendship with the other party.

§ 4. It shall be free for Indians now within the territories of either of the parties to remove to, and settle within, the said limits, without restraint from the other party; and either party may promote such a change of settlement by Indians within its territories; taking due care not to make it an occasion of war among the Indians, or of animosities in any of them against the other party.

§ 5. The United States may establish garrisons sufficient, as security against the Indians, and all trading houses, at any places within the said limits, where garrisons existed at any time under the Spanish Government of Louisiana. And Spain may continue garrisons, for the like purpose, at any places where she had them at the date of her cession to France, and establish trading houses thereat. Either party may also cause or permit any part of the country within the said limits to be explored and surveyed, with a view to commerce or science.

§ 6. It shall be free for either of the parties to march troops within the said limits against Indians at war with them, and for the purpose of driving or keeping out invaders or intruders.

Art. 3. It is agreed that, within —— years previous to the expiration of the aforesaid term of —— years, due provision shall be made for amicably adjusting and tracing the boundary between the territories of the United States westward of the Mississippi, and the territories of His Catholic Majesty; which boundary shall then be established according to the true and just extent of Louisiana, as ceded by Spain to France, and by France to the United States; uninfluenced, in the smallest degree, or in any manner whatever, by the delay, or by any arrangement or circumstance contained in or resulting from this convention.

Art. 4. Whereas, by the sixth article of the convention signed at Madrid, on the 11th day of August, 1802, it is provided, that, as it had not been possible for the plenipotentiaries of the two Powers to agree upon a mode by which the Board of Commissioners to be organized in virtue of the same should arbitrate the claims originating from the

excesses of foreign cruisers, agents, consuls, or tribunals in their respective territories, which might be imputable to their two Governments, &c; and whereas, such explanations have been had upon the subject of the article aforesaid as have led to an accord; it is therefore agreed that the Board of Commissioners to be organized, as aforesaid, shall have power, for the space of eighteen months, from the exchange of ratifications hereof, to hear and determine, in the manner provided as to other claims in the said convention, all manner of claims of the citizens and subjects of either party, for excesses committed, or to be committed, by foreign cruisers, agents, consuls, or tribunals, in their respective territories, which may be imputable to either Government, according to the principles of justice, the law of nations, or the treaties between the two Powers; and also all other excesses committed, or to be committed, by officers or individuals of either nation, contrary to justice, equity, the law of nations, or the existing treaties, and for which the claimants may have a right to demand compensation.

ART. 5. It is further agreed, that the respective Governments will pay the sums awarded by the said commissioners under this convention, and also those which have been or may be awarded under that of the 11th of August, 1802, in manner following:

The Government of the United States will pay all such sums, not exceeding, in all, —— dollars, which may be awarded as compensation to citizens of the United States from His Catholic Majesty, in three equal annual instalments, at the city of Washington; the first instalment to be paid in eighteen months after the exchange of the ratifications hereof, or, in case they shall not be so paid, they shall bear an interest of six per cent. per annum from the time when they become due, until they are actually discharged; and in case the aggregate of the said sums should not amount to the said sum of —— dollars, the United States will pay to His Catholic Majesty, within one year after the final liquidation of the claims cognizable by the said Board, at the city of Washington, so much as the said aggregate may fall short of the sum above mentioned; but, on the other hand, if the whole amount of the sums awarded to citizens of the United States should exceed the said sum of —— dollars, His Catholic Majesty shall pay the surplus, without deduction, to such of the claimants, and at such times and places, as the said commissioners shall appoint.

The Government of the United States will also pay, without deduction, at the city of Washington, all such sums as may be awarded against them by the said commissioners for compensation due to Spanish subjects, at such times as shall be appointed in the awards respectively.

This convention shall be ratified within —— days after the signing thereof, and the ratifications shall be exchanged within —— days after the ratification by the United States, at the city of Washington.

Observations.

The first form of article 1, § 1, is preferred, because it explicitly recognises the right of the United States under the treaty of St. Ildefonso, and of April 30, 1803, to the river Perdido, which is constructively provided for only in the second form. It is indispensable that the United States be not precluded from such a construction, first, because they consider the right as well founded; secondly, and principally, because it is known that a great proportion of the most valuable lands between the Mississippi and the Perdido have been granted by Spanish officers since the cession was made by Spain. These illicit speculations cannot otherwise be frustrated than by considering the territory as included in the cession made by Spain, and thereby making void all Spanish grants of subsequent date.

It is represented that these grants have been extended, not only to citizens of the United States, but to others whose interest now lies in supporting the claim of Spain to that part of Louisiana, in opposition to that of the United States. It is conjectured that M. Laussat himself has entered into these speculations, and that he felt their influence in the declaration made confidently to our commissioners at New Orleans, that no part of West Florida was included in Louisiana.

In supporting the extent of Louisiana to the Perdido, you will find materials for your use in the extract above referred to, and the other documents annexed, to which you will add the result of your own reflections and researches. The secret treaty between France and Spain, ceding Louisiana west of the Mississippi to Spain, and which has never been printed, may doubtless be obtained at Paris, if not at Madrid, and may be of use in the discussion. From the references in the French orders of 1764, for the delivery of the province, it is presumed to be among the archives at New Orleans; and Governor Claiborne has been requested to send a copy of it: but it may not be received in time to be forwarded for your use. In an English work, "the Life of Chatham," printed in 1793, for J. S. Gordon, London, No. 166, Fleet street, I find a memorial referred to, but not there printed, with the other negotiations preceding the peace of 1762-3, expressly on the subjects of the limits of Louisiana, and, as sufficiently appears, with a view to give the province its extent to the Perdido. You will perhaps be able to procure in London or Paris a sight of this document: it probably contains most of the proofs applicable to the question, and will be the more important as proceeding from France; it will strengthen our lien on her seconding our construction of the treaty. The memorial will be the more important still, if it should be found to trace the western limits also of Louisiana, and to give it a corresponding extent on that side. In page 416 and sequel of Vol. I, you will see the fact established that the Floridas, including the French part, were ceded to Great Britain as the price for the restoration of Cuba, and that, consequently, the French part now claimed by the United States was a cession purely for the benefit of Spain.

The reasons, beyond the advantages held out in the arrangement itself, which may be addressed to Spain, as prompting a cession of her remaining territory eastward of the Perdido, will be found in the remarks in the extract aforesaid, in the instructions to Mr. Pinckney and yourself of the 17th day of February last, and in those which have from time to time been given to Mr. Pinckney. The Spanish Government cannot but be sensible that the expense of retaining any part of that territory must now more than ever exceed any returns of profit; that, being now more than ever indefensible, it must the more invite hostile expeditions against it from European enemies; and that, whilst in her hands, it must be a constant source of danger to harmony with the United States.

The arrangement proposed in article 2d supposes that Louisiana has a very great extent westwardly, and that the policy of Spain will set much value on an interval of desert between her settlements and those of the United States.

In one of the papers now transmitted, you will see the grounds on which our claim may be extended even to Rio Bravo. By whatever river emptying into the Gulf eastward of that Spain may with any plausibility commence the western boundary of Louisiana, or however continue it thence to its northern limit, she cannot view the arrangement in any other light than that of a liberal concession on the part of the United States, to be balanced by an equivalent concession on her part. The limit to the interval on our side is to be considered as the ultimatum, and, consequently, not to be yielded without due efforts to fix a limit more distant from the Mississippi. It is highly important, also, or rather indispensable, that the limit on the Spanish side should not be varied in any manner that will open for Spanish occupancy any part of the waters connected with the Missouri or Mississippi. The range of highlands separating these waters from those of the Rio Bravo, and other waters running westward, presents itself so naturally for the occasion, that you will be able to press it with peculiar force.

To enable you the better to understand the delineations contained in this article, and any others which may be brought into discussion, I forward herewith copies of two maps, and refer you to two others, viz. that of Danville, which you will find either at London or Paris, and, if no where else, in Postlewait's Directory, and a map by Mr. —— in 1768, referred to in one of those forwarded. The latter you will doubtless be able to procure at Madrid. The blank for the term of years is not to be filled with more than —— years, nor with that number, if a shorter term can be substituted.

The fourth and fifth articles relate to claims against Spain, not provided for by the convention already entered into, and the payment to be assured by the United States. For the reasoning in support of the claims founded on wrongs, proceeding from other than Spanish subjects, I refer you to the letters and instructions to Mr. Pinckney; your communications with him will also furnish the grounds on which the claims resulting from injuries done to our citizens in the Spanish colonies are to be maintained. The reasonableness of a residuary provision for all just claims is implied by the concurrence of Spain in establishing a Board of Commissioners for the cases already submitted to it.

You will not fail to urge on the Spanish Government the sixth article of the treaty of 1795, as particularly applicable to cases where other than Spanish subjects have committed spoliations on our vessels and effects within the extent of Spanish jurisdiction, by sea or by land. To justice and the law of nations, this adds the force of a positive stipulation, which cannot be repelled without proving, what cannot be proved, that the Spanish Government used all *the means in its power* to protect and defend the rights of our citizens; and which cannot be resisted, without pleading, what self-respect ought not to permit to be pleaded, that the sovereignty of His Catholic Majesty was under duress from a foreign Power within his own dominions.

The sum of money to be paid by the United States is, in no event, to exceed two millions of dollars, in cash, at the Treasury of the United States, not in public stock, and is to be applied towards the discharge of awards to our citizens; and it is hoped that a much smaller sum will be found sufficient.

If Spain should inflexibly refuse to cede the territory eastward of the Perdido, no money is to be stipulated. If she should refuse also to relinquish the territory westward of that river, no arrangement is to be made with respect to the territory westward of the Mississippi; and you will limit your negotiations to the claim of redress for the cases of spoliation above described.

If Spain should yield on the subject of the territory westward of the Perdido, and particularly if a comprehensive provision for the claims should be combined therewith, you may admit an arrangement westward of the Mississippi, on the principle of that proposed, with modifications, however, if attainable, varying the degree of concession, on the part of the United States, according to the degree in which Spain may concur in a satisfactory provision for the cases of the territory westward of the Perdido, and of the claims of indemnification.

The United States having sustained a very extensive though indefinite loss, by the unlawful suspension of their right of deposite at New Orleans, and the Spanish Government having admitted the injury by restoring the deposite, it will be fair to avail yourself of this claim in your negotiations, and to let Spain understand that, if no accommodation should result from them, it will remain in force against her.

The term of years, during which the interval between the settlements of the United States and of Spain are to be prohibited, is a consideration of great importance. A term which may appear a moment to a nation stationary, or slowly advancing in its population, will appear an age to a people doubling its population in little more than twenty years, and, consequently, capable in that time of covering with an equal settlement double the territory actually settled. This reflection will suggest the expediency of abridging the continuance of the prohibition as much as the main objects in view will permit. Twenty years are a limit not to be exceeded. Fifteen, or even ten, if the space between the Mississippi and the interval territory be not enlarged, seem to be as much as Spain can reasonably expect. She cannot but be sensible, and you will make use of the idea if you find it prudent so to do, that, before a very long time will elapse, the pressure of our growing population, with events which time does not fail to produce, but are not foreseen, will supersede any arrangements which may now be stipulated, and, consequently, that it will be most prudent to limit them to a period susceptible of some certain calculations.

No final cession is to be made to Spain of any part of the territory on this side of the Rio Bravo, but in the event of a cession to the United States of the territory east of the Perdido; and, in that event, in case of absolute necessity only, and to an extent that will not deprive the United States of any of the waters running into the Missouri or the Mississippi, or of the other waters emptying into the Gulf of Mexico between the Mississippi and the river Colorado, emptying into the bay of St. Bernard.

No guaranty of the Spanish possessions is to be admissible.

This letter is intended for Mr. Pinckney as well as yourself, and as containing the instructions by which the execution of your joint commission is to be guided.

APRIL 18.

The President being absent, and it being most proper to wait his return, which may be shortly expected, before any final instructions be given as to your immediate destination, after closing your mission to Spain, which may be shortened or spun out according to circumstances, I recommend that you do not actually leave London until you hear again from me. The moment the President arrives I will communicate to you his views by multiplied conveyances, that you may receive them with as little delay as possible. In the mean time, you will make such preparations as will enable you to depart at a short notice.

Mr. Madison to Messrs. Monroe and Pinckney.

DEPARTMENT OF STATE, *July* 8, 1804.

GENTLEMEN:

Since the instructions given you on the 15th of April last, further views have been obtained with respect to the interior of Louisiana, and the value which Spain will probably put on such a limitation of our settlements beyond the Mississippi as will keep them for some time at a distance from hers. The President has accordingly become the more anxious that, in the adjustment authorized by those instructions, the terms may be made favorable to the United States. He does not, indeed, absolutely restrain you from yielding to the ultimatum therein fixed, in case it be required by the inflexibility of the Spanish Government, and particularly by the posture and prospect of affairs in Europe; but he is not a little averse to the occlusion, for a very long period, of a very wide space of territory westward of the Mississippi, and equally so to a perpetual relinquishment of any territory whatever eastward of the Rio Bravo. If this river could be made the limit to the Spanish settlements, and the Rio Colorado the limit to which those of the United States may be extended; and if a line northwest or west from the source of whatever river may be taken for the limit of our settlements could be substituted for the ultimatum line running from the source of the Sabine to the junction of the Osages with the Missouri, and thence, northward, parallel with the Mississippi, the interval to be unsettled for a term of years would be defined in a manner peculiarly satisfactory. The degree, however, in which you are to insist on these meliorations of the arrangement, must be regulated by your discretion, and by the effect which the probable course of events will have on the temper and policy of Spain. Should she be engaged in the war, or manifestly threatened with that situation, she cannot fail to be the more anxious for a solid accommodation on all points with the United States; and the more willing to yield, for that purpose, to terms, which, however proper in themselves, might otherwise be rejected by her pride and misapplied jealousy. According to the latest accounts from Great Britain, a revolution in the ministry, if not a change on the throne, was daily expected; and, from either of those events, an extension of the war to Spain, if not precluded by the less probable event of a speedy peace with France, would be a very natural consequence. It is to be understood, that a perpetual relinquishment of the territory between the Rio Bravo and Colorado is not to be made, nor the sum of —— dollars paid without the entire cession of the Floridas; nor any money paid in consideration of the acknowledgment by Spain of our title to the territory between the Iberville and the Perdido. But a proportional sum out of the —— dollars may be stipulated for a partial cession of territory eastward of the Perdido. If neither the whole nor part of East Florida can be obtained, it is of importance that the United States should own the territory as far as the Appalachicola, and have a common, if not exclusive right to navigate that stream. I must repeat that great care is to be taken that the relinquishment by Spain of the territories westward of the Perdido be so expressed as to give to the relinquishment of the Spanish title the date of the treaty of St. Ildefonso. The reason for this was before explained, and is strengthened by recent information, as you will find by the annexed extract of a letter from Governor Claiborne. Other proofs might be added. In any further cession of territory, it may be well so to define it, as to guard as much as possible against grants irregular or incomplete, or made by Spanish officers in contemplation of such a cession.

On entering into conferences with the Spanish ministry, you will propose and press, in the strongest manner, an agreement that neither Spain nor the United States shall, during the negotiation, strengthen their situation in the

territory between the Iberville and the Perdido, and that the navigation of the Mobile shall not be interrupted. An immediate order from the Spanish Government to this effect may be represented as of the greatest importance to the good understanding between the two countries; and that the forbearance of the United States thus long is a striking proof of their sincere desire to maintain it. If such an order should be declined, you will not fail to transmit the earliest information of it, as well as to keep up such representations to that Government on the subject, as will impress it with the tendency of so unreasonable and unfriendly a proceeding to drive the United States into arrangements for balancing the military force of Spain in that quarter, and for exerting their right of navigation through the Mobile. This navigation has become important, or rather essential; and a refusal of Spain to acquiesce in it must commit the peace of the two nations to the greatest hazard. The posture of things there is already extremely delicate, and calls for the most exemplary moderation and liberality in both the Governments. As a proof of it, I enclose a correspondence between Governor Claiborne and the Spanish Government at Pensacola, on the same subject as that of mine with the Marquis de Yrujo, already transmitted to you.

I have the honor, &c &c.

JAMES MADISON.

JAMES MONROE and CHARLES PINCKNEY, Esqrs.

The Secretary of State to Mr. Monroe.

DEPARTMENT OF STATE, *October* 26, 1804.

SIR:

The turn which our affairs have taken at Madrid renders it expedient, in the judgment of the President, that you should proceed thither without delay, in execution of the instructions heretofore given, with such alterations and additions as are contained in this letter. You will, of course, make such communications to the British Government on your departure, as will guard your mission against injurious misconstructions; and at Paris, on your route, you will avail yourself of all the opportunities there for ascertaining and turning to just account the dispositions of the French Government with respect to the questions depending between the United States and Spain.

As Mr. Pinckney may have left Madrid, and, if not, is on a footing unfavorable for cordial negotiations with the Spanish ministry, I enclose herewith a new letter of credence and commission, enabling you singly to execute the trust. Should a successor to Mr. Pinckney be appointed, and arrive in time, it will be decided by the President how far he will be associated in the business.

For a view of the circumstances which call for your presence at Madrid, I refer you to the late correspondence here with the Marquis de Yrujo, of which a copy is annexed, and to that with Mr. Pinckney, and to his with Mr. Cevallos, which his files will furnish you. I add also a letter of this date from the Department of State to Mr. Pinckney.

Notwithstanding the rumor which appears to have spread in Europe of an impending rupture between Spain and the United States, there is nothing in the avowed sentiments of the Spanish Government, and certainly nothing in the sound policy of Spain, to justify an inference that she wishes to be no longer at peace with us. It may reasonably be expected, therefore, that you will meet with a friendly reception. In return, you are authorized by the President to give every proper assurance of the desire of the United States to maintain the harmony and to improve the confidence between the two nations; and, with this view, to hasten, by frank elucidations and equitable accommodations, a removal of every source from which discord might arise. You will not fail, at the same time, to recollect, in conveying these amicable sentiments, the propriety of leaving the Spanish Government under an impression that they flow neither from a fear of the Spanish Power, nor a belief that Spain sets little value on a continuance of peace with us. If the United States have a deep interest in avoiding war, they know that Spain cannot feel less of interest in avoiding it, and is in no condition, therefore, to extort sacrifices, or to risk the consequences of such an experiment.

If no exchange of ratifications of the convention of August 11, 1802, should have preceded your arrival at Madrid, the President has authorized you to make the exchange; but it is on the expectation that the Spanish ratification will be absolutely unqualified. It must be not only without conditions, but without *protestandos* or declarations of any sort. Rather than admit them, it is thought better to let the convention drop altogether, and to incorporate its provisions with those of a similar kind, making part of the general accommodation with which you are charged. Indeed, if there be a prospect of effecting this accommodation without delay, there may be an advantage in laying aside the convention of 1802, as there will be an opportunity of giving to some of its articles both more precision and more comprehension. You will find some hints on this subject in the letters heretofore written to Mr. Pinckney, and may derive others from similar provisions in former conventions.

The spoliations by French citizens chargeable on Spanish responsibility will be an important topic in your negotiations, whether the convention of 1802 be separately carried into effect, or be consolidated with a new one.

It is clear, as has been distinctly and repeatedly stated in the instructions given to Mr. Pinckney, that where the capturing vessels were equipped in Spanish ports, or the prizes made or condemned within Spanish jurisdiction, Spain is answerable for them to the United States. This, as a general principle, has not been denied. But two pleas are offered, as rendering the principle inapplicable to the claims of our citizens. One is, that the circumstances in which Spain was placed disabled her from controlling the wrongs done by French citizens; the other, that the convention between the United States and France having relinquished the claim of indemnities against the latter, Spain became thereby absolved also; inasmuch as the relinquishment to France would otherwise be so far frustrated by her obligation to satisfy Spain for the indemnities paid by her to the United States.

The first plea alone was advanced in the early stages of the discussion. The second was pretty certainly suggested by the Spanish minister here, who, for that reason, may be the more anxious to see it prevail; and it has been abetted by the rescripts of several American lawyers, obtained, doubtless, by the same minister, on a hypothetical case, so stated as to educe the desired opinion.

With respect to the first plea, it is too little consistent with the honor of Spain to be persevered in, and has been but feebly urged since the second occurred. It would require, besides, from Spain, satisfactory proof that she made every reasonable effort to maintain her own authority against the coercive intrusion of that of France. No such proof has been offered or attempted. In truth, no serious effort appears to have been made; and it may fairly be presumed that the pliability of Spain was either the result of a positive understanding with France, or a compliance offered as a price for some equivalent advantage.

With respect to the second plea, so far as it respects the opinion of the lawyers, I refer, for the light in which it ought to be regarded, to the observations made in my letter of ——— to Mr. Pinckney.

In its merits, the plea is equally unsustainable. In the first place, some of the French citizens, whose irregularities are charged on Spain, were private citizens, having no commissions from France, in whose proceedings France cannot be supposed to have taken any interest, and for which, therefore, she might justly refuse to be answerable. In the next place, others of the wrong-doers, though once commissioned by France, may at the time have been without commissions, or have retained dead commissions only. For these, also, as in fact private citizens, France may refuse to be answerable. Again, in cases where the captures stated to have been numerous, being made within the territorial jurisdiction of Spain, were controllable by Spain, and probably not patronized by France, no sufficient ground appears on which France could be made chargeable.

The responsibility of Spain in this last case is the more direct and positive, as she is bound, by the sixth article of the treaty of October, 1795, to use all her efforts to recover and restore to the right owners their vessels and effects, which may have been taken within the extent of her jurisdiction by sea or land, whether they are at war or not with the Power whose subjects have taken possession of the said effects.

Lastly, therefore, the cases for which France is eventually liable, because presumably a party to them, are those only in which her commissioned cruisers on the high seas were the captors, and her agents in the Spanish ports the instruments of condemnation: the several other cases, with such as may have happened between the convention with France of September 30, 1801, and that with Spain of August 11, 1802, being as unsustainable against France, not with the principle on which the Spanish plea is founded.

As to this last class of cases, proceeding from French officers and French agents, as well as every other which can be traced to the sanction and support of France, it is certain that eventual resort may be had to France for indemnification.

But it is no less clear that this eventual remedy does not interfere with the right of the United States to resort in the first instance to Spain, as in the first instance, and in the ordinary course, responsible for the injuries committed. French citizens, like all other aliens within Spanish jurisdiction, are, for the time and place, Spanish subjects. As such they are regarded by Spain herself; as such they are regarded by other nations; and as such Spain is answerable for their conduct to other nations in the same manner as she is answerable for that of her permanent subjects.

Could it be shown, therefore, that France had been released from her responsibility, it would not follow that the release of Spain was involved in that of France. France would only have been released from her eventual responsibility, (where it even existed,) whilst Spain would have remained under her immediate responsibility. Both may be considered as bound to indemnify the United States; Spain as the primary, France as the secondary debtor; Spain as the principal, France as a surety; and the release of France, consequently, is no more releasing Spain, than the release of a surety would release the principal debtor. This view of the subject derives force from the consideration that the United States have, from the beginning, addressed their claims to Spain as primarily and principally bound to satisfy them.

But to cut up this plea by the roots, it may be affirmed that no such release has been given by the United States to France. The convention, from which the plea is derived, expressly binds France, in the third article, to indemnification for all captures which might be subsequent to the date of the instrument, and also *in cases where no definitive condemnation had, at that date, taken place*. Now, the condemnations by French agents in Spanish ports are neither definitive condemnations, nor any legal condemnations at all. The degree of authority and forms of proceeding meant by France to be intrusted to her commercial agents in foreign countries, appear to have been different at different times; and it may deserve inquiry what they were at the respective dates of the cases in question. By a law of the republic of October, 1795, it would seem that the authority was first granted, and in an unconditional form. By a law of their Consular Government, however, of 8 Germinal, year 8, the same authority was granted, with the following modification: "Et dans le cas où le présent règlement pourra recevoir son exécution, ils rempliront toutes les fonctions dont il charge l'officier d'administration des ports de la république, en se faisant assister de deux assesseurs, choisis, s'il est possible, parmi les citoyens François immatriculés et établis dans le lieu de la résidence de ces commissaires." The proviso implied by the expression "et dans le cas où le présent règlement pourra recevoir son exécution," combined with the preceding reference to treaties, &c. will show that the authority was not to be exercised without the consent of the foreign country where the trial was to be had. And by a Spanish regulation in 1799, referred to, and enclosed in my letter to Mr. Pinckney of 8th March, 1803, it is expressly declared, that the jurisdiction of the French agents in Spanish ports was not admitted by the Spanish Government. It will deserve inquiry, also, in what light France herself may view the condemnations assumed by her agents in Spanish ports. From some information lately received from Mr. Skipwith, it may be inferred that they are not classed with those relinquished to her by the United States, and, if not mere nullities, are at least within the exceptions to the relinquishment stated in the third article of the convention of 1801; and, consequently, were it possible for Spain to prove the duress she alleges, would be eventually chargeable on France, according to her own view of the subject, so far as her judicial regulations may have been pursued by the individual sufferers.

In fine, the proceedings in question were either valid or not valid. If not valid, the release of France cannot be applicable to them, and the plea of Spain falls. If valid, the validity must proceed from the sanction given to them by Spain herself, since, without that sanction, the French authority could not operate within the sovereignty of Spain; and with that sanction, the proceedings would be virtually the acts of Spain, and the more undeniably chargeable to her account.

Thus, in every view of the subject, Spain will find it impossible to evade the obligation to include, in a just and honorable settlement with the United States, the French spoliations charged on her, as well as those committed by Spanish subjects.

Still her pride may adhere to objections which have been so pertinaciously, though with such little reason, urged by her. To spare this, her retreat may be covered by general expressions confounding the French with the other spoliations; or it may, if necessary, be still more effectually spared by a tacit relinquishment, at the same time, on the part of the United States, of the indemnities for the interruption of the deposite at New Orleans, which, being an express violation of treaty, forms a claim against Spain which she cannot controvert, and of which the Government of the United States has never lost sight. In such a relinquishment, it will be desirable, if practicable, to except such of the few claims for losses sustained by individuals, as can be properly specified and verified; limiting, thereby, the relinquishment to the general injury done to the body of the people, by the unlawful obstruction of their commerce. A reparation for this injury is clearly due to the American nation; and Spain has no reason to expect that it will be abandoned without a valuable consideration of some kind or other.

For your guide in your general negotiations, you will take the instructions heretofore addressed jointly to Mr. Pinckney and yourself; with one alteration, however, which is authorized by the President. In case the Spanish Government shall refuse to cede the territory eastward of the Perdido, and shall require, as indispensable to an acknowledgment of our title to the territory westward of that river, an acknowledgment on our part, that in ultimately establishing the western boundary of Louisiana, the pretensions of the United States shall not go beyond the proposed western limit to the interval of desert, to wit, the river Colorado, a line thence to the source of Red river, thence, along the highlands, &c., you are authorized, after reasonable endeavors otherwise to effect your object, to acquiesce in the acknowledgment so required.

Mr. Madison to Mr. Monroe.

SIR: DEPARTMENT OF STATE, *May* 4, 1805.

I have just received your letter of the 2d of February, and one of the same date, signed by Mr. Pinckney also, with the communications attached to them. Those of the preceding dates, of the 27th November, 16th December, and 19th January, had been previously received.

Observing that, in the project delivered to the Spanish Government, you have omitted the provision contained in the plan for a general accommodation, transmitted in my letter of April 15, 1804, for claims subsequent to the date of the convention of August, 1802, I lose no time in referring you to that letter, and to another of the 26th of October following, in which the course to be pursued is marked out, and in reminding you of the great importance of not losing sight of that class of claims, which are of great amount, are daily increasing, and which ought to be embraced to as late a date as possible. Should your negotiations, therefore, be still open, I recommend this subject to your particular attention. Should the negotiations have been successfully closed, it will be proper for you to procure, if it can be done, a supplemental article for the purpose. If this cannot be done, or if the negotiations should have failed, the instructions adapted to that state of things will be given to Mr. Bowdoin, as soon as it shall be known here.

I recommend, in like manner, to your attention, the remarks contained in my letter of March 22, 1803, to Mr. Pinckney, on the modifications proper to be given to the text of a convention; and the remark in my letter of October 26, 1804, relative to the Spanish garrison, which alone may be permitted to continue.

With high consideration, &c. JAMES MADISON.

JAMES MONROE, Esq. *Madrid.*

Mr. Madison to Mr. Monroe.

DEPARTMENT OF STATE, *May* 23, 1805.

SIR: I have duly received the several communications transmitted by Mr. Pinckney and yourself, under date of the 1st March last. I have also received from General Armstrong copies of his letters to you of the 12th and 18th of March. The passages in this last, in cipher, having not been copied into that used by this Department with General Armstrong, remain locked up, but probably do not affect the general tenor of this letter.

From these communications, it appears that France has arranged herself on the side of Spain, in such a manner that Spain will neither be disposed nor be permitted to bend to our claims, either with respect to West Florida or the French spoliations. What part France may take in relation to the western boundary of Louisiana seems not to have been disclosed. From the silence on that point, in Talleyrand's note of November 8th, in answer to yours, in which the claim of the United States to the Rio Bravo is expressly asserted, and from the confidential acknowledgment of that boundary by M. Laussat to Governor Claiborne and General Wilkinson, it might be expected that, on this important point, France would side with us against Spain. Should this be the case, it is hoped, notwithstanding the unfavorable posture of the negotiation, that there will be room to give it some such result as was contemplated. But there is so little reliance to be placed on the temper and views of France, as lately developed, that a failure of your efforts ought to be anticipated. The alternative presented by this event is that of war, or a state of things guarding against war for the present, and leaving in vigor our claims to be hereafter effectuated. Against war, if to be safely and honorably avoided, the considerations are obvious and powerful. As it is a question which belongs to Congress, not to the Executive, that consideration alone forbids any step, on the part of the latter, which would commit the nation, and so far take from the Legislature the free exercise of its power. And it may be fairly presumed, considering the daily increase of our faculties for a successful assertion of our rights by force, that neither the nation nor its representatives would prefer an instant resort to arms to a state of things which would avoid it, without hazarding our rights or our reputation. The two essential articles in such a state of things are, 1st, A forbearance on the part of Spain, as well as of the United States, to augment their settlements, or to strengthen in any manner their military establishments within the controverted limits; 2dly, Not to obstruct the free communication from our territories, through the Mobile and other rivers mouthing in the Gulf of Mexico, or through the Mobile at least.

In the first of these articles must be included a forbearance on the part of Spain to introduce slaves, as well as free persons, not only as in one sense augmenting her settlements, but as facilitating a clandestine introduction of them, already complained of, into the territories of the United States. It can hardly be supposed that Spain will object to this article, even with such an explanation of it; and if the language of the French minister here be any test of the sentiments of his Government, it may be expected that France will favor the arrangement. This minister has repeatedly and strongly declared that, until all questions concerning the boundary of Louisiana should be adjusted, a *statu quo* was the natural and just policy to be observed.

The second article is, perhaps, not less essential as a precaution for maintaining peace. Every moment of delay threatens collisions which lead to war. The necessity of that channel for the exports and imports of the increasing settlements on the Mobile, above the Florida limit, and for conveying our public stores to the military stations in that quarter, prove at once the reasonableness of the demand and its close connexion with the maintenance of peace. You will find, by the enclosed correspondence between Governor Claiborne and the Marquis de Casa Calvo, that the attention of the latter has been drawn to the subject, and that it will have been thence transmitted to the Spanish Government. It is proper for you to know that the existing regulations of the United States permit the settlements in the district of Baton Rouge, on the Mississippi, to navigate this river, with the exception only as to the introduction of slaves and armed vessels; exceptions having reference to the very objects of the regulations now in question.

I forbear to repeat the grounds on which the right of the United States to the use of those rivers is to be placed. They are already in the archives of the legation at Madrid. More effect, however, is to be expected from the necessity which a refusal of the navigation will impose on the United States to enforce their claim, than from any appeal to the principles which support it; and this necessity must be permitted to impress itself fully on the Spanish councils. The influence which France will have in this instance, as in all others, will make it worth while to learn the doctrine she has maintained with respect to the navigation of waters flowing through different jurisdictions. It is pretty certain that she has been led to assert ours, in relation to the Scheldt, and probably to the Rhine, and perhaps other rivers.

The silence of your communications with respect to the instruction in my letter of July 8th, 1804, to make the subject of the present a part of your first conference with the Spanish Government, leaves it uncertain what particular disposition may have been manifested, and whether any orders, such as were required, have been transmitted. The inference that we draw is, that you were either induced to decline pressing them, or that the requisition did not succeed. Whatever may have been the case, you will consider it as a charge from the President, in the event pre-supposed, of a failure in your general negotiation, to pursue, without delay, the course herein prescribed. Should you fail in this also, you will lose no time in transmitting the result, taking care not to commit the Government of the United States in any respect, nor to alarm Spain into hostile measures or preparations further than may be inevitable. Should you succeed in what is here proposed, you will, in that case, also give the earliest notice, without precluding the United States from any course not inconsistent with the temporary arrangement formed, and leaving Spain under the impression that the arrangement will probably guaranty a continuance of peace.

In the instructions of October 26th, 1804, it was left discretionary to accept a ratification of the convention of August, 1802, or to incorporate it with the general one committed to your negotiation, with an intimation that it might be best to do the latter, in case but little delay in giving effect to the convention of 1802 should be thereby incurred. The delay actually incurred must have led you to take the first course, if left to your option by Spain. From the spirit, however, of Mr. Cevallos's observations in his letter of——, there is little probability that a ratification would be given, unshackled by conditions, which you were instructed to reject. It only remains now, therefore, to observe to you, that those conditions continue to be regarded by the President as absolutely inadmissible. The ratification, as already signified to you, is not to be accepted with any condition or qualification whatever, beyond such an arrangement as is explained in the letter of October 15, 1804, of which an extract is repeated from the Department of State to the Marquis de Yrujo, for affording a moderate time to Spanish subjects to produce their claims. If a ratification, thus unshackled, be within your option, the President deems it proper that you should accept and transmit it, although none of the other objects committed to you should have been attained. Besides the pledge which a partial accommodation may prove for a more comprehensive adjustment, it is to be considered that the provision therein made for a considerable portion of our citizens who are claimants, is due both to their interests and to the sanction given to it by the Senate, and that the manner in which the sixth article describes the suspended claims, is favorable to the principle on which they are founded.

This letter will be so addressed, that it may be opened by Mr. Bowdoin, in case of your departure previous to his arrival, or by Mr. Ewing, in case of his reaching Madrid before Mr. Bowdoin: and either of these gentlemen is hereby authorized, in pursuance of the instructions here given relative to the convention of August, 1802, to arrange and accept its ratification. I have the honor, &c. &c.

JAMES MADISON.

JAMES MONROE, Esq.

V. Letter from Mr. Monroe to M. Talleyrand; a letter from M. Talleyrand to Mr. Armstrong; and a letter from Mr. Armstrong to Mr. Monroe.

Mr. Monroe to M. Talleyrand.

PARIS, *November* 8, 1804.

SIR:

Before the conclusion of the late treaty between the United States and France, your excellency will recollect that it was an object of the President to acquire of Spain, by amicable arrangement, Florida; it being that portion of her territory which she held eastward of the Mississippi. It was also his object, after the conclusion of that treaty, not that it was pressed by such imperious considerations as before, but that, as it would contribute to remove all cause of uneasiness and jealousy between the two Powers, they might adopt and harmonize in future in such a system of policy as might secure to them peace, and give additional protection to their possessions in that quarter, especially to those of Spain. In the conferences which produced the treaty above mentioned, the good offices of His Imperial Majesty were engaged to the United States in any negotiation which the President might commence with the Catholic King, for the acquisition of Florida. The same assurance was renewed after the conclusion of the treaty, though it was intimated that that was not a suitable time for the commencement of such a negotiation. It was, on that intimation, as your excellency will also recollect, at a moment when I was about to set out for Spain in pursuit of the object, (the then recent orders of the President permitting it,) that I postponed my journey thither, and took a different position. The proposed negotiation with Spain was, in consequence, and has since remained, suspended; and it is in obedience to late orders from my Government that I am now so far on my way to Madrid on that subject, and that Mr. Livingston has requested the good offices of the Emperor in support of it. It is proper here to remark, that, since the epoch referred to, the treaty then just concluded between the United States and France has been carried into effect, in its great points, with that scrupulous attention to good faith which does to both parties the highest honor. Their conduct in that transaction gives to each a pledge for the integrity which is to prevail in their future intercourse. I may be permitted to add, that, as I declined my visit to Spain at that epoch, the more readily to give an opportunity for the complete execution of that treaty, so, now that it is carried into effect, I undertake it with the greater pleasure, since it confirms me in the confidence, before entertained, of the support which would be given to it by His Imperial Majesty.

The President has been induced to adopt this measure at this time, by considerations the most urgent. As these are inseparably connected with the proposed negotiation, indeed, form, in part, the object of it, it is due to the friendship subsisting between our Governments, and to the candor which the President will never fail to observe in his transactions with the Emperor, to give you a distinct idea of them. They will, I doubt not, satisfy you that the President has heretofore shown a sincere desire to cultivate the friendship of the Catholic King, and that the attempt which he now makes to preserve that relation is a new and signal proof of that disposition.

Since the treaty between the United States and France, whereby Louisiana was ceded to the former, a question has arisen between those States and Spain, relative to the boundaries of the ceded territory. It is understood that the Government of Spain entertains an idea that that cession comprises only that portion of Louisiana which was ceded to it by France in 1762; that it does not comprise that portion also which was ceded by her, at the same time, to Great Britain, distinguished, while in her possession, by the name of West Florida. This pretension of the court of Spain cannot, it is presumed, be supported by even the color of an argument. Had that been the intention of the parties in the treaty of St. Ildefonso, it would have been easy to have provided for it. The idea was a simple one, which a few plain words would have expressed. But the language of the article referred to conveys a very different sentiment. We find in it nothing which countenances a presumption that the Emperor meant to retake from Spain only a portion of Louisiana, or to refer to it in a dismembered state. It was natural to suppose, in accepting a retrocession of that province from a Power possessed of the whole, that he would take it entire, such as it was when France possessed it. Accordingly, we find that the terms of the article making the cession are as full and explicit to that object as it was possible to use. It is not stipulated that Spain should cede to France that portion of Louisiana only which she had received from France, or that West Florida should be excepted from the cession. It is, on the contrary, stipulated that she shall cede it such as it was when France possessed it; that is, such as it was before it was dismembered by the cessions afterwards made to Spain by Great Britain; that she should cede it with the same extent that it now has in the hands of Spain; that is, entire, which it became by the treaty of 1783, whereby West Florida was ceded by Great Britain to Spain; such as it is according to subsequent treaties between Spain and other Powers: a stipulation which does honor to His Catholic Majesty, since it proves that, in making the cession to France, he intended to cede only what he had a right to cede; that he recollected the treaty which he had concluded with the United States in 1795, knew the extent of its obligations, and was resolved to execute them with good faith. Your excellency will receive, within, a paper containing an examination of the boundaries of Louisiana, which, it is presumed, proves incontestably the doctrine above advanced, as also that the river Perdido is the ancient, and, of course, present boundary of that province to the east, and the Rio Bravo to the west.

The United States have other causes of complaint against Spain, of a serious import. In the course of the last war many aggressions were committed, under the authority of the Government of Spain, but, as it is presumed, without its sanction, on the commerce of the United States. Her ships of war and privateers took many of their vessels in Europe and America, carried them into her ports, detained and condemned them, under pretexts which cannot be justified. The injury sustained by this proceeding was great and extensive, for which it is the duty of the President to obtain for the sufferers an adequate reparation. A convention was entered into at Madrid, about two years since, between the two Powers, which provided a partial remedy for these injuries. The great object, however, was left open for future arrangement. It was owing to that consideration, and to acknowledge that the principal cause of variance was unprovided for, that the negotiation was, in truth, unfinished; that neither Government took any interest in ratifying or executing that convention. The whole subject, therefore, now lies open for discussion, and it is very much desired to conclude it on such fair principles as may be satisfactory to His Catholic Majesty, while it enables the President to vindicate the character of his administration, in obtaining for American claimants the justice to which they are entitled.

The occlusion of the river Mississippi, about two years ago, contrary not only to the spirit but to the express stipulations of the treaty of 1795 between the United States and Spain, was an act which exposed to essential injury the interest of the Western inhabitants of those States, while it could not be considered otherwise than as a high indignity to their Government. His Catholic Majesty did not hesitate to disavow the act, when complained of by the American minister at Madrid. This disavowal made some atonement to the violated honor of the Government, but no reparation for the injury which had been sustained by individuals. A reasonable, but adequate, reparation is still due on that account, and it is expected that His Catholic Majesty will see the justice and propriety of making it.

These circumstances have produced an interesting crisis in the political relation of the United States and Spain, which it is the sincere desire of the President to remove by fair and amicable arrangement. If the negotiation which is about to be commenced by his order does not terminate in that result, it will be owing altogether to the Government of Spain. The measure which is now adopted, the negotiation which is invited, is a convincing proof of the sincerity and good faith with which the President seeks to preserve the relations of friendship between the two Powers. In the pursuit of its objects, no unreasonable pretension is entertained, no unjust demand will be made. On the subject of boundaries, although the Congress, on a thorough conviction of its rights, authorized the taking immediate possession of Louisiana, according to its ancient limits, and, of course, to the river Perdido, to the east, yet the President, from motives of respect to the Catholic King, postponed the execution of the measure, to give time for amicable explanations with his Government, in full confidence that they will produce their desired effect. In respect to aggressions on our commerce, and other injuries, it cannot be doubted that a suitable indemnity will be made for them. The cession of Florida is a question which rests on different ground. The policy of that mea-

sure, and the conditions of it, in case the policy is admitted, are points to be decided by each Government for itself, from a view of its interest and other circumstances. Should the cession be made, and the other points be adjusted, there is no reason why the peace and harmony of the two nations should not be perpetual. There would remain no cause of jealousy between them, no point of collision. Possessed of ample territory to satisfy their growing population for ages to come, the United States would be left at liberty to pursue their interior arrangements without apprehending the interference of, or having the disposition to interfere with, their neighbors. Such a system of policy, on their part, would contribute, in a very eminent degree, to the security of the vast dominions of Spain to the south of us. To Spain, it is presumed that the territory is of but little importance. In itself, it is of none, as it is a barren tract. If she retains it, it must be as a port for troops, to be placed there in opposition to us; a measure which tends to provoke hostility and lead to war. The Havana is a port which answers more effectually every object which she could contemplate from this, while it is free from all the objections that are applicable to the latter. Being an island, it is less assailable by a foreign Power. Situated in the Gulf of Mexico, it furnishes the means of giving all the protection to her other possessions that she could desire, and, by uniting her whole force at one point, increasing her means of defence against attack, or of annoying her enemies in time of war. It is earnestly hoped that the Catholic King will take a dispassionate view of these circumstances, and of the relative situation of the two Powers, and meet the President in a suitable provision for their future friendship. Should he, however, be disposed to pursue a different policy, on him will the responsibility rest for the consequences.

The relation which has subsisted invariably between His Imperial Majesty and the Government which I have the honor to represent, has been of the most friendly character. It is on the knowledge of that fact, and the satisfactory evidence which it furnishes, that the Emperor takes an interest in the welfare of the United States; it is on the promise above adverted to, made on his part, to support with his good offices any negotiation which the President might commence with the court of Spain for the acquisition of Florida; as also on the firm belief that the attainment of that object, with the amicable adjustment of all subsisting differences between the United States and Spain, must be advantageous to France, that his good offices have been, and are now, requested in support of that negotiation.

My mission to Spain, being extraordinary, is also temporary. As soon as its objects are accomplished, it is my duty to return to London, which I shall do through this metropolis, when I hope to have the honor and pleasure of being presented again to His Imperial Majesty, and of acknowledging, in person, his friendly offices to my Government and country, in a transaction of high importance to its interests, which the President has thought fit to commit, in part, to my agency.

I beg your excellency to accept the assurance of my high consideration.

M. Talleyrand to General Armstrong.

PARIS, *December* 21, 1804.

SIR:

I had the honor, in Brumaire last, to inform Mr. Livingston that I would submit to the inspection of His Imperial Majesty the letters he addressed to me relative to the motives of Mr. Monroe's journey to Spain, and some discussions between the court of Madrid and the United States.

Among the observations made on this subject by Messrs. Livingston and Monroe, His Imperial Majesty has been obliged to give particular attention to those bearing on the discussions, of which the object is peculiarly interesting to the French Government. He has perceived that he could not have been a stranger to the examination of these discussions, since they grew out of the treaty by which France has ceded Louisiana to the United States; and His Majesty has thought that an explanation, made with that fidelity which characterizes him, on the eastern boundaries of the ceded territory, would put an end to the differences to which this cession has given rise.

France, in giving up Louisiana to the United States, transferred to them all the rights over that colony which she had acquired from Spain; she could not, nor did she wish to, cede any other; and, that no room might be left for doubt in this respect, she repeated, in her treaty of 30th April, 1803, the literal expressions of the treaty of St. Ildefonso, by which she had acquired that colony two years before.

Now it was stipulated, in her treaty of the year 1801, that the acquisition of Louisiana by France was a *retrocession;* that is to say, that Spain restored to France what she had received from her in 1762. At that period she had received the territory bounded on the east by the Mississippi, the river Iberville, the lakes Maurepas and Pontchartrain; the same day France ceded to England, by the preliminaries of peace, all the territory to the eastward. Of this Spain had received no part, and could, therefore, give back none to France.

All the territory lying to the eastward of the Mississippi and the river Iberville, and south of the 32d degree of north latitude, bears the name of Florida. It has been constantly designated in that way during the time that Spain held it; it bears the same name in the treaties of limits between Spain and the United States; and, in different notes of Mr. Livingston of a later date than the treaty of retrocession, in which the name of Louisiana is given to the territory on the west side of the Mississippi; of Florida to that on the east of it.

According to this designation, thus consecrated by time, and even prior to the period when Spain began to possess the whole territory between the 31st degree, the Mississippi, and the sea, this country ought, in good faith and justice, to be distinguished from Louisiana.

Your excellency knows that, before the preliminaries of 1762, confirmed by the treaty of 1763, the French possessions, situated near the Mississippi, extended as far from the east of this river, towards the Ohio and the Illinois, as in the quarters of the Mobile; and you must think it as unnatural, after all the changes of sovereignty which that part of America has undergone, to give the name of Louisiana to the district of Mobile, as to the territory more to the north, on the same bank of the river, which formerly belonged to France.

These observations, sir, will be sufficient to dispel every kind of doubt, with regard to the extent of the retrocession made by Spain to France, in the month of Vendemiaire, year 9. It was under this impression that the French and Spanish plenipotentiaries negotiated, and it was under this impression that I have since had occasion to give the necessary explanations when a project was formed to take possession of it. I have laid before His Imperial Majesty the negotiations of Madrid which preceded the treaty of 1801, and His Majesty is convinced that, during the whole course of these negotiations, the Spanish Government has constantly refused to cede any part of the Floridas, even from the Mississippi to the Mobile.

His Imperial Majesty has, moreover, authorized me to declare to you, that, at the beginning of the year 11, General Bournonville was charged to open a new negotiation with Spain for the acquisition of the Floridas. This project, which has not been followed by any treaty, is an evident proof that France had not acquired, by the treaty retroceding Louisiana, the country east of the Mississippi.

The candor of these observations proves to you, sir, how much value His Majesty attaches to the maintenance of a good understanding between two Powers, to whom France is united by connexions so intimate and so numerous. His Majesty, called upon to give explanations on a question which interested France directly, persuades himself that they will leave no ground of misunderstanding between the United States and Spain; and that these two Powers, animated, as they ought to be, by the sentiments of friendship which their vicinity and their position render so necessary, will be able to agree with the same facility on the other subjects of their discussion.

This result His Imperial Majesty will learn with real interest. He saw with pain the United States commence their differences with Spain in an unusual manner, and conduct themselves towards the Floridas by acts of violence, which, not being founded in right, could have no other effect but to injure its lawful owners. Such an aggression gave the more surprise to His Majesty, because the United States seemed, in this measure, to avail themselves of their treaty with France as an authority for their proceedings, and because he could scarcely reconcile, with the just opinion which he entertains of the wisdom and fidelity of the Federal Government, a course of proceedings,

which nothing can authorize, towards a Power which has long occupied, and still occupies, one of the first ranks in Europe.

But the Federal Government having entered the path of negotiation, and the question which divided the two Powers being cleared up, there is reason to hope that they will easily agree on the other points; and this His Majesty, from the sincere interest which he feels for the equal prosperity of the two nations, ardently desires.

Accept, sir, the assurance of my high consideration.

CH. MAU. TALLEYRAND.

Extract of a letter from General Armstrong, minister plenipotentiary of the United States at Paris, to Mr. Monroe, minister extraordinary and plenipotentiary of the same at Madrid, dated at

PARIS, *March* 12, 1804.

The moment I received your letters of the 15th and 26th of February, I took measures to sound this Government on the present posture of things at Madrid, which, on the authority of your communication, I represented as strongly indicating a rupture between the United States and Spain. Their manner of receiving this information, with the sentiments which they made no scruple to avow in relation to the subject generally, decided me at once against either submitting your correspondence with Cevallos, or submitting any thing of my own for it; perceiving clearly that the only effect of such communication would be to draw from them some new declaration friendly to the pretensions of Spain, and calculated merely to keep up the tone of her councils. The following sketch of what passed will enable you to judge how far this conclusion was correct, or otherwise.

On the subject of indemnity for the suspended right of deposite, (professing to know nothing of the ground on which the interruption had been given,) they would offer no opinion. On that of reparation for spoliations committed on our commerce by Frenchmen within the territory of His Catholic Majesty, they were equally prompt and decisive, declaring that our claim, having nothing of solidity in it, must be abandoned.

With regard to boundary, we have, they said, already given an opinion, and see no cause to change it. To the question, what would be the course of this Government in the event of a rupture between us and Spain? they answered, we can neither doubt nor hesitate; we must take part with Spain; and our note of the 30th Frimaire was intended to communicate and impress this idea.

Extract of a letter from the same to the same, dated at

PARIS, *March* 18, 1805.

I received your favor of the 1st instant by Preble. Another experiment has been made, but without producing any result propitious to our objects. Nay, the more this subject is discussed, the more determined are they in maintaining the doctrines and pursuing the conduct indicated in my letter of the 12th. In this explanation, three points were fully and distinctly, but cautiously, urged. 1st, The probability of an immediate rupture between Spain and the United States; 2d, The ill consequences of such an event to Spain directly, and to France indirectly, as her ally; and, 3d, Its tendency to promote the general views of Great Britain, though no closer political connexion between her and us were induced by it.

Extract of a letter from the same to the same, dated at

PARIS, *April* 1, 1805.

Your letter of the 12th reached me yesterday. No material change of opinion or conduct has taken place here with regard to your business. A long and querulous note has been put in by the Spanish chargé d'affaires, (Santivanes,) stating the claims made by you, and the arguments employed in support of them, and soliciting from this Government its exposition of the treaties of 1801 and 1803 on the several points in controversy. This note had not been answered on the 30th ult., and, from some circumstances, I suspect that there is no intention of answering it promptly.

VI. Correspondence between Messrs. Monroe and Pinckney and the Spanish Government.

Messrs. Monroe and Pinckney to Mr. Cevallos.

ARANJUEZ, *January* 28, 1805.

SIR:

It is the sincere desire of the President to establish the relations between the United States and Spain on a footing of permanent friendship. As a signal proof of that disposition, he has sent an extraordinary mission to His Catholic Majesty, with full power, in conjunction with their minister plenipotentiary at Madrid, to enter into such arrangements, on just and equal principles, as may be best adapted to the object. The situation of the two countries, at this time, required such an effort on his part, and it is our wish, as it is our duty, to do every thing in our power to carry it into effect.

It is proper to examine, impartially, the several points which are depending between our Governments. To make their friendship perpetual, every cause of complaint and inquietude should be brought into view, and amicably settled. For this purpose, it is necessary to ascertain their respective rights in each case, since thereby an unerring rule will be established, by which this adjustment may be made, and their future harmony secured. No just Government will ever demand any thing which will not bear the test of that rule: no just Government will ever refuse to discharge an obligation which it imposes. We will proceed to this inquiry, in full confidence that both our Governments are animated with the same zeal to do justice, with the same desire to cherish the friendly relations which have heretofore subsisted between them.

In the course of the last war, many aggressions were committed on the peaceful, and, as it is presumed, lawful commerce of the United States, to the great injury of their citizens, within the territory and jurisdiction of Spain, for which they are entitled to compensation. It cannot be doubted but that Spain is responsible for these injuries, in all cases where the condemnation was contrary to the law of nations, the subsisting treaty between the two Powers, and those principles of justice which are recognised and respected by other nations. It is to be regretted that a perfect accord has not yet taken place between our Governments on the mode of adjusting all the claims proceeding from this cause. It is, however, matter of much satisfaction to observe, that they have gone so far in the establishment of just principles, and approached so near in sentiments, as to justify the expectation that all difficulties will now be removed. The discussions which have already taken place on this subject have too fully illustrated its merits to require any thing to be added on that point at present. We observe, with pleasure, that the President reposes too much confidence in the high character of His Catholic Majesty, which is distinguished by a sacred regard to justice, to doubt his agreement to whatever it dictates. The proposition which we have the honor to make to your excellency on this point rests on that basis, and will, therefore, we flatter ourselves, receive his sanction. Your excellency will find that, in the terms of payment of such sums as may be awarded, a new accom-

modation is proposed, which is equally a proof of the disposition of our Government to conciliate the views and interests of His Catholic Majesty in this transaction.

The suppression of the right of deposite at New Orleans, by the Intendant of His Majesty, in the winter of 1802–3, contrary to the treaty of 1795, to the great injury of citizens of the United States who inhabit the territory which is bounded by the Mississippi and the waters emptying into it, is also an act for which they are entitled to reparation. By restoring the deposite, on the complaint of the President, His Majesty gave a satisfactory proof of his strict regard to the obligations of treaties and the principles of justice; but, by so doing, the injuries which had been sustained by individuals were not redressed, nor were the just views of His Majesty in that respect completely fulfilled. It is presumed that His Majesty will not hesitate to allow an adequate indemnity for the losses which were sustained by this act of his Intendant. It is one of the objects of the enclosed project to provide for them.

The above are the injuries which have been received by citizens of the United States, for which it is proposed to provide a suitable compensation. In seeking justice, however, it is equally the duty of their Government to render it. It is possible that His Majesty's subjects may have received injuries within the territory or jurisdiction of the United States, or by their officers elsewhere, for which those States are also responsible. It has been the invariable effort of their Government to preserve the best understanding with His Catholic Majesty, by the faithful observance of every duty imposed by the law of nations and the subsisting treaty between them, in their political and commercial intercourse. If such injuries have been rendered, it is the earnest wish of the President that just reparation should be made for them.

For the fair and amicable adjustment of all such claims on both sides, it is proposed to establish a Board of Commissioners, impartial and independent, which shall be vested with full power to hear and determine, and grant awards for all such as shall appear to be well founded. This mode has proved adequate, in similar cases, between the United States and other Powers. It is not doubted but that it would prove equally so between the United States and Spain.

There is another question which it is equally proper to adjust at this time. By the cession of Louisiana by His Majesty the Emperor of France to the United States, it becomes necessary to settle its boundary with the territories of His Catholic Majesty in that quarter. It is presumed that this subject is capable of such clear and satisfactory illustration, as to leave no cause for any difference of opinion between the parties. By the treaty of April 30, 1803, between the United States and France, the latter ceded to the former the said province, in full sovereignty, in the same extent, and with all the rights which belonged to it, under the treaty of October, 1800, by which she had acquired it of Spain. That the nature and extent of the acquisition might be precisely known, the article of the treaty of St. Ildefonso, making the cession, is inserted in that of Paris. To a fair and just construction, therefore, of that article, the United States are referred for the extent of their rights under the treaty of 1803. There is nothing to oppugn its force or detract from the import of its very clear and explicit terms. We have the honor to present to your excellency a paper on this subject, which, we presume, proves, in the most satisfactory manner, that the boundaries of that province, as established by the treaties referred to, are the river Perdido to the east, and the Rio Bravo to the west. The facts and principles which justify this conclusion are so satisfactory to our Government, as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory which is above described. Aware, however, that the question of boundary was one in which His Catholic Majesty was also interested, the President was not unmindful of what was due to that consideration. In pursuing and supporting the just rights of the United States, he is far from wishing to interfere with, or encroach on, those of Spain. As neighbors, he was also sensible of what was due to that interesting relation; and as a Power which claims respect in its intercourse with other nations, he was resolved to give a distinguished proof of that of the United States for His Catholic Majesty in the present case. Thus no step has been taken since the territory was surrendered to those States by France, otherwise than a strong expression by the Congress of its sense of their rights; no portion of it has been garrisoned, or even possessed by their troops, which could involve any question of the kind adverted to, or manifested a disposition incompatible with these just and friendly sentiments. His definitive arrangements are yet to be taken. He seeks to adopt them in harmony with the sentiments and interests of His Catholic Majesty—a motive which induced the measure of an extraordinary mission, and inspires this communication.

So far, we have treated of the boundary which of right ought to be established between the two nations. It is proper, however, to examine and treat the subject in another view.

By the acquisition of Louisiana, the United States and Spain have assumed, in some respects, a new relation to each other. It is in its nature a very interesting one. It is practicable, at this time, to place it on such a footing, by suitable arrangements, as to preserve their friendship for ages. The importance of the subject merits their very dispassionate consideration, since a failure to adopt such may be productive of much harm. Happily, it is an unquestionable truth, that, in consideration of the permanent and substantial interest of the two Powers, there does not exist at present a single point of collision, an opposing interest between them. There are only some topics of uneasiness and jealousy easy to be removed, but which, if suffered to remain, may engender animosities, embitter their intercourse, and finally prove the cause of much trouble, and even misfortune, to both nations. To remove them requires no sacrifice; on the contrary, much will be gained, since, by so doing, their harmony, and with it their permanent interests, will be secured.

What effect does the acquisition of Louisiana by the United States produce on the interests of the two Powers in reference to each other? and what ought it to produce in their policy? These questions admit a ready answer. That province is bounded by Florida to the east, and Mexico to the west; hence, Florida is surrounded on every side, that of the ocean excepted, by the territory of the United States. It is, of course, an object with those States to possess it. And as Louisiana extends westward to Mexico, it is presumed to be an object with Spain to retard the progress of their settlements in that quarter. Here, then, is the obvious ground of an accord between the two nations, in an arrangement which seems to be well adapted to accomplish an object which each deems of importance. The project which we have the honor to present to your excellency is intended to conciliate and provide for those interests. It is believed that its adoption will effectually do so. Your excellency must be sensible, under existing circumstances, and especially since the acquisition of Louisiana, that that of Florida has become an object of much less importance to the United States. It is not from the want of territory, because it is known not to be fertile, and without it they have enough to satisfy their growing population for ages to come. It is, in truth, suggested more by a desire to remove all cause of a future variance between them and Spain, than of any immediate advantage to be derived from it in other respects. While that province remains to Spain, it must be, in some degree, a cause of jealousy to the United States. Situated in their interior, and detached from the other dominions of His Catholic Majesty, it is probable, to render it secure, that he would be compelled to put a strong force there. Hence, the United States would be compelled to do the same. Thus the attitude of hostilities would be taken, which a thousand causes would tend to promote. The jealousy of Governments so contiguously situated, the rivalry of Governors and Generals, and the conflict of commercial regulations, could not fail to produce that effect. In addition to which, it cannot be doubted that other Powers would take a pleasure in seeing a rupture between the United States and Spain. It is presumed that they are interested in it. Remove, however, this obstacle, and establish on just principles their western boundary, and all cause of inquietude and misunderstanding will be at an end. Their territories and police will be distinct, and their military stations at some distance from each other. Each Power will regulate its own concerns as it thinks best: neither will be interested in disturbing those of the other. Their Governments, on the contrary, will find themselves bound by their interests, their faith, and their character, to keep their citizens within their own limits, which it will take ages to fill. Should Spain not place a strong force in Florida, it will not escape your excellency's attention, that it will be much exposed to the danger of being taken possession of by some other Power who might wish to hold it, with very different views towards Spain than those which animate the Government of the United States. Without a strong force there, it might even become an asylum for adventurers and freebooters, to the great annoyance of both nations. In this light, however, we forbear to press it.

It is proposed, by the enclosed project, to establish a district of neutral territory between the two Powers, on which neither party shall encroach, and, with a view to accommodation, that it should be, exclusively, for a given term, within the supposed limits of Louisiana. We are willing that the term should amount to twenty years, to give time for ulterior arrangements relative to that object, and the establishment of a permanent boundary between them in that quarter. If the boundaries of Louisiana are, as our Government believes them to be, and as, we presume, is sufficiently proved by the enclosed paper, this arrangement cannot be considered otherwise than in the light it is intended. This proposition, however, is not offered as an equivalent for the cession of Florida. It is proposed to make a pecuniary compensation for the cession to an amount which is deemed equal to its value. To fix that value, in case His Catholic Majesty is disposed to make the cession, cannot, it is presumed, be difficult, since, without regarding other considerations, the sum given for the whole province of Louisiana furnishes a just and suitable standard. By comparing the extent of the territory of Louisiana with that of Florida, and taking into consideration the immense advantages derived to the United States from the entire command of the Mississippi and all the waters emptying into it, which followed the cession of Louisiana, we are promptly led to a fair result. On this point we wish to confer in person, when it may suit your excellency's convenience. The sum which may thus be agreed on, it is wished to appropriate in the manner mentioned in the proposed convention.

In seeking to terminate amicably all subsisting differences between the two Powers, and to place their future relations on a basis of permanent friendship, it is thought that a formal stipulation in behalf of each, not only to observe the limits which may be agreed on, but to cause them to be observed by their respective citizens and subjects, may have a very salutary effect. If such a stipulation is regarded only as a proof of the spirit in which the convention is formed, it will always have weight with both Governments to ensure a compliance with it. But it merits to be received in a stronger light, since it makes it the duty of each Government to be attentive to, and to enjoin it on their citizens and subjects, respectively, strictly to observe the same. As the convention of the 11th of August, 1802, has not been carried into effect, it is thought best to suffer it to fall, and incorporate its contents into the present one: on that principle the project is formed. There seems to be a propriety in accommodating all subsisting differences, and providing for the respective interests of the two Powers, to comprise the stipulations which are necessary for the purpose in the same instrument. To this mode, however, we have no preference, and only submit the idea to your excellency's consideration.

To facilitate the communication, and promote despatch in an object of so much importance to our Government, we have the honor to annex a translation into French of this note, and the papers which accompany it, to your excellency. They are as correct as they could be made by those attached to the legation, to whom alone we could confide their contents. We beg leave, however, to observe, that we consider ourselves responsible only for the originals, which are in English.

We beg your excellency to accept the assurance of our distinguished consideration, &c.

CHARLES PINCKNEY.
JAMES MONROE.

Project of a Convention between the United States and Spain.

ARTICLE 1. Spain, acknowledging and confirming to the United States the cession of Louisiana, in an extent eastward to the river Perdido, cedes to them forever all the territory remaining to her between the Mississippi, the Atlantic, and the Gulf of Mexico, together with all the islands thereunto annexed, either whilst the Floridas belonged to Great Britain, or after they became provinces of Spain.

Possession of the said territory shall be delivered to a person authorized by the United States to receive the same, in ——— days, or less, if practicable, after the exchange of the ratifications of this convention. With the said territory shall be delivered all public property, except ships and military stores, as also all public archives belonging to the same.

Within ——— days after the delivery of possession, or sooner, if possible, the Spanish troops shall evacuate the territory hereby ceded; and if there should be any Spanish troops remaining within any part of the territory ceded by France to the United States, all such troops shall, without delay, be withdrawn.

Spanish subjects, within the ceded territory, who do not choose to become citizens of the United States, shall be allowed eighteen months to dispose of their real, and to dispose of or remove their other property.

The inhabitants of the ceded territory shall be entitled to the same incorporation into the United States, and to the same protection in their religion, their liberties, and their property, as were stipulated to the inhabitants of the territory ceded to the United States by the treaty of April 30, 1803, between those States and France.

ART. 2. It is agreed that, for the term of ——— years, no land shall be granted; nor shall persons who may have settled since the 1st of October, 1800, on lands not granted prior thereto, be permitted to continue within the space defined by the following limits, to wit: by a limit, consisting of the river Colorado on the one side, from its mouth to its source; thence, a straight line to the most southwestwardly source of the Red river, with such defluctions, however, as will head all the waters of that river; thence, along the ridge of high land which divides the waters belonging to the Mississippi and Missouri from those belonging to the Rio Bravo; and thence, a meridian to the northern boundary of Lousiana: and by a limit, on the other side, of the Rio Bravo, from its mouth to its source; and thence, a meridian to the northern boundary of Louisiana.

Such of the settlements within the foregoing limits, not prohibited by the preceding clause, as were not under the authority of the government of Louisiana, shall continue under the authority of Spain. Such as were under that authority shall be under the authority of the United States. But the parties agree that they will, respectively, offer reasonable inducements, without being obliged to use force, to all such settlers to return from the space above limited, and establish themselves elsewhere.

The Indian tribes within the said limits shall not be considered as subject to, or exclusively connected with, either party. Citizens of the United States and Spanish subjects shall be equally free to trade with them, and to sojourn among them, as may be necessary for that purpose; and each of the parties agreeing to restrain, by all proper and requisite means, its respective citizens and subjects from exciting the Indians, whether within or without the said limits, from committing hostilities or aggressions on the subjects or citizens of the other party. The parties agree, moreover, each of them, in all public transactions and communications with the Indians, to promote in them a disposition to live in peace and friendship with the other party.

It shall be free for Indians now within the territory of either of the parties to remove to and settle within the said limits, without restraint from the other party; and either party may promote such a change of settlement by Indians within its territory, taking due care not to make it an occasion of war among the Indians, or of animosities in any of them against the other party.

The United States may establish garrisons sufficient, as security against the Indians, and all trading houses, at any places within the said limits, where garrisons existed at any time under the Spanish government of Louisiana. And Spain may continue garrisons, for the like purpose, at any places where she now has them, and establish trading houses thereat. Either party may also cause or permit any part of the country within the said limits to be explored and surveyed, with a view to commerce or science.

It shall be free for either party to march troops within the said limits against Indians at war with them, and for the purpose of driving or keeping out invaders or intruders.

ART. 3. It is agreed, that, within ——— years previous to the expiration of the aforesaid term of ——— years, due provision shall be made for amicably adjusting and tracing the boundary between the territories of the United States westward of the Mississippi, and the territories of His Catholic Majesty; which boundary shall then be established according to the true and just extent of Louisiana as ceded by Spain to France, and by France to the United

States, uninfluenced, in the smallest degree, or in any manner whatever, by the delay, or by any arrangement or circumstance contained in or resulting from this convention. It is also expressly stipulated by the parties, that they will cause the limits which are hereby defined, or may be hereafter defined, between them, to be faithfully observed, by restraining their respective citizens and subjects, by suitable arrangements, from violating them in any manner whatever.

ART. 4. His Majesty and the United States, wishing, in the same spirit of conciliation, amicably to adjust the claims which have arisen from the wrongs and excesses committed during the late war by individuals of either nation, or by others, within the territory or jurisdiction of either, contrary to the law of nations, the treaty existing between the two countries, or the principles of justice, have determined that the same shall be adjusted in the following manner: A Board of Commissioners shall be formed, consisting of five commissioners, two of whom shall be appointed by His Catholic Majesty, two others by the President of the United States, with the advice and consent of the Senate, and the fifth by common consent of the four commissioners; and, in case they should not be able to agree on a person for the fifth, the commissioners of each Power shall name one, and leave the decision to lot; and hereafter, in the case of death, sickness, or necessary absence, of any of those already appointed, the remaining commissioner or commissioners of the Power whose commissioner is dead or unable to attend, shall fill the vacancy. When thus appointed, each one of them shall take an oath to examine, discuss, and decide impartially on the claims which they are to judge according to the law of nations, the existing treaty, and the principles of justice. The commissioners shall meet and hold their session in Madrid, where, within the term of eighteen months, to be reckoned from the day on which they assemble, they shall receive all claims which, in consequence of this convention, may be made as well by the subjects of His Catholic Majesty, as by the citizens of the United States of America, who may have a right to demand compensation for the losses, damages, or injuries sustained by them in consequence of the wrongs and excesses committed by Spanish subjects, American citizens, or others, within the territory or jurisdiction of either of the contracting parties. The commissioners are to hear and examine, on oath, every question relative to the said demands, and receive as worthy of credit all testimony and evidence the authenticity of which cannot be doubted. The said commissioners shall grant awards for the sums which may be due to the several claimants, with interest on the same, at the rate of six per cent. per annum, to commence from such dates, respectively, as to them shall appear to be just. From the decision of the commissioners there shall be no appeal; and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of the claims, as the amount of the indemnifications which may be adjudged to the claimants: the said contracting parties obliging themselves to satisfy the said awards in specie, in the manner stipulated by the sixth article of this convention.

ART. 5. The said commissioners shall also take cognizance of and estimate all damages which were sustained by the citizens of the United States, by the suppression of the right of deposite at New Orleans by the Intendant of His Catholic Majesty, in the years 1802-3, contrary to the treaty of 1795; for which the said commissioners shall grant a certificate to the Government of the United States, the amount whereof shall be paid to it by the Government of Spain, in the same manner as is stipulated in favor of other claims in the preceding article. The Government of the United States shall pay the sums thus received to the individuals who were injured by the suppression of the said deposite.

ART. 6. It is further agreed that the respective Governments will pay the sums awarded by the said commissioners, under this convention, in the manner following:

The Government of the United States shall pay all such sums, not exceeding ——— dollars, which may be awarded as compensation to citizens of the United States from His Catholic Majesty, in three equal annual instalments, at the city of Washington: the first instalment to be paid in eighteen months after the exchange of the ratifications hereof; or, in case they shall not be so paid, they shall bear an interest of six per cent. per annum, from the time they become due until they are actually discharged; and, in case the aggregate of the said sums should not amount to the said sum of ——— dollars, the United States will pay to His Catholic Majesty, within one year after the final liquidation of the claims cognizable by the said Board, at the city of Washington, so much as the said aggregate may fall short of the sum above mentioned: but, on the other hand, if the whole amount of the sums awarded to citizens of the United States should exceed the sum of ——— dollars, His Catholic Majesty shall pay the surplus, without deduction, to such claimants, within one year after their claims shall be respectively liquidated. The said claims shall, nevertheless, bear an interest of six per cent. from the time of their liquidation until they are discharged.

The Government of the United States shall also pay, without deduction, at the city of Washington, all such sums as may be awarded against them by the said commissioners, for compensation due to Spanish subjects, within one year after their claims shall be liquidated; and, from the time of their liquidation, the said claims shall bear an interest of six per cent. per annum, until they are discharged.

ART. 7. This convention shall be ratified within ——— after the signing thereof, or sooner, if possible, and the ratifications shall be exchanged within ——— days after the ratification by the United States, at the city of Washington.

His Excellency Don Pedro Cevallos to Messrs. Monroe and Pinckney.

ARANJUEZ, *January* 31, 1805.

GENTLEMEN:

The King my master having, on all occasions, given such repeated proofs of his friendship towards the United States, and of his desire to live with them in peace and harmony, could not but hear with pleasure what you have been pleased to manifest in your esteemed note of the 28th instant, relative to the sincere desire of the President of the United States to see the friendly relations of the two countries in a manner the most solid and permanent, and that, for this purpose, the American Government had named an extraordinary mission to this court, to commence such negotiations as might be best adapted to complete an object of so much importance, and founding them on just and impartial principles. His Catholic Majesty, on his part, desires nothing more ardently than that those just and equal principles, so conformable to the rectitude of his royal mind, may direct the discussions and negotiations depending between the two Governments. For this end nothing appears better adapted than the mode proposed by your excellencies in the first part of your note:

"It is proper to examine impartially the several points which are depending between our Governments. To make their friendship perpetual, every cause of complaint and inquietude should be brought into view, and amicably settled. For this purpose, it is necessary to ascertain their respective rights in each case; since, thereby, an unerring rule will be established, by which this adjustment may be made, and their future harmony secured. No just Government will ever demand any thing which will not bear the test of that rule: no just Government will ever refuse to discharge an obligation which it imposes."

According to this principle, proposed by your excellencies, and which, certainly, is highly worthy the good faith of both Governments, it appears the more proper that, before we proceed to examine projects of a convention, which ought to result from discussion of all the different points in dispute, we should first examine each point separately, and in this form determine the respective rights of each country; and then proceed to such negotiations as the interest of each country may require. Under this idea, and following the tenor of your note, it appears that the points depending may be reduced to the following:

First. The damages occasioned, during the last war, by the excesses committed by individuals of both countries, contrary to the law of nations and the existing treaty. This point is nearly decided by the convention of 1802, which

has been ratified by the American Government; and His Majesty, on his part, is disposed to ratify the same, after the obstacles which occasioned its postponement shall be removed. Thus there is but little to regulate on this point, considering how far it is already advanced, and that the sincere desire of both Governments is to proceed with candor and good faith.

The second point mentioned in your excellencies' note, relative to the indemnificaton of injuries supposed to have been received by American citizens, in consequence of the suppression of the deposite at New Orleans by order of the Intendant at that city, is a point of discussion which has not as yet been commenced, and it is one on which the Spanish Government is convinced that the United States have neither any motive nor right to found a reclamation.

Third. This point, which is relative to the demarcation of the limits of Louisiana, retroceded by Spain to France, and by her transferred to the United States, by its nature, subdivides itself into two parts, to wit: the demarcation of the limits of Louisiana on the east, or side of the Floridas, and that on the side of the interior provinces of New Spain. As a testimony of the desire with which His Majesty is actuated, that these demarcations may be executed with the skill and justice requisite, and at the same time with all possible despatch, I have to inform you, what is already known to your Government, that, at the commencement of the last year, the King named for his commissioner for these demarcations and limits, Brigadier Marquis of Casa Calvo, who is now at New Orleans with the engineer Don Joseph Martinez. Not having yet agreed upon others of the said points mentioned in your excellencies' note, and they being in their nature unconnected, it appears that it would only be confounding them and multiplying their confusion to treat upon the whole at once; and proceed immediately to form for either party projects of a convention from the mass. Analyze these incorporated points of discussion, and a discussion of them will become much more plain and simple, and, with this new light, it will afterwards be easy to embrace the whole at one view.

This method is clear and simple, and, according to my idea, is what you indicate in the first part of your note. This being the case, it appears to me that we may occupy ourselves, in the first place, in determining the point relative to reclamation; for which purpose, we may take up the convention of August, 1802, by reason of its almost finished state; fix the rights of each country upon each point, and the means will be plain and easy to negotiate them, with that equal utility which both countries may find convenient. I have no doubt but you will find this method of proceeding conformable to reason, and, waiting your reply,

I am, &c. &c.

PEDRO CEVALLOS.

Messrs. Pinckney and Monroe to Mr. Cevallos.

ARANJUEZ, *February* 5, 1805.

SIR:

We have received your excellency's letter of the 31st ultimo, in answer to that which we had the honor to write to you on the 28th, and beg you to be persuaded that we are highly gratified with the assurance it contains, that His Catholic Majesty is disposed to meet the President of the United States in such arrangements, on just and equal principles, as may be necessary to accommodate subsisting differences, and place the relations of the two countries on a basis of permanent friendship. Since our Governments are animated with such honorable views, it cannot be doubted that their object will be accomplished.

Your excellency observes that it will be proper to examine previously, and separately, each point depending between our Governments, to establish their respective rights in each; and then proceed to the adoption of such a project of a convention as may provide for the whole. In this idea we perfectly agree. It was on that principle, as you justly observe, that our note of the 28th was conceived; by it every topic of complaint, every question of interest, is presented to your excellency's view. It remains only to decide these several points, and, with them, the fortune of the present negotiation.

The case of claims for injuries done to the citizens and subjects of either party, within the limits and jurisdiction of the other, being first in order of time, ought to be first determined. As we presumed that this subject had been already sufficiently discussed, we thought it sufficient in our former note to submit such an arrangement respecting it as we were authorized to propose. Since, however, it seems to be your excellency's desire, we shall not hesitate to communicate more fully the views and sentiments of our Government on this point, and the principles on which they are founded. It is the more necessary so to do, to free it from the complexity in which it may otherwise be involved.

It is known to your excellency, that, by the convention of August 11, 1802, an immediate provision was not made for satisfying the claims of their respective citizens and subjects for all the injuries which they had received in the course of the last war within the jurisdiction of each Power, and for which they were responsible; that it was not then possible for the plenipotentiaries charged with that subject to agree on a mode of arbitrating the claims originating from the excesses of foreign cruisers, agents, consuls, or tribunals, in their respective territories, which might be imputable to their two Governments; and that, in consequence thereof, it was agreed between them to provide then for the adjustment and satisfaction of such as were committed by their respective citizens and subjects only, reserving to each Government, its citizens, and subjects, their respective rights, with liberty to bring forward their claims at such times as might be convenient to them. Had that convention been carried into effect at any time before the present, we should have now to provide for the claims which were then postponed, whose just title to reparation seems to be sufficiently sanctioned by that instrument. But as that convention has not been carried into effect, and, of course, no satisfaction made for that portion of the injuries complained of, it is proper that the whole subject should now be taken into view and definitively settled. It would badly comport with the spirit of the present negotiation, whose object is to adjust every difference, and remove every cause of inquietude, to leave any thing unfinished. Our Government considers its citizens entitled to compensation for every injury which they did receive within the jurisdiction of His Catholic Majesty, contrary to the treaty between the United States and Spain, the law of nations, and the principles of justice sanctioned by them, whether they were committed by His Majesty's subjects and tribunals or those of any other nation. For all such acts, the Government within whose limits they are committed is alone responsible; for over them has it the exclusive jurisdiction. A contrary opinion cannot be advanced without derogating from the established doctrine of the law of nations, or rights of sovereignty incident to each. It is a well established doctrine, that no two nations can, by their accord, or any arrangement between them, change a law adopted by the whole. Such a change, if agreed on by any two nations, can only operate as a special compact between them, which finds an equivalent by the reciprocity of the stipulation, or some other article of the treaty, but can never change the relation of either with other Powers, or the rights and claims of such other Powers on each of those nations. It is equally well established, that protection is due by every Government to foreigners within its limits, in return for which they are entitled to their allegiance while they remain with them, as it is that such protection cannot be withdrawn, or the jurisdiction of a foreign Power be permitted within its limits, to the injury of a third Power. A contrary doctrine supposes separate and independent jurisdictions and Governments within the same limits, and altogether confounds the nature of sovereignty, which is complete, absolute, and exclusive, wherever it exists. It is proper to add, that this doctrine of the law of nations, so clear and explicit, is still further enforced by the stipulation of the sixth article of the treaty of 1795 between the United States and Spain.

In the project which we had the honor to present to your excellency, you will find it is intended to provide for the whole of these claims, whether the convention of August 11th, 1802, is carried into effect or suffered to expire. In the former case, we should expect that an article be inserted in the proposed one, to provide for those cases which were unprovided for in that. We consider it our duty to inform your excellency that we cannot consent to any arrangement which does not provide for the whole subject, having received orders to that effect by a courier who has

just arrived with despatches as late as the 3d December last. We owe it to the spirit of candor, which is to prevail in this negotiation, to state to your excellency this fact; and we ask of you to inform us, in the same spirit, whether we are to expect the accord of your Government to such an arrangement as will be effectual to this object.

That our Government is entitled to expect an adequate compensation for the injuries which our citizens received by the suppression of the right of deposite at New Orleans, is a point on which we did presume there could be no doubt. The right to such a deposite is stipulated forever to the United States, by the twenty-second article of their treaty with Spain, either at New Orleans, or on some other part of the banks of the Mississippi equally convenient to the parties. It is the obvious import of that article, that there never should be a moment's interruption in the enjoyment of that right; a right which was so necessary to the interest of those dependent on it, and, of course, to the peace and friendship of the two countries. In exercising the right reserved to His Catholic Majesty to change the place of deposite, and assign some other equivalent establishment, it is equally the import of that article, that the whole arrangement should be made at the same time; that the same act which suppressed the existing deposite should open another; and that the Government of the United States should be apprised of that intention in due time to prevent their citizens being injured by the measure, and also to be consulted on the place which it was proposed to substitute to the existing one. In the proceeding which took place at New Orleans, none of those rules were observed; all respect for our Government and the rights of our citizens was lost sight of. In short, had that act been imputable to His Majesty's Government, the President could have seen in it nothing short of a commencement of hostilities, as much so as if his troops had invaded their territory, or his fleets entered in hostile array any of their ports. But the President never considered that act as imputable to His Majesty's Government; he entertained too high a respect for the good faith of the Catholic King to believe that it proceeded from him; he always considered it as the act of the Intendant, and was happy in the result to find that such was the case. Nevertheless, being the act of His Majesty's officer, his Government is responsible for the injuries resulting from it. Your excellency will find that, as early as March 25, 1803, the minister of the United States accredited with His Majesty, claimed, by order of the President, an indemnity for these injuries, which was repeated in subsequent notes of the 12th and 23d of April of the same year. It has not since been pressed, because, by like order, the subject was reserved with others for final arrangement at this present occasion.

On the subject of limits, we have little to add to what we have already stated in our former note. By it a full view is given of what our Government conceives to be its rights in that respect. The commissioners appointed by His Majesty for the demarcation thereof can do nothing till some agreement takes place between the two Governments to fix the principle which is to guide them. They must remain inactive until it be known by what course, latitude, meridian, or natural boundary, the demarcation is to be made. It is an important object of the present negotiation to fix that principle. We take the liberty also to refer your excellency to our former note, and the pieces which accompanied it, for the views of our Government on the other topics of a territorial nature. It is not in our power to add any thing on those points to what we have therein stated.

The President, being very desirous, with a view to the permanent harmony and welfare of the two nations, to adjust and arrange every question and interest depending between them, and having given us full power for the like purpose, waits with anxiety the result. Having had the honor to submit to your excellency, as was agreed in our first interview, our propositions, for the attainment of that desirable end, by which the subject is presented equally in detail as in a general view, and, having now given the further explanations, which were desired by your esteemed note of the 31st ultimo, we have only to request that you will give us your answer to the same. As every point has been long under the consideration of His Majesty's Government, we do not doubt that its mind is made up as to the course the business is to take. It is in His Majesty's power, by the answer which you give, to fix at once the relations which are to subsist in future between the two nations. The United States have done every thing in their power, which a regard to justice and the rights of their citizens will permit, to place and preserve them on a most friendly footing; and we flatter ourselves that His Catholic Majesty, who is distinguished, among sovereigns, by his regard for justice and good faith, will meet them in such arrangements as may be effectual to the object.

We beg your excellency to accept the assurance of our distinguished consideration and esteem.

CHARLES PINCKNEY.
JAMES MONROE.

Mr. Cevallos to Messrs. Pinckney and Monroe.

ARANJUEZ, *February* 10, 1805.

SIRS:

I see, by the tenor of your esteemed favor of the 5th instant, in reply to my note of the 31st ultimo, that we are of the same opinion, as it relates to the principle established, that, to regulate amicably all the points depending between the two Governments, it is necessary, first, to establish the rights of each nation upon each one of the points in dispute, and then proceed to bring forward such negotiations as the reciprocal interests of each country may require; and, in consequence, of the point relative to indemnification for damages, occasioned during the last war, by individuals of each nation, being already so far advanced, that ought, undoubtedly, first to occupy our attention: we will, therefore, in this letter, discuss the points relative to indemnification, leaving for another opportunity the discussion on the limits which is so different in its nature.

It is just that the losses sustained by the citizens or subjects of either nation, during the last war, contrary to the law of nations, or the existing treaty, should be satisfied; and to this effect the convention of the 11th of August, 1802, between the plenipotentiaries of the two Governments, was concluded, that the individual sufferers might find a quiet and convenient redress. The intention of the King my master always unchangeable, and always conformable to the accredited honor and justice which characterize him, is now the same that it was at the time that the convention was concluded.

However, some circumstances have taken place, between the time it was concluded and its ratification, which will make several explanations necessary. In the first place, it appears that various subjects of Spain, who had reclamations to make, having been injured by citizens of the United States, in consequence of this convention, came to Madrid from South America, hearing that it was adjusted; but were obliged to return home upon the report that the Senate of the United States had refused to ratify it, during the session of 1803. It was but reasonable, then, that these vassals of His Majesty should be informed that the convention was ratified, that they might come forward to establish their claims; and for this, it was necessary to give them a certain space of time. His Majesty proposed that this space of time should be agreed on between the two Governments, that the ratification might be known to all those interested.

It having come to the knowledge of His Majesty that Congress had, on the 27th of February, approved an act, by which it appears that the President was authorized to establish custom-houses in the territory of West Florida, and as this province belongs to His Majesty, he having conquered it by the valor of his arms, not having received it from France, of course could not *retrocede* it to her; and as he was in quiet possession of the same, and still remaining possessed, His Majesty could not but be offended at this account. Even should it be supposed that the United States have pretensions to this territory, it certainly was not the way to bring them forward, to proceed to acts of possession, and disturb a friendly nation in her rights, by a solemn legislative act; such conduct must, consequently, appear to His Majesty very little conformable to the friendly relations of the two countries; and, under such circumstances, it did not correspond with the respect due to his royal person, or to the nation which he governs, to ratify conventions, which are acts of political friendship, with those who had violated, in a solemn manner, the rights of his sovereignty until they should give satisfaction, or corresponding explanation. Thus it was just that he should ask this satisfaction, which was done accordingly.

It having also reached the King's notice that the French Government had satisfied the United States for the damages sustained during the last war by her privateers, it appeared not only unnecessary, but capable of producing confusion, to let the sixth article of the convention of August, 1802, exist; by which, as His Majesty did not confess himself responsible for the damages occasioned by French privateers, on the coast and in the ports of Spain, the United States did not strengthen their right which they thought they possessed; and to let it exist would but expose the business to confusion. A desire, therefore, was manifested, that the sixth article should be suppressed. For the purpose of making these circumstances known to the American Government, His Majesty thought proper to suspend the ratification of the treaty, and to send off a courier to the United States, with letters to this effect, to his minister resident there.

Your excellencies are acquainted that your Government, being instructed relative to the observations which were made to them by His Majesty's minister upon the subject, agreed to fix a term, in which His Majesty's subjects interested in the convention might have notice of its ratification, and come forward with their claims before the commissioners; and that each Government should give orders to its respective citizens and subjects, not to commence their operations until a convenient term should expire. Thus, upon this article, there remains nothing to do but to fix this term, in order that the ratification of the convention may take place.

In respect to the second particular, the reply of the American Government was not so decisive and clear, as His Majesty had a right to expect from a Government so friendly. The act of Congress of the 24th of February, 1804, in *its obvious and literal sense*, disturbed the peaceable possession which His Majesty had, and still has, of West Florida; and the explanations of the President of the United States, contained in his proclamation of the 3d of May, saying that it was to be carried into effect *within the United States*, could not be considered but as equivocal and susceptible of a double meaning, although the explanation of the Secretary of State of the United States is somewhat more explicit, promising to leave every thing *in statu quo*, until an amicable arrangement should take place with Spain; and that the port of entry mentioned in the act should be established at Fort Stoddert, within the present territory of the United States. As His Majesty desires to live in harmony with the United States, he wishes to persuade himself that this explanation, although it does not give that satisfaction which he had so just a right to expect, is in some measure satisfactory, so far as it respects his quiet possession of West Florida. But could not His Majesty complain that satisfaction has not been given in explicit and solemn terms, for the publicity of a solemn act, whose obvious and literal sense went to disturb his quiet possession? On the other hand, it is said, in a plausible manner, that the port of entry shall be at Fort Stoddert: but how is it possible to arrive at Fort Stoddert, or go from thence to the sea, without navigating the rivers of West Florida, traversing its territory, and disturbing the peaceable possession of His Majesty? Thus, his well founded motives of complaint, in respect to that act, still exist; and His Majesty intends to keep them in mind, that satisfaction may be given by the United States; but, as it relates to ratifying the *convention* of August, 1802, His Majesty agrees, from this time, to be satisfied in this respect; and thinks, in so doing, that he gives an unequivocal testimony of his friendship towards the United States.

Two obstacles to the ratification of the convention being removed, we should now only treat of what relates to the sixth article of said convention. His Majesty expressed a desire that this article should be suppressed, under the idea that its insertion would neither add to nor diminish the rights of the United States or of His Majesty. The clear and obvious sense of that article is, that the two contracting parties, not having been able to agree relative to the indemnities reclaimed by the United States for damages occasioned by French privateers and tribunals, on the coast in the ports of Spain, *reserved* to themselves, for a future day, the rights they might have; the United States to reclaim, and His Majesty to show that he was not in any manner bound to satisfy them. In this particular, therefore, no right is given to the citizens of the United States, or taken away from them, by this article; and during the long space of time that has passed between the adjusting the convention and its ratification, His Majesty thinks he has demonstrated, in a most evident and decisive manner, that he is not responsible for the said indemnification. It appears superfluous to permit the existence of an article that can neither give nor take away any right, and which can only serve to produce confusion.

It never was the intention of His Majesty, nor is it now, that the suppression of the said article should imply a renunciation, by the United States, of the right they think they have to reclaim the said indemnification, but, on the contrary, only that they should not believe that His Majesty renounces, on his part, the right he thinks he has to resist the payment of it.

But should the American Government have any objection to the suppression of the said article, His Majesty will not oppose its continuance, provided it be understood in the ratification that, by the insertion of the sixth article, it is not in any wise to be inferred that His Majesty renounces the exceptions which are occasioned by the convention concluded between the United States and France, the 8th Vendemiaire, year 9; the context of the treaty of the sale of Louisiana concluded between the same Powers; the affirmation of the French Government, through the medium of Lucien Bonaparte, its ambassador, that the damages sustained by the United States, during the last war, were satisfied by France; and other strong reasons by which this pretension is opposed.

The American Government cannot be surprised that His Majesty wishes to make this explanation in his ratification, if it is recollected that such an explanation is undoubtedly contained in the sixth article. It mentions that His Majesty *reserves* to himself the *rights* which *belong* to him, although it is not particularly or expressly mentioned what are the rights which His Majesty believes to *belong to him;* and, at present, to avoid ambiguity, he thinks it necessary to explain in the ratification what these rights are, which are reserved by the sixth article, and to make mention of them.

If the United States, on their part, wish to validate the rights which they think they have to exact indemnifications, and also to reserve them in the same article, it will then be beginning a separate pretension, which in no wise ought to embarrass the regular course of the convention of 1802. It should be reduced to this question: whether Spain is responsible or not for the damages and losses occasioned by French privateers and tribunals within her jurisdiction, during the last war? Spain believes that she is not responsible, and thinks that she can demonstrate it to a certainty.

But as this is the second point in order relative to the pretensions which your excellencies have manifested, it appears to me convenient to treat it separately, also, after the plan proposed in my note of the 31st ultimo. In the mean time, referring you to what I have already written on this point, relative to indemnification for losses sustained by French privateers, &c. &c. to Mr. Pinckney, under date of 23d of August, and 5th of October, 1803, and to save your excellencies the trouble of referring to the correspondence of that year, I take the liberty to enclose copies of them, and also of opinions of lawyers the most celebrated in the United States, who have been consulted upon this subject, and who unanimously declared that Spain was not responsible to satisfy said indemnities; and in which declaration, these lawyers gave a proof of their rectitude, by their sincere confession of the slender foundation on which these reclamations of their country rested.

I conclude this letter by assuring your excellencies that His Majesty is disposed to ratify the convention of the 11th of August, 1802, in the form which has been mentioned; and that, should your excellency find no difficulty in so doing, as I hope will be the case, immediately after the ratification of the convention, we will proceed to the depending points, and finally to those negotiations which the reciprocal interests of both countries may require.

I renew to your excellencies the sincere demonstrations of my distinguished considerations, &c.

PEDRO CEVALLOS.

Messrs. Pinckney and Monroe to Mr. Cevallos.

SIR: ARANJUEZ, *February* 12, 1805.

We have received your excellency's letter of the 10th instant, and have considered it with the attention which was due to an interesting communication on a subject of great importance to the United States. By it we

perceive, with regret, that an accord is not likely to take place between us on the point to which it refers, since it appears that His Catholic Majesty is not disposed to make any reparation to the Government of the United States for all the injuries which their citizens received under her jurisdiction, of the character described in our former notes, whether the same were committed by his subjects or those of any other Power. Having had the honor to inform your excellency that we could accede to no arrangement which did not provide for every injury, it seems useless to prolong the discussion on that point. We submit it to your excellency's consideration on what we have already said.

Your excellency having expressed a desire to leave the other points to be discussed afterwards, it is proper now to proceed to them; and as we have already submitted the claims of the United States for injuries arising from the suppression of the right of deposite at New Orleans, and as to boundaries, with our opinions thereon, and the wish of our Government that the same should be amicably adjusted, we take the liberty to request that your excellency will have the goodness to state to us what are the views of His Majesty's Government on these points, particularly as to the eastern and western boundary of Louisiana; and how far His Majesty is content to cede all his claims to the territory lying eastward of the Mississippi; whether he is willing to adopt the plan of a neutral territory, and in what extent. By being possessed of His Majesty's sentiments and propositions on these points we may be enabled to take a view of the whole subject, and see whether it is yet possible to come to some accord by a general arrangement, which, while it keeps out of sight questions, on which, unfortunately, there has been so much difficulty and disagreement, may, in the end, do substantial justice to all parties. Believing this to be the most effectual and speedy mode of concluding the business, we shall wait with anxiety and impatience your excellency's answer to this communication. We beg to repeat that we shall receive with consideration, and weigh with attention, whatever propositions by His Majesty's order, your excellency will do us the honor to communicate, having in view the amicable adjustment of the whole business.

We have the honor to request that your excellency will accept the assurance of our high consideration.

CHARLES PINCKNEY.
JAMES MONROE.

His Excellency Don PEDRO CEVALLOS, *First Secretary of State, &c. &c.*

[TRANSLATION.]

Mr. Cevallos to Messrs. Monroe and Pinckney.

ARANJUEZ, *February* 16, 1805.

GENTLEMEN:

The contents of your esteemed note of the 12th instant, in answer to mine of the 10th, have caused me some surprise, as well on account of not having found in it, as I promised myself, that your opinions are for continuing the discussion relative to the reclamations of individuals of both nations, as of your determination to suspend the discussion upon the matter of this subject, unless the Spanish Government will make itself responsible for the losses occasioned by French privateers. It is my opinion that, as there are two species of reclamation, so different in their nature, they can easily be divided into two; and that, after the convention upon the first point is ratified, the discussion upon the second can take place without inconvenience; and I am persuaded, that, in justice to the individuals of both nations, who have received reciprocal injuries during the last war, we ought to terminate and satisfy, as soon as possible, those reclamations, on which both Governments are agreed, without prejudice to, or discontinuing the examination of the other points.

It appears, however, that your excellencies wish to leave this point unsettled, and, moreover, refuse to enter into ulterior discussions on the point of indemnifications for losses occasioned by French privateers. In this state of the affair, and notwithstanding the manner in which your excellencies have chosen to proceed, I cannot but repeat to you, what the accredited honor of my Government requires, to wit, that His Majesty is now, and ever will be, disposed to do justice to the citizens of the United States injured by Spanish subjects during the last war, and to conclude and ratify any convention relative thereto. But as it relates to injuries occasioned by French privateers on the coast and in the ports of Spain, His Majesty thinks he cannot accede in this point to the pretensions of the United States, because he believes that he has demonstrated, *in the most convincing and evident manner*, that Spain is not responsible for such indemnifications.

Although in my letters to Mr. Pinckney of the 23d August and 5th October, 1803, and in the reply of the lawyers of Philadelphia and New York upon this point, of which I enclosed you copies in my note of the 10th instant, it is clearly demonstrated that the Spanish Government is not responsible for such indemnifications, I had nevertheless determined that, when (in the order proposed) we should have arrived at this second point of the pretensions of your Government, to have extended my observations thereon, so as to demonstrate the solid reasons by which the Spanish Government could refute such pretensions. But as your excellencies believe that it is not necessary, or that it is incompatible with your instructions to lose time in such discussions, I do not wish to molest your attention, and only again refer you to the letters before mentioned, and also to the reply of the American lawyers. But your excellencies will permit me to make known to you how far the French Government is persuaded of the unfounded right which the American Government has to reclaim any thing from Spain, for damages occasioned by French privateers within the jurisdiction of Spain, and of the surprise which the notice of such a demand from the United States has occasioned to France. For this purpose, I shall copy, for the information of your excellencies, the expressions made use of in the latter part of a note under date of the 27th of July, 1804, written by the French Minister of Foreign Affairs to the ambassador of His Catholic Majesty at that court.

The French Government erroneously believed that Spain had gone so far in her condescensions to the United States, as to make herself responsible for the said indemnifications, and, in consequence, the French Minister of Foreign Affairs explained himself in the following manner:

"And, certainly, if I had been informed that the ministers of His Catholic Majesty had carried their condescensions towards the United States so far as to engage Spain to be responsible to it for the indemnities for pretended violations made by France, I should most assuredly have received from my Government an order to manifest the discontent which France would have experienced by a *condescension so improper;* a discontent that would have been more strongly expressed towards the Government of the United States, than towards Spain. Besides the explanations which have already been given to your court on this subject, (alluding to the communication of the ambassador Bonaparte,) and those which I have authorized to be again made to the Government of the United States, by the chargé d'affaires of His Imperial Majesty, ought to leave the presumption that, from the opinion which His Majesty has adopted on this question, *that as it has already been the subject of a long negotiation, and of a formal convention between France and the United States, it cannot again become the subject of a new discussion.*"

The expressions of the French minister are clear and pointed, and portray, in a convincing manner, not only that France has satisfied the United States for the damages which they pretend to claim from Spain, but also the just surprise which has been caused to his Government by the notice of such pretensions on the part of the United States, pretensions which are directed to obtain a double indemnity for one and the same debt.

Under this supposition, and continuing the order we proposed, to fix, in the first place, the rights of each nation upon each one of the points in controversy, I will proceed to that of indemnifications, which your excellencies reclaim for the suspension of the right of deposite at New Orleans. To determine whether Spain is or is not responsible for the damages which your excellencies suppose to have been sustained by the citizens of the United States, by the suppression of the deposite at New Orleans, in consequence of the edict of the Intendant of that city, it is necessary to examine what are those damages, and from whence they have arisen. The edict of the Intendant of

New Orleans, suspending the deposite of American produce in that city, did not interrupt, nor was it the intention to interrupt, the free navigation of the Mississippi; consequently, these pretended injuries are reduced to this small point, that, for a short time, the vessels loaded in the stream, instead of taking in their cargoes at the wharfs. This obstruction will appear still less, when we consider that, during a great part of the time that the deposite was suspended, it was in the middle of winter, when the exportation of produce from the western parts of the United States by the Mississippi is very inconsiderable. If the erroneous opinions which were formed in the United States upon the occurrences at New Orleans; if the complaints published in the papers of your country, as false as they were repeated, that the navigation of the Mississippi was interrupted; if the virulent writings by which the public mind was heated, and which led to compromit the American Government, and tarnish the good name of that of Spain, were causes that the inhabitants of the Western territory of the United States could not form a correct idea of what passed at New Orleans; and if, in this uncertainty, they were disappointed in the extraction of their produce, or suffered other inconveniences, they ought to attribute the same to internal causes, which originated in their own country, such as the writings before mentioned, filled with inflammatory falsehoods, the violence of enthusiastic partisans, and other occurrences, which, on those occasions, served to conceal the truth. The Government of Spain, so far from being responsible for the prejudices occasioned by these errors and erroneous ideas, ought, in justice, to complain of the irregular conduct pursued by various writers and other individuals of the United States, which was adapted to exasperate and mislead the public opinion, and went to divulge sentiments the most ignominious, and absurdities the most false, against the Government of His Majesty, and his accredited good faith.

Estimate the damages which may have arisen to the citizens of the United States by their erroneous conception of what took place at New Orleans, and they will be found to be no other than the trifling inconvenience before mentioned, of their ships loading in a situation not so commodious—an inconvenience for which the Government of Spain is not responsible, (neither ought it to be,) and which does not, in any manner, merit to be mentioned, more especially when it is considered that those who experienced it, had been enjoying the rights of deposite for four years more than was stipulated in the treaty, and this, notwithstanding the great prejudice it occasioned to His Majesty's revenue, by making New Orleans the centre of a most scandalous contraband trade, the profits of which it is not improbable but that some of those individuals have, in part, received, who now suppose themselves injured by said trifling inconvenience.

After four years more than the treaty expressed, to wit three years, making in all seven years, the Intendant thought that it was his duty no longer to permit a deposite, which grve an opportunity for carrying on a fraudulent commerce, prejudicial to the interests of His Majesty, for which he was accountable; he thought it was necessary that New Orleans should no longer be the place of deposite, on account of those inconveniences, and, in consequence, prohibited the same.

Before proceeding to such a determination, the Intendant ought to have asked instructions from his Government; but, perhaps, he thought he might compromise, by delaying this measure. His Majesty, as soon as he was informed of the edict prohibiting the deposite, was pleased to revoke it, wishing thereby to give another testimony of his friendship for the United States. What, in strict justice, was the deposite at New Orleans? A generous and gratuitous concession of the King my master for three years. It is true that His Majesty agreed, in the twenty-second article of the treaty, to continue the favor of the deposite, if it should be found that no inconvenience resulted from it, and of this no person was a better judge than His Majesty, and his agent in that colony. If the United States desired, after the expiration of three years, to continue the deposite at New Orleans, in a less precarious manner, or to have obtained another place for the deposite, they ought to have solicited the same; for it is more natural that those who aspire to a favor should solicit it, than that those who have the possession of the same should propose the cession or continuance of it.

By this it is not intended to support the edict of the Intendant; His Majesty has disapproved the act; giving, thereby, a proof of his friendship for the United States. However, this subject ought not to be treated on in the light of exacting indemnifications resulting from it, but should be examined to see if, in strict justice, the Intendant, or the Spanish Government, could or could not prohibit the deposite at New Orleans; four years more than the three stipulated in the treaty having expired, and during which time the Royal Treasury experienced the most serious prejudice. Most certainly, the Intendant had a right to prohibit the deposite, and, consequently, the Government of Spain cannot be responsible on this point; and this reflection acquires a double weight, if we consider the trifling inconvenience occasioned by the true effect of the said edict, of its short duration, and, on the other hand, the serious damages which the King's revenue has experienced by the continuance of the deposite for four years over and above the term stipulated in the treaty. I think your excellencies will be convinced of the force of these arguments; and it is to be desired that, in consequence of what I have represented to your excellencies, and to Mr. Pinckney in particular, upon the various points of indemnifications reclaimed by your Government, we may now be of the same opinion, and proceed to fix the rights of each nation, on the other question, relative to the limits of Louisiana, which is in its nature different; because, to have the first points in dispute undecided on, and even without discussing their merits, cannot but augment the confusion of the business; for it is very difficult to settle, in an amicable manner, the whole of the points in dispute, there being an essential difference of opinion on some parts of them.

I am also disposed to enter into a discussion upon the limits of Louisiana, but in the manner proposed by your excellencies, and adopted by me in my note of the 31st ultimo, to wit, to fix, in the first place, the rights of each country, and then proceed to such negotiations as may be convenient to both nations.

With demonstrations of my most distinguished consideration and respect, I remain, &c. &c.

PEDRO CEVALLOS.

Messrs. Monroe and Pinckney to His Excellency Don Pedro Cevallos.

ARANJUEZ, *February* 18, 1805.

Mr. Pinckney and Mr. Monroe have the honor to present their compliments to his excellency Don Pedro Cevallos, and request that he will be so good as to honor them to-morrow with a conference, or at such other time as may be more agreeable to him. They think proper to ask this conference, in consequence of the note of his excellency of the 16th instant, received this morning, which appearing calculated to put a prompt end to the negotiation, and that not in an amicable manner, they are desirous of obtaining it, before they give an answer to that note in the manner which their recent instructions make necessary, to see if it is yet possible to arrange amicably the differences which subsist between the two countries.

His Excellency Don Pedro Cevallos to Messrs. Monroe and Pinckney.

ARANJUEZ, *February* 24, 1805.

GENTLEMEN:

In my note of the 16th instant, I informed your excellencies that, after having examined the point relative to the indemnifications claimed by the United States, I should be equally disposed to enter into discussions upon the limits of Louisiana. In this mode of proceeding, I follow the plan laid down in your excellency's first note, to wit, first to fix the rights of each nation, and then proceed to such negotiations as may be proper for both.

On my part, I continue to follow this plan—a plan which is so conformable to the wishes of both Governments, and so well adapted to the purpose of terminating amicably their differences. We will now begin the examination of the limits of Louisiana, whose boundaries, by their nature, are divided into parts essentially distinct; and, for

this reason, we will examine them separately. They are the limits of Louisiana on the east, or side of the Floridas, and its boundary on the side of the interior provinces of New Mexico. The first shall be the object of this letter.

If the declaration of the act of Congress of the 24th February of the last year had not anticipated the declaration of the pretensions of the United States, to extend the limits of Louisiana on the east as far as the river Perdido, including within them the greater part of West Florida, I should have been surprised to have seen this pretension manifested in the first note of your excellencies. It appears as if the title alone of the treaty, by which His Majesty retroceded Louisiana to France, and to whose title the United States have succeeded, was sufficient to banish even the most distant idea that His Majesty had by it ceased to be the proprietor of West Florida, a province which Spain never received from France; for the possession of which she was only indebted to the valor of her arms many years before the acquisition of Louisiana; and, never having received it from France, it could not be included in a treaty founded entirely on the principle of *retrocession*. But as, notwithstanding this reflection, so obvious and clear, the United States pretend to stretch the limits of Louisiana to the river Perdido, I find myself under the necessity to manifest more fully the unshaken and solid principles by which His Majesty founds his right to the possession of the province of West Florida.

By the treaty of sale of Louisiana, signed at Paris the 30th April, 1803, the United States have acquired the right which France held, in virtue of the *retrocession* of that province, made to her by His Catholic Majesty, at St. Ildefonso, the 1st October, 1800. The stipulation, which ought to serve to found the pretensions of the United States, cannot be any other than the third article of the treaty of retrocession, which is in these terms: "His Catholic Majesty promises and engages, on his part, to cede to the French republic, six months after the full and entire execution of the conditions and stipulations herein, relative to His Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States."

The first thing which calls our attention, in explaining the said article, is the expression *retrocede*, and which also serves to denominate the treaty of St. Ildefonso, called the treaty of *retrocession*. The sense of this expression is obvious; it cannot be misinterpreted or confounded; its meaning is evidently this: *that His Catholic Majesty returns to France the territory which he had received from her*. Now let us examine if France put Spain into possession of the territory which occasions the present discussion. It is, without doubt, that, by the treaty of 1763, it was agreed that the separation between France and England of their possessions in that quarter, should be, by a line through the middle of the rivers Mississippi and Iberville, and the lakes Maurepas and Pontchartrain, to the sea; consequently, France ceded to England the river and port of Mobile, as well as all her other possessions on the east of the Mississippi, the island and city of New Orleans excepted. From that time this territory formed a part of the possessions of the English, under the name of West Florida, and France lost all claim and title to it. Thus it became an English possession; and, during the war of 1779, Spain conquered from England all that the latter possessed by the title of West Florida; and, in the definitive treaty of 1803, [1783,] England ceded to Spain, under a guaranty, both Floridas. It is then seen, by this plain and simple exposition of facts, that the title by which Spain holds possession of the territory on the east of the Mississippi, called West Florida, was acquired to her by the right of conquest, at the expense of her treasures, and the blood of her soldiers; and, also, by the cession made by England under the treaty of 1783. From that time the title of Spain to that territory is entirely independent of France, and of the cession of Louisiana made by her; and, consequently, Spain could not give back to France what she did not receive from her. We will continue the discussion on the third article of the treaty of St. Ildefonso.

In the first place, it is said that His Majesty retrocedes Louisiana, "with the same extent of territory which it now has in the hands of Spain." This expression confirms most explicitly the right which Spain preserves over the said territory to the east of the Mississippi; because it is well known that Spain possesses West Florida not as Louisiana, but as Florida. This circumstance, so notorious, is confirmed by the title of the Governors of the Havana, who, in their character of Captain Generals, have always governed under the title of *Captain Generals of the two Floridas;* and by all the most authentic public acts, which have passed since His Majesty has been in possession of the said territory, this title has been preserved. It will be sufficient to mention the treaty concluded between His Catholic Majesty and the United States, in 1795, in the second article of which we read the following conclusive words: "that the southern limits of the United States, which separate them from the Spanish colonies of East and West Florida," &c. It is then proved, in the most authentic manner, the separation of West Florida from Louisiana, and their different appellations; and it is a thing generally understood that names of countries, bartered, ceded, or retroceded by a treaty, should be considered according to the general acceptation existing at the time of making the treaty; it is clear that if, in that of St. Ildefonso, it had been wished to include West Florida, it would have been expressly mentioned by the name which authenticated it, and under which it is generally known: for it would have been ridiculous to have given the name of Louisiana to that territory, because it had once formed a part of that province, as much so, as it would be at present to call the State of Ohio Louisiana; consequently, no doubt remains that, as His Majesty was in possession of the said territory, under the name and quality of West Florida, it could not be included in Louisiana; because it was in the hands of Spain on the 1st October, 1800, the epoch of the treaty of St. Ildefonso; and because the before mentioned clause of the third article, in its natural and explicit sense, excludes France from a right to West Florida.

The second clause or expression of the same article, "and which it had when France possessed it," alludes only to the manner in which France possessed it in 1763, when she delivered it to Spain; for if any other sense is given to it, that expression cannot be consistent with the anterior, which says, "with the same extent which it now has in the hands of Spain:" for if in the second clause a *greater extent* should be given to Louisiana than that which it had in the hands of Spain, how could it be "*with the same extent* it had in the hands of Spain?" It is repugnant to common sense that the delivery had to be with *the same extent* and with *greater extent;* it being with *more*, it could not be with the *same*. It is then clear that the obvious sense of both clauses together, and the only one which is not absurd and contradictory, is the following: that Louisiana was retroceded with the same extent it had in the hands of Spain in 1800, and that which it had when France possessed it, and gave it up to Spain. The expression "when France possessed it," not marking any fixed time, it is clear that it ought to be determined by the clauses of the same treaty, and interpreted in terms which will not give an absurd sense, or contradict the other expressions of the same article; since, if we should admit the expression "when France possessed it" in all its latitude, it would result that Spain had obligated herself by the third article, to give France a part of the State of Kentucky, all the State of Ohio and territory of Indiana, and that France should hold a right, by the treaty of St. Ildefonso, to resell the said States as a part of Louisiana "when France possessed it," and also to prohibit the navigation and deposite to the Americans, because that France had to receive Louisiana "as she possessed it." Absurb reasoning! which does not merit to be refuted, which arises in consequence of the undefined latitude which is pretended to be given to "when France possessed it." It is a principle incontrovertible of the law of nations, that treaties should not receive an odious or absurd interpretation, when they can admit of a clear and simple one. It would be both odious and absurd to suppose that Spain had ceded Louisiana to France, with all the extent with which she had possessed it at an epoch anterior to the treaty of 1763; for it would thence result that she had engaged to give to France part of the United States, as before mentioned; and it would be equally absurd in France, because she abandoned by the treaty of 1763 all her rights and pretensions to the country east of the Mississippi to Great Britain; and by her treaty of 1778 with the United States, she was bound in such manner that she could not acquire a territory east of the Mississippi without the consent of the United States, and only by that of conquest. At the same time, it would do very little honor to the United States to maintain an interpretation, the consequence of which would make it appear that that part of the United States formed by the Ohio, a part of Kentucky and Tennessee might be comprehended, and become the object of stipulations and cessions between two foreign Powers, such as France and Spain, who have no right to meddle with them.

The third clause of the third article of the treaty of St. Ildefonso is still more decisive, and offers other arguments in favor of Spain, since it says, "such as it ought to be according to subsequent treaties between Spain and other

Powers." The treaties here alluded to are not, nor can be, others than those of 1783, between Spain and England, and 1795, between Spain and the United States. By the first, His Majesty acquired the territory east of the Mississippi, under the name of West Florida; and, consequently, to be "as it ought to be," since the treaty of 1793, is with the exclusion of a territory acquired at that period, and with a name so different. By the second, His Majesty permitted the deposite, and fixed the limits between Louisiana, the Floridas, and the United States, to be "as they ought to be" after the treaty of 1795, is with the exclusion of France to the rights of the United States in this treaty. And thus, as the treaty of St. Ildefonso could not affect the rights which the United States acquired by that of 1795, so neither did it affect, nor could it affect, the rights acquired by His Catholic Majesty, by the treaty of 1783 with England.

It would be unnecessary to accumulate more proofs in a case so clear in its nature: but I cannot but mention to your excellencies, in support of the unquestionable right which Spain has to the territory in question, the respectable and undeniable opinion of the celebrated geographer of the United States, Mr. Ellicot, whose knowledge and talents occasioned his being named by the Government of the United States to run the line of division between the said States, and the Spanish provinces on the south of them, according to the treaty of 1795. This person, who, perhaps, has more knowledge of what relates to the territory in question than any other, in the preface of his work, published in 1803, under the title of the "Journal of Andrew Ellicot, late Commissioner in behalf of the United States," &c. &c., speaking of the sale of Louisiana made by France, says, dated Lancaster, 22d July, 1803, "It does not appear, by the cession of Louisiana to the United States, we obtain the whole of both sides of the Mississippi: for, by consulting No. 5, of the maps, it will be seen that the island of New Orleans, which lies on the east side of the Mississippi, only extends north to Manshak; from thence, northerly, along the east side of the river, to the southern boundary of the United States, is still held by His Catholic Majesty as a part of West Florida." He again says, "the important and safe harbors in both the Floridas still remain in the possession of His Catholic Majesty." These expressions, so notable, corroborate and confirm, in the most positive manner, the incontestable right of His Catholic Majesty to all the territories which are on the east of the Mississippi, under the line of the thirty-first degree, excepting the island of New Orleans.

Besides what has been said, it cannot be doubted that the treaty of retrocession of 1800 was a contract between Spain and France; and, consequently, it was for France to have represented, in case she had not received all the territories expressed in that stipulation. And it is certain that the Prefect Laussat, charged to carry the treaty into effect, being perfectly instructed in it, and being possessed with the intentions of his Government, has expressed himself satisfied with the manner in which it was carried into effect, without his having been put into possession of the territory in question. Thus the United States, having succeeded to the rights of France, have no ground to pretend to what France has thought did not belong to her.

I could, by an accumulation of various proofs, establish in different ways the incontestable right of the King my master to West Florida; but it appears to me that what has already been said is sufficient, so as not to leave a doubt in the mind of any one who will examine the question impartially, not even in the mind of Mr. Ellicot, who, notwithstanding the love he bears to the Government that employed him, and in whose favor he has wrought, could not do less than give that just homage to truth and justice which they merit.

With assurances of my distinguished consideration, I remain, praying to God to preserve your lives many years.

PEDRO CEVALLOS.

Messrs. Pinckney and Monroe to Mr. Cevallos.

ARANJUEZ, *February* 26, 1805.

Mr. Pinckney and Mr. Monroe present their compliments to His Excellency Don Pedro Cevallos, and have the honor to enclose him their answer to his note of the 16th, which was prepared and intended to have been sent in yesterday. They avail themselves of the opportunity to acknowledge the receipt of his excellency's note of the 24th, received last night, respecting the eastern limits of Louisiana, to which they will pay immediate attention.

Messrs. Monroe and Pinckney to His Excellency Don Pedro Cevallos.

ARANJUEZ, *February* 26, 1805.

SIR:

We have the honor to acknowledge the receipt of your excellency's letter of the 16th instant, whose contents and tone have equally surprised us. We should consider ourselves failing in the respect which we owe to our Government, if we did not express our sentiments on it, in both respects. In so doing, it is necessary to review concisely what has already passed between us.

Your excellency will recollect that, in our interview which took place immediately after Mr. Monroe had the honor of being received by His Majesty, the objects of his mission were fully communicated, and that it was agreed that we should present to your excellency a project for the adjustment of every point, to which you were so good as to promise an early and explicit answer. In compliance with that arrangement, we did present to your excellency, on the 28th ultimo, the project which we had promised, in which we stated fully the views of our Government, with its opinion of the rights of the United States on each point, which we illustrated in those cases which had not been already exhausted, and, of course, where illustration could be necessary, or was even likely to be agreeable. We had a right to expect, and we did expect, an answer, equally full and explicit to every point. In this, however, we were disappointed. On the claims to indemnity for injuries, your excellency thought proper, it is true, to intimate, in respect to spoliations, that His Majesty was willing to ratify the convention of August 11, 1802, after the obstacles which occasioned its postponement should be removed; and, in respect to that arising from the suppression of the deposite at New Orleans, that Spain was not accountable for them, but without giving any reason for the assertion. On the great question of territorial rights and limits, as on the mode of providing for their security, and, with it, the peace and harmony of our Governments, on which we did ourselves the honor to make to your excellency what we deemed liberal and salutary propositions, we received what could not be considered as an answer, since it neither rejected our propositions, offered others, nor expressed any sentiment respecting them. If it was proper to open the whole subject, as was admitted in our first interview, it was equally so to answer it. And that it was proper so to do, is not only proved by the agreement referred to, but by the situation of the two countries at the present time. The several points are, it is true, in their nature distinct; yet is obvious that the whole must be brought into view and settled together. We do not perceive the means, nor has your excellency suggested them, of adjusting a part, and leaving the others unfinished.

Although we could not but be hurt at receiving an answer so vague and unsatisfactory to our letter, yet we deemed it inconsistent with the respect we owed to both our Governments, to your excellency, and to ourselves, as with the spirit of conciliation which we wish to preserve through the negotiation, to express that sentiment. We did more; we met the invitation which your excellency seemed to give us, without, however, furnishing the example, by proceeding to explain further the views of our Government, and illustrate its rights on the two points, on which you had given any opinion. The claims to compensation for injuries arising from spoliations on our commerce, and the suppression of the right of deposite at New Orleans, had been long before our Governments, and their merits were well understood. That for spoliations, more especially, had been so fully and amply discussed, both here and in the United States, as to leave no doubt that such discussion was not necessary to enable either party to make up its mind on it.

By entering into it, therefore, we gave your excellency a convincing proof of our desire to accommodate with your wishes, in the hope that it would produce, on your part, a corresponding result. We flattered ourselves, that, as the whole subject was again presented before you, in all its points, with the explanation which you had invited on the two first, we should have received a full answer from His Majesty's Government on each, and, of course, on the whole. In this, however, we were again disappointed. We received, in substance, only the same proposition which had been made to us before, which we had, as we presumed, clearly proved to be incompatible with the rights of the United States, and the principles of justice, and which, as we had taken the liberty to inform your excellency, the repeated and recent orders of our Government prohibited us from accepting. Under these circumstances, we considered it our duty to acquaint your excellency, respectfully, that we deemed it useless and improper to prolong the discussion on that point; at the same time requesting you to be so good as to communicate the sentiments and propositions of His Majesty's Government on the whole subject, that we might see whether it would be possible, while we avoided discussions of an irritating tendency, to adopt some plan, which, by a general arrangement, might provide for this as well as the other objects, and thereby render justice in the most acceptable manner to all parties. To this proposal, the most respectful and friendly that we could make, one which is warranted by the uniform practice in similar transactions and cases of all Powers, especially the most friendly to each other, we received a letter which is addressed in a very different spirit. By it we are charged with refusing to discuss points which we had already discussed, and on which we had given to your excellency our ulterior opinion; our Government is charged with the dishonorable attempt to obtain a double indemnity for the same object; many of our citizens are denounced as unprincipled contrabandists; and others, if not the whole nation, as enthusiastic partisans, calumniators, and disfigurers of truth, for, in respect to the suppression of the deposite at New Orleans, all America had but one opinion, and spoke with one voice. In the article of the press, the freedom of our internal institutions, which all nations have a right to regulate, and do regulate as suits themselves, is attacked; the right of the Intendant to suppress the deposite at New Orleans is justified; and the right itself, though stipulated and made permanent by a solemn treaty, a stipulation which had its equivalent in the other articles of the same instrument, and was otherwise prompted by the law of nature, of reason, and the interest of Spain, is represented as a gratuitous or charitable donation to the United States, which His Majesty had a right to suppress, and keep suppressed, until their Government should implore him to open it to them again. On this note, we think proper to observe that it was impossible for us to have received one which could have been more unexpected. It was the more so, because, in all our communications, we had been studious, in obedience to the orders of our Government—orders which we executed with pleasure—to manifest its high respect for His Catholic Majesty, and we were not conscious of having failed in that which we entertained for your excellency.

We forbear to make any further comment on the tone of this last note at present, because it is probable it may convey sentiments which are not entertained. We are aware that, in the zeal of an important discussion, incidents of that kind often occur, and are prompted by patriotic motives, even with those who are the most guarded. We trust that the character of the American Government and people, which is well known, and we flatter ourselves held in just estimation by other Powers, will not be injured by the spirit of conciliation and moderation which animates us on this occasion. On the presumption, therefore, that no premeditated outrage was intended, and with a sincere desire to adjust amicably the differences subsisting between our countries, we will proceed to answer the several objections urged in your excellency's last note to what we consider to be the just claims of our Government.

Your excellency insists that His Catholic Majesty is not answerable for the spoliations that were committed on the commerce of the United States, within the jurisdiction of Spain, in the course of the last war, by French cruisers and tribunals; and you urge, in support of the doctrine, first, that those claims were satisfied by the treaties which have taken place between the United States and France; second, that Spain was not in a situation to prevent those aggressions on our commerce. We will examine with candor both these pretensions, which we are persuaded it will be easy to show are unfounded. Two treaties have latterly taken place between the United States and France; the first on the 30th of September, 1800, the second on the 30th of April, 1803. Permit us to ask by which of these was such extinguishment made? If by the first, it is not likely that the subject would have been thought of in the second; if the second is relied on, it is an admission that it was not done by the first. Your excellency seems disposed to rely on both, which cannot be considered otherwise than as a proof that neither alone had done it. It is equally obvious that it was not done by both together, since, whether we examine them separately or together, they expressly preclude the idea.

By the second article of the convention of 1800 between the United States and France it is agreed, for certain considerations therein specified, to postpone their respective claims to indemnities to a more convenient time; and, by the ratification of that convention, those claims were relinquished forever on both sides.

By the fifth article of the same convention, it is agreed that certain specified claims or debts should be recoverable in the same manner as if no misunderstanding had taken place between the parties.

By the first and second articles of the second convention, entered into on the 30th of April, 1803, provision is made for the payment of the debts which were comprised under the second and fifth articles of that of 1800, whose amount, it was expressly stipulated, should not exceed twenty millions of livres.

These are the only articles in those conventions which have any reference to the point in question. If the claim of the United States on Spain for French spoliations and condemnations within her jurisdiction was satisfied by the treaties and conventions between the United States and France, it was by one of these articles. We will examine, first, that pretension, as founded on the second article of the convention of 1800. On a view of that article, and, indeed, of the whole instrument, we find that it regulates only questions and interests that were depending between the United States and France. A misunderstanding had unhappily taken place between those Powers, and it was the object of this convention to adjust it. Not the most distant allusion is made, in any article of the convention, to Spain or her concerns. Had Spain then been a party to that misunderstanding, she could not have been benefited by that convention. The reason is much stronger why she could not, as she was not a party to it, since there was no variance, and there certainly was none between the United States and Spain, it is more evident that it could not have been in the contemplation of the parties to adjust what did not exist. It may be added that if it had been contemplated to release Spain from any obligation which she owed to the United States, from any just claims which they had on her, the release would have been complete; it would have extended to every object, especially of the same kind; and settled every ground of difference between them. The fact, however, is admitted by all parties to be otherwise. It has never been contended by Spain, that the spoliations which were committed by her own people were satisfied by that convention. Hence it is clear that Spain was not discharged from the claim of the United States for French spoliations committed within her limits, by the second article of the convention of 1800. It is equally clear that she was not discharged by the first and second articles of the convention of 1803. It is evident, on a slight view of these last articles, and indeed of the whole instrument, that they had no other debts in contemplation but those which were made recoverable by the convention of 1800; that, in truth, the convention of 1803 did no more than provide funds for the payment of the debts that were due under that of 1800. Thus the claim of the United States on Spain for these spoliations was not discharged by this last convention. Other circumstances prove clearly, not only that this claim was not discharged, but that a provision or discharge of it by those conventions was not even contemplated by the parties to them. It is very well known that the Government of the United States never made a demand on that of France for the payment of these spoliations; that it always claimed the payment of Spain, and her only, considering her only as responsible for them. It is not presumable that the parties should intend to provide for a claim not made, for a debt not supposed to be due. The conduct of Spain, through the whole of this epoch, corresponds with that of the other Powers in this respect. The minister of the United States at Madrid pressed the Government of Spain for an indemnity for that and other claims. Had it been contemplated by Spain to obtain her discharge through the medium of France, her ambassador at Paris would have been seen in both those negotiations, especially that of 1800; and, had he succeeded, a provision to that effect, in explicit terms, would have been introduced into that convention. But nothing of this kind took place. Indeed, the success of such an attempt was so improbable, that it is not presumable that the idea ever occurred. With the claims

that were in the contemplation of the parties, and for which France was truly answerable, it was difficult to accomplish an amicable adjustment of their differences. Had these been swelled by the addition of those on Spain, it is probable that the negotiation would have proved abortive. It was not until some years afterwards that this pretension on the part of Spain was heard of, and then it was founded on a pretext as singular as it was unexpected—that of her being released by a treaty between the United States and another Power, in which she was not even mentioned. With respect to these claims having been discharged by the convention of 1803, it has already been shown that that convention could not, by any possible construction, be considered as having any reference to the subject; it may be added, that the funds provided by it were not only intended for other objects expressly stipulated, but that there is reason to think they are not commensurate with those objects.

As to the pretension that Spain was released from this claim, by the release made to France of other claims of a similar nature, it is easy to prove that it has not the slightest foundation. It has already been shown that France was not released from this claim, because it was never made on her. We shall proceed to show that it was properly made on Spain, and that she was, and is still, answerable for it.

It will not be controverted that it is the duty of every independent state to observe, that the citizens or subjects of every other independent state are secured, in their intercourse with it, in the enjoyment of all the rights and privileges to which they are entitled by the law of nations, and treaties with such Power. This principle forms the basis on which the whole system of public law rests. It is the standard by which every question between independent Powers must be examined, and their respective rights in all cases settled.

It is equally true that, for every violation of those rights on the citizens or subjects of one independent state within the jurisdiction of another, the Government of the latter is responsible, whether the same be committed by its own people, or those of another Power. The reason of this rule is obvious. Every Government being sovereign within its own limits, the subjects of every foreign Power are regarded there for the time as its own subjects, and, as such, it is responsible for their conduct. While such Government retains its independence, it cannot divest itself of this duty, or the obligation to discharge it. The principle is the same, whether such acts be performed by the private individuals of a foreign Power, or its public agents. In the latter case, indeed, the claim to an indemnity by the party injured, on the Government under whose jurisdiction it was received, is stronger, since, being done under color of public authority, and especially if persevered in, they become the acts of the Government itself. These principles are too well established by writers on the law of nations to require further illustration.

Hence it appears clearly that Spain was answerable for French spoliations committed under her jurisdiction, in the same manner as if they were committed by her own people. To her, then, the American Government was bound to look for reparation. Whether France was eventually liable or not, it is not material to inquire. Where was the injury rendered? What Government had cognizance of the case? Whose laws were violated by the proceeding? or by whose laws was the injury permitted, or, what amounts to the same thing, suffered? By that Government is the reparation due, and by it ought it to be made. If France has actually paid any of those claims, such payment will, of course, be considered as a discharge. That the suffering individuals may have applied elsewhere and every where, to save themselves from ruin, or rather retrieve themselves from it, is possible; but neither will the course which their distresses may have compelled them to pursue, nor will the fortune of some particular applicants, in case any have succeeded, affect the merits of the present question. It is known that the sentiments and conduct of the American Government have invariably been the same on it. It has thought, in every stage, that Spain was responsible for those spoliations, and it has uniformly sought the indemnification of her, and of her alone.

If France was responsible for those claims, the injuries having proceeded from her officers and agents, it was only eventually in case satisfaction was not obtained of Spain; for, as already shown, having been committed under the jurisdiction of Spain, where she only had authority, the redress was strictly due by her. For injuries committed by a Spaniard to an American citizen at Paris, we should not think of making application for redress to the Government of Spain, nor for like injuries committed at Madrid by a Frenchman, to the Government of France. The application, in both cases, would be to the Government having jurisdiction of the territory where the offence was committed, and of course cognizance of the case, to the Government whose laws were offended, and who had the power of redress. If France was eventually answerable to us for those claims, which we deny, we admit that she was released from them by the convention of 1800. But can Spain, who was answerable primarily, if not solely, to whom application had been made, to whom it was then, and has since been, made, claim an exemption from them, under a treaty to which she was not a party, and in which her name was not even mentioned? We are of opinion, by the uniform and well established doctrine of the law of nations, by the clearest principles of justice, that she cannot.

With respect to the opinions which you have been pleased to communicate to us of the Minister of Foreign Relations, and the late ambassador of France, on this subject, we have received them with the consideration which is due to the very respectable authority from which they emanate. We are not willing to believe that they oppugn the principle above laid down, or apply to those cases which are justly chargeable on Spain, because our Government, for the reasons above stated, and by the clearest conviction, thinks otherwise. On all treaties between independent Powers, each party has a right to form its own opinion. Every nation is the guardian of its own honor and rights; and the Emperor is too sensible of what is due to his own glory, and entertains too high a respect for the United States, to wish them to abandon a just sense of what is due to their own. We do not believe that the view which our Government takes of this subject was ever presented to that of France, since we are not aware that there ever was an occasion for it. By those treaties with His Imperial Majesty, all differences between the United States and France were happily terminated, and the relations of the two countries placed on a footing of permanent friendship. In all questions growing out of them, in which France and the United States are interested, their Governments are perfectly of accord. We should regret much if they were not so, in the present case, as indeed in all others between the United States and Spain.

As to the doctrine held by certain respectable professional characters in the United States, whose opinions have been asked and given in this case, that France and Spain were associate parties in the injuries complained of, the former as principal, and the latter as accessory, we are sorry to be called on to make any remark on it. Delicacy for those gentlemen makes this an unpleasant duty. From that motive we will confine what we say to the doctrine itself. We will admit that we have not made up our minds to a censure of their conduct, since, if such an interference is justifiable under any Government, it certainly is so under that where it is their happy destiny to dwell. In noticing their opinion, we have to observe, that they have evidently mistaken the case, by applying to nations a maxim of local municipal law, which is applicable only to individuals. Among nations it is believed that there is no such thing as principal and accessory. All are principals, and are to be regarded as such, in all their transactions. In case of a war, to which there are several parties, allies on each side, nothing is more common than for one to make its peace, and withdraw from it. It was never contended that an adjustment made by one party, in such a case, or any other, settled the differences of the other party. The doctrine of principal and accessory, of a release or discharge to one Power, by virtue of an accommodation with another, was never heard of among them. Indeed, it would be strange if any one nation should undertake to adjust the concerns of another, without its authority. It would be more so if any adjustment between two parties should be so construed as to produce an important benefit to a third, not only without its authority, but the knowledge of any one of them. Suppose that an adjustment made by one of the parties for a third one, should be highly detrimental to it, would such third party be bound by it? Had France, for example, stipulated that Spain should pay for all those spoliations, and a great proportion of her own, would Spain have allowed her right to do so? Ought she, then, or has she a right to claim any advantage from a transaction to which she was not a party, by which she could not be bound, and which, in its nature, could not be reciprocal?

With respect to the plea on which the opinion of those gentlemen is, in part, founded, that Spain was not in a situation to prevent those violations of her territory by France, and is, therefore, not accountable to the United States for the injuries resulting from them, we find ourselves precluded, by the high respect which we entertain for His Catholic Majesty, from dwelling on it. We shall be permitted, however, to observe, that we utterly deny the fact. Spain was never placed in that dilemma. Having, from very remote antiquity, held a very distinguished rank among

the Powers of Europe, she still enjoys it. In her late war with France, nothing occurred which placed her in the condition of a conquered nation. Her troops behaved with gallantry in the field, and her Government obtained an equal and honorable peace. If, then, she did not prevent those violations of her territory, it was not because she was not able to do it, but because they were sanctioned by some treaty which secured her, in other respects, an equivalent; or that she chose to permit them from some motive of policy at the time; in either of which cases she is responsible to the United States for the same.

We have thus answered fully the arguments urged by your excellency against the claim of the United States on Spain, to an indemnity for the spoliations on their commerce by the cruisers and tribunals of France, within the territory of Spain, in the course of the last war, and, we are persuaded, shown, in the clearest manner, that that claim is well founded. We should have gone more fully into this point on our former notes, had we not believed that it was already fully illustrated by the communications which had taken place on it between our Governments, in the United States and here, to which we beg leave to refer; a note of which latter is here annexed. We have, however, been happy, at your excellency's suggestion, to review the subject, being very solicitous to prove, on all occasions, that our Government makes no claim which is not founded in justice; and being likewise so to avail ourselves of every suitable opportunity to give new proofs of its respect for, and desire to preserve the most friendly relations with, His Catholic Majesty.

On the point respecting the suppression of the deposite at New Orleans, we regret that it is altogether impossible to assent to the doctrine which is insisted on by your excellency. On a careful perusal of the treaty, we find in it nothing which justifies the idea that there ever was to have been a moment of interruption in the enjoyment of that right, either at New Orleans, or at some other suitable place on the banks of the Mississippi. It is not, it is true, stipulated that, in suppressing the existing deposite, and opening another, the Government of Spain should give notice of the design, and hold communication with that of the United States on the subject. On the other hand, it may also be said, with equal truth, that it is not stipulated, in taking that measure, that that friendly proceeding should not be observed, but that His Majesty may do it, and keep the deposite altogether suppressed until the Government of the United States should make application for the opening of it. In all such cases, the policy of the measure, the object of the treaty, and the intention of the parties, are to govern in the interpretation of it; and, by these, it appears to us to be unquestionable, that another deposite ought to have been opened at the moment the existing one was closed. It is on that principle that the United States consider themselves entitled to an indemnity for the injury which was sustained by that measure. What the precise amount of that injury may be, it is not in our power to state; from what we have understood, however, it is by no means of the trifling nature your excellency seems to suppose it. We have not sought, as an indemnity for it, any precise sum. We have only proposed that it should be referred to the judgment of impartial arbitrators, on such proof as might be presented before them, to estimate it: a proposition which we deemed too just and reasonable to admit of objection.

On the subject of limits, and others incident to it, having already stated to your excellency the views of our Government, we deem it necessary only to refer again to our former communications. As neighbors, desirous of living together in peace and friendship, it is certainly an object of essential importance to adjust and arrange these very interesting points at this time, in a clear, definite, and satisfactory manner. At an epoch so extraordinary, and big with such important events, it may be productive of much harm to leave any thing unfinished, and thereby exposed to casualty. In cases of unsettled boundary especially, where the pretensions of the parties differ, and those of either may be carried, under colorable pretexts, to great height, there is always danger, by delay, of their becoming the cause of serious controversies, and even of destructive wars. Aware of this danger, the President of the United States is sincerely desirous of averting the evil incident to it, while it is practicable. It is with that view that he has sought, by the present negotiation, to settle amicably and finally all the points depending between the two nations.

The propositions which we have had the honor to make on this point are deemed reasonable and just, and we flatter ourselves that they will be so considered by His Majesty's Government.

We have now the honor to submit to your excellency again the full view of our Government, on all the points depending between the United States and Spain, and, in so doing, consider it our duty to repeat what we stated in our former notes, that it is equally incompatible with justice, as it is with our instructions, to enter into any arrangement relative to claims for spoliations which does not provide, in some equitable and satisfactory mode, for the whole. To reserve a right, in respect to those which were committed by French cruisers and tribunals, without making any provision for it, could, at this stage, be considered in no other light than an abandonment of it. We have forborne to state, in detail, the extent of these injuries, comprising, in the whole, two hundred and seventy-two vessels and cargoes, or the aggravated circumstances attending many of them, which have involved in ruin many of our most respectable and wealthy citizens, because it has been our object rather to heal than to open wounds. It is well known that, at the time these injuries were rendered to our citizens, there did not exist, on the part of Spain, the slightest cause of complaint against the United States, whose Government, peaceable and friendly, has borne them with a patience and moderation of which history furnishes no example in equal degree. Many years have elapsed since these injuries were received; during which time, the sufferers have looked to their Government for reparation without effect. Their last hope is founded on this negotiation, and great would their astonishment and disappointment be, if they were told that more than one-half of them were to be abandoned. We repeat, however, what we took the liberty to state in our letter of the 12th instant, that, if it is possible, on being possessed of His Majesty's sentiments and propositions on the whole subject, to provide by a general arrangement for this and the other objects, in any mode consistent with our duty, which may be satisfactory to him, we shall be happy to do it.

We beg your excellency to accept the assurance of our high consideration and respect.

CHARLES PINCKNEY,
JAMES MONROE.

His Excellency Don Pedro Cevallos to Messrs. Monroe and Pinckney.

ARANJUEZ, *February* 28, 1805.

GENTLEMEN:

I have received your esteemed note of the 26th instant, in which you reply to mine of the 16th; and before I make the observations necessary in answer to the same, it appears to me indispensable to satisfy, by a separate letter, the complaints of your excellencies on the tone and expressions of my said note. The King my master being animated by the most sincere sentiments of friendship and distinguished consideration towards the United States, your excellencies will be pleased to do justice to these sentiments of His Majesty and to mine, as being persuaded that I, who have the honor to be the interpreter of them, could have no design nor the most distant idea, I do not say to injure, but even to be wanting in those manifestations of consideration and respect for the United States, and their Government, to which they are so justly entitled. Commencing with this declaration, your excellencies will permit me to examine the different expressions of my letter of the 16th, which have given rise to your complaints. Your excellencies say, in the first place, that, on my part, I impute to you a refusal to discuss some of the controverted points; but if your excellencies will take the trouble to read my note a second time, I hope you will acknowledge that I am far from imputing any thing on that subject; and that I only wished to say on it, that, while your excellencies believe it useless, or incompatible with your instructions, to continue the discussion upon the indemnifications reclaimed for injuries committed by the French privateers, as I understood by the expression of your excellencies, "it seems useless to prolong the discussions on that point," I found myself obliged to treat the subject less extensively than I thought I could, not to molest your excellencies too much on it. I am far from supposing that this could involve the smallest disrespect, as it is only reducing it to a difference of opinion,

your excellencies believing that the point was sufficiently discussed, and I, that it wanted to be a little more so. In the second place, your excellencies show yourselves dissatisfied that I have expressed that the claim of your Government for satisfaction for French spoliations should go to demand two indemnities for the same debt, which expression your excellencies believe injurious to your Government: but your excellencies will permit me to observe, that to demand two satisfactions for the same thing would be dishonorable to the American Government, knowing itself already satisfied by France, should still demand satisfaction of Spain; but as your Government does not believe itself satisfied by France, it cannot be dishonorable to pursue its demand of satisfaction from Spain, while it continues in the belief that it has not received satisfaction from France. Spain, on her part, believes she has shown that the United States have received satisfaction from France, and it is in this belief she may say that the United States claim two satisfactions for the same debt; more she cannot say, nor have I said, or thought to say, that they claim it with improper designs, knowing they demand two satisfactions, or that they believe they demand more than one; in which there is nothing dishonorable: although the United States might be mistaken, as Spain believes they are, in founding her belief in reasons which I have already explained to your excellencies, and thinking, on this occasion, exactly in conformity with the opinion of the most enlightened jurists of your country.

In the third place, your excellencies complain that, in my note, I have denounced many of the citizens of the United States as contrabandists; on which your excellencies will permit me to observe, that I do not find any thing of this in my letter in positive terms, but in doubtful ones, as the expression denotes, "it will not be extraordinary;" a doubt which the representations of those employed in the royal revenue have given rise to, whose truth I do not pretend to guaranty; nor does the doubt fall upon many of the citizens of the United States, but upon some very small numbers of them, as they very often use much in this sense, although there have been but one or two cases. I do not see the injury that can arise to the American nation in expressing a doubt that there may have been some individuals concerned in contraband business, or giving pretexts to Spaniards to do so; nor have I either attempted to discriminate between the two.

In the fourth place, your excellencies complain that I have said that some of the Americans, carried away by party spirit, had calumniated Spain on account of the deposite at New Orleans, and have disfigured what has happened in the capital; and your excellencies suppose that I designed likewise, in a manner, to attribute this to the American nation, the whole of whom, you say, had but one opinion on the subject of the deposite. On this point I cannot do less than feel myself hurt at the construction which is given to my expressions: in my letter I cannot find a single expression which can have the most remote allusion on the subject, either to the American nation, or its Government; it treats only of some individuals; and so far from making the least reflection on the conduct of the American nation and its Government during the suspension of the deposite, on the contrary, I have afforded many proofs of the satisfaction the conduct of the American Government has given on that occasion; notwithstanding it is not less certain what I have said, that there were some individuals, especially some writers, who published things on that subject injurious and calumniating to Spain, and the result of which was, that some of the inhabitants of the Western States, (as was not extraordinary,) not knowing the truth of the facts, suspended the shipping their produce to New Orleans, and suffered other injuries not imputable to Spain. In the first days of the suspension of the deposite, it was published by some North American, that the navigation of the Mississippi was obstructed: this was a falsehood, whose currency was injurious to the good faith of the Spanish Government, which had stipulated for the free navigation of the said river, and at the same time was prejudicial to the inhabitants of the Western States, who, remaining in this uncertainty, did not choose to undertake a voyage of such length, while there was danger of the outlet being interrupted. Afterwards they said, and it was repeated in the writings and speeches of some individuals, that the suspension of the deposite, and what they might expect respecting the navigation, flowed from France having influenced Spain to take upon herself the odium of this measure, that France might receive Louisiana free from the obligations imposed by the treaty of 1795, than which there could be no expressions more calumniating and unjust; it being an indubitable fact, that, in the treaty of retrocession of Louisiana of the 1st October, 1800, His Majesty had taken the most scrupulous care to secure the rights of the United States in the clause of third article, which says, "telle qu'elle doit être après les traités passés subséquemment entre l'Espagne et d'autres états." As to what respected the "enthusiastic partisans" of which I spoke in my note, your excellencies will permit me to remind you, that I alluded to the attempts of some of the inhabitants of the Western States, who (as the public papers then announced) showed a disposition and design to descend to Louisiana with an armed force, and, without other legitimate authority, to take justice into their own hands; on which occasion there now exists, in the office of the Secretary of State of the United States, the representations of His Majesty's minister made to have such attempts chastised and corrected. These are the attempts to which I allude in my note of the 16th, and on no account to the conduct of the American Government and nation, which was prudent and just. But can it be denied that the consequence of these errors thus published, and which were, that some or many of the peaceable inhabitants did not carry their produce to New Orleans, are not to be, nor cannot be, attributed to the act of the Intendant, but to the occurrence which took place in the said country. There is nothing in my note which has reference to the liberty, or otherwise, of the press, nor with the institutions of the American Government, which, as your excellencies observe, every Government is free to regulate as it pleases, but I only insinuated that the writings published with this motive, gave to the Western inhabitants a wrong idea of what passed in New Orleans, and that this was not imputable to Spain, or the edict of the Intendant.

This, and this only, is all which I wished to say in my note of the 16th, in which I am extremely sensible that, contrary to my intention, your excellencies have found motives for complaint; to remove which, it appears to me proper immediately to enter into this explanation, which, although somewhat diffuse, will, I hope, have answered the end I intended. It appeared to me proper to do this in a separate letter, reserving to myself to answer, with all possible despatch and brevity, the other points contained in your excellencies' esteemed note of the 26th.

In the interim, I renew to your excellencies the demonstrations of my distinguished consideration and esteem. I pray to God to preserve your lives many years.

PEDRO CEVALLOS.

His Excellency Don Pedro Cevallos to Messrs. Monroe and Pinckney.

ARANJUEZ, *March* 4, 1805.

GENTLEMEN:

Immediately after I received your esteemed note of the 26th ultimo, I believed it my duty not to lose a moment in replying to the complaints you had been pleased to make on some of the expressions in my note of the 16th: it not being consistent with my sentiments to let your excellencies remain for a moment in the suspicion that I was wanting, in any degree, in the respect due to the United States, or its Government, or to persons so respectable as your excellencies, not only in your individual capacities, but as representing the Government you do. I flatter myself I have removed, by my note of the 28th ultimo, all motives for those complaints; but if any doubt should still remain on that subject, I am equally ready to satisfy it, should your excellencies be pleased to express it.

This done, I proceed to examine the other points contained in your note above mentioned of the 26th. It is certain that, in my first letter of the 31st January, I did not enter upon the points in dispute between the two Governments: but it appears to me that, in the same note, I gave the reasons of my proceedings on this occasion; the object of that note was to show to your excellencies that, in my belief, it was somewhat premature to begin to examine projects of a convention upon all the points, without analyzing them first, and fixing the right of each country as far as possible: because, as your excellencies well know, before we can proceed to a convention upon the whole, it is necessary to know as distinctly as we can what are the rights and obligations of His Majesty and the United States. This knowledge of the detail ought to be the beginning of the negotiation; because it is clear that, according to the extent, which they suppose the rights or obligation of each party ought to have, so ought the convention for the whole to be the more

or less enlarged. This is what I believed your excellencies wished to remark in your first note, by the following expressions: "each of the depending points between the two Governments ought to be examined impartially, and all motives of complaint and inquietude considered and terminated amicably, and to do which it is necessary to determine the respective rights," &c. Understanding it thus in my first note, I did nothing more than enumerate the points on which it appeared to me we had to fix our respective rights, and to request your excellencies' opinion as to the order in which they should be treated. In my second of the 10th ultimo, I spoke of the reclamations for injuries committed by the individuals of both nations, and told your excellencies that His Majesty was disposed then to terminate this point; and at the same time spoke, but not extensively, of the damages committed by the French privateers. In my third note of the 16th, not to molest your excellencies too much, I touched shortly on the same subject, and treated of the damages occasioned by the suspension of the deposite; and, lastly, under date of the 24th, I commenced the examination of the limits of Louisiana, with those which relate to the Eastern boundary.

In the context of all the letters together, and of that which I promise to transmit, respecting the western limits of Louisiana, I hope your excellencies will see I have not omitted entering upon all the points contained in your esteemed notes, only with the difference alluded to from the beginning, that it appeared to me most proper and clear to treat each point separately, according to its different nature.

It is true that, to the present time, I have not been able to say to your excellencies, as you wish, what is the disposition of His Majesty upon the whole; but the reason is, as I have thought from the beginning, that it is not possible for His Majesty to determine what part he will adopt upon the whole, without being clear what are his rights or what his objections on each particular point. This examination being made, your excellencies ought not to doubt that His Majesty will be ready to enter upon such a convention as shall be judged proper to conclude the claims and promote the interest of both parties. The King wishes to give proofs of his friendship and good neighborhood to the United States, and to fix them in the most permanent manner.

Having said this, and proceeding in the order of the notes which have passed between us, I must stop to remark a little on the reflections which your excellencies have made, as to the assertion that Spain is persuaded that the United States are satisfied for the damages occasioned by French cruisers in her ports and on her coast. Your excellencies wish to know by which of the conventions that have been made between France and the United States, Spain believes these damages to have been satisfied. I answer by that of 1800, and by the context of its ratification. In speaking of the second convention, it is only, as your excellencies yourselves say on this subject, an explanation or compliance with the first; or, to go to the point at once, one of the reasons which convinces Spain and induces her to believe that she is not responsible for the damages occasioned by French cruisers in her ports and on her coasts, is, that it is notorious that the United States have agreed with France to consider themselves as satisfied for all the damages they have received from her (France) during the last war.

It is true, in the convention no mention was made of Spain; because, in the manner in which they treated, it was absolutely superfluous to do so, and the high contracting parties considering it so, omitted without doubt to mention that which, by the nature of things, could not be less than a necessary and inevitable consequence of what they stipulated. Nothing is more common in law, than that an act between two parties may be, by its nature, and even independent of the will of the contracting parties, general to a third: for example, if a creditor releases a debtor what he owes him, this act between the two is general to the security of the debtor, who, by the nature of things, remains released, although no mention is made of him, and, what is more, although both creditor and debtor have wished that he should not be released; because, by the nature of things, it is impossible the security should remain when the principal obligation has disappeared. In the same point of view ought to be considered the obligation of Spain, if ever there did exist any from her to the United States, with respect to the damages committed within her jurisdiction by French privateers. France was the offender, and, of consequence, the obligation, and the act or agreement which released France, extinguished the obligation, which was one and indivisible, as justly observe the learned gentlemen of Philadelphia. The release of this claim supposes the same thing as the receipt of satisfaction, and no other can be demanded without requiring two satisfactions for the same offence, which are the identical words of the said learned gentlemen, (from whose answer I took them, when I inserted them in my note of the 16th,) and as the same gentlemen observe, if the Power A (that is, Spain) was yet responsible, and paid to B, (the United States,) Spain could then apply to France to be reimbursed, as she was the offender, and France would not gain any thing by the release of the United States, which would become, by this indirect mode, null; and as it is very evident every legitimate act ought to carry with itself every thing that is necessary for its validity, it is undoubted that the convention between the United States and France ought to be general to Spain, as much as is necessary for its validity, that is, absolving her from her responsibility, if she had any; because, on the contrary, by the United States reclaiming against Spain, and Spain against France, the latter would, by this indirect mode, have at last to pay for the damages occasioned by her privateers.

Your excellencies knowing well the force of this reasoning, attempt now to establish that Spain is the principal obliged for the said damages; that her obligation is not accessory, as presume the learned gentlemen of Philadelphia, who you say have confounded the case, applying the maxims of municipal law to nations, among which there is no such thing known as principal and accessory; and, finally, your excellencies deny that France can be responsible for the damages committed by her privateers on the coast and in the ports of Spain, and admit that at the most, it can only be eventually so. But I cannot for my part conceive how these assertions can be supported. In the first place, I am persuaded that the principles of universal justice, on which the learned gentlemen have founded their opinion, is as applicable to nations as individuals: nations as well as individuals are bound by them; if an individual releases a debtor nothing can be demanded of the security; so if a nation confesses itself satisfied for a claim it had against another, the same cannot be repeated against a third, although she bore a part in the responsibility; the reason of this is not a principle of municipal law, as you say, but an eternal and imprescriptible principle of universal justice, which is, that two satisfactions cannot be demanded for the same debt. Your excellencies say among nations, that they know nothing of such thing as principal and accessorial obligations, but I do not agree to this. Among nations, as among individuals, they may have accessorial obligations, by mutual agreement, and also by the nature of things, since if two nations agree in an act from which results responsibility, for example, an injury or spoliation, it is indispensable that the responsibility and the obligation shall be proportioned to the intervention each party had in it; that which committed the injury shall be first responsible; that which did not avoid it when she could and might, shall have less responsibility, having had less to do in committing the act, and this second responsibility may be called accessorial, or eventual, if your excellencies prefer that term: in which I observe, that if your excellencies acknowledge the possibility that there might be eventual obligations between nations, I do not know how you can refuse to admit the possibility of accessorial obligations; as, to my judgment, it is the same idea, but only expressed by different words. But, in the present case, if we were even to suppose that Spain and France, the first accessory, and the latter principal, associated, and both being principals, it will come to the same thing; the obligation having disappeared by the payment of France, Spain remains released, as the obligation was one and indivisible.

Your excellencies will say that in the case on which we treat, Spain was the principal, and not only so, but the only one bound: but to me it is inconceivable how Spain can be considered, in any manner, as the only one bound, because it is not possible to imagine how France, who was not at war with the United States, could seize, condemn, and appropriate American property without incuring some responsibility on her part; it would be a case never seen or heard of and which combats all principles, and is contrary to common sense. We will see, at least, if Spain can be said to be the principal obliged.

It is evident that the obligation which an offender has to repair his offence, and the right the offended has to demand reparation, arise in the same moment that the offence is committed. Let us apply this principle to what has occurred with respect to French cruisers and the American vessels. Spain was in alliance with France, and the two at war with Great Britain; of consequence, the French had a right to arm privateers, and the Government of Spain to permit them to arm in her ports. They armed against the subjects of Great Britain; but when they went out, they committed infractions, and violated the rights of other nations; and these are things which in reality the Government of Spain neither could foresee nor check. It results from this that these offences existed and might exist

before Spain knew any thing of it, and that, of consequence, the right of satisfaction existed before she had knowledge of the fact, and existed against the aggressor, which, without doubt, constitutes the principal obligation. When Spain might, if at all, with more propriety, be considered as accessory, was after her knowledge of the offence: but in reality she ought not even then to be considered as such, because the injury terminated and was completed by the definitive sentence which took place in the tribunals of France, in which they efficaciously and finally decided the sale of American vessels. In proof that the Americans who were injured considered this subject under this aspect, we find the tribunals of cassation full of the demands of those interested in vessels taken within the jurisdiction of Spain, and that these applications are supported, as I am informed, by the officers of the American agents in France; but as, when they pleased, it is evident that the United States, not being at war with France, always had the door open to commence their reclamations against her, this circumstance in the present case constitutes a most essential difference.

1st. Because the offender not being at war with the United States, could not be less than the first, if not the only one responsible for the illegitimate act.

2d. Because the United States had the door open to make the demand of the Government of France, and thus had direct communication with the offender, which could not be the case if war was declared.

3d. That Spain not considering the United States as in war with France, could not foresee the excesses that cruisers armed in her ports against England might commit against American citizens, nor less avoid the definitive sentences of the tribunals of France which completed the offence. Besides, it is well known that, among civilized nations, it is customary to demand from privateers a bond or security that they shall not cruise except against the enemies of the state; and as this bond or security could not exist but in France, it is a proof that it is there they ought to go to seek the responsibility, that is, in France; and the United States having renounced this, or being satisfied for these damages, nothing can be demanded of Spain. If upon this point there could remain any doubt, the positive affirmation of the Government of France, that they are satisfied is sufficient to make it vanish. The Government of France ought to know without doubt, what were the offences she satisfied, by the convention of 1800; and it is not credible she would venture to say it was concluded, without a strong and intimate persuasion and conviction it was so, and which comes with great force from a third Power, who does not find herself immediately interested in the present discussion, as are Spain and the United States. On the other hand the information of France is of the greatest importance to establish the rights of Spain in this case: because if we suppose for a moment that Spain did pay to the United States the damages arising from the spoliations of the French privateers, there is not the least doubt she would immediately apply to France to be reimbursed; but she would, in reply, very justly refuse the reimbursement, saying that Spain had done wrong to make the payment, as France had previously communicated to her that the United States had been satisfied.

I have not attempted to avail myself of the argument, as your excellencies seem to suppose, that Spain could not prevent the injuries committed against the American vessels, although it was in a great measure the case; because it was not possible to prevent injuries of which we had no knowledge, such as the French privateers committed, which were armed in our ports against the English: my defence is founded in the assertion that the said damages are already satisfied by France, and so did the learned gentlemen of Philadelphia understand it, when, in their argument, they say, "but even leaving impossibilities out of the question, and admitting that the power A could have prevented the injury which was committed by the power C, in that case the power A is no longer liable to any responsibility in damages on account of its acquiescence."

I have insisted principally on this method of defence, because, founding it in an act clear and notorious, and of the most easy examination, it appeared to me to be the most convenient to repel a claim which Spain could oppose with many other reasons and arguments.

It is not demonstrable that a nation is obliged to satisfy the damages and injuries committed on her coast by the subjects of other Powers, and cases without number might be cited to the contrary among civilized nations. Denmark had her ports open during the last war to the belligerent Powers, and condemnations of prizes were made in them without there being, on this account, any responsibility demanded of her; many other neutral Powers suffered, during the same war, various damages from the French cruisers on the coast and in the ports of Spain, without having demanded any other thing of Spain, than to interpose her good offices, and co-operate in obtaining redress for the injury. Spain, when she has been injured, has not demanded such indemnifications, and has only demanded that the Government whose flag or coasts have been violated should pass efficacious offices for the reparation of the offence. This, and this only, is all to which Spain obliged herself by the sixth article of the treaty with the United States, in which, after offering defence and protection reciprocally for the vessels of both countries within the extent of their respective jurisdictions, it says, that, in case of offences of the nature of which we treat, each Power in whose jurisdiction it is committed, shall employ all its efforts to recover and have restored to the lawful owners, the vessels or effects which have been taken within the extent of its jurisdiction; from which it results, that the only thing which it can be pretended Spain has obliged herself to, is to employ all her efforts to recover and have restored the vessels and effects so taken; but in no degree exists any obligation in her to make reparation, should such efforts not produce the desired effect: because if it had been the intention of the high contracting parties to do this, it would have been expressly stipulated. As, on account of this article, your excellencies pretend to be persuaded that Spain is the only one responsible for the excesses of the French privateers, I could not omit observing that the obligation of the Power which has to restore could not but be greater, and more principal, than that whose obligation only is reduced to the making efforts that they might be restored; and that France being in the first case, and Spain in the second, it cannot but follow that the principal obligation rests on the first, and only that of accessory on the second.

Proceeding now to the damage occasioned by the suppression of the deposite at New Orleans, I will endeavor, also, to answer, with the utmost brevity possible, your excellencies' remarks in your esteemed note. In the first place, your excellencies will permit me to declare, that I see with regret that, in what I said in mine of the 16th, as to the deposite at New Orleans, being a generous and gratuitous concession of His Majesty, and other parts of my letter, I did not explain myself as I wished. Your excellencies understood that I wished to say that the deposite, not only in the capital, but on any other point on the banks of the Mississippi, was a charitable donation of His Majesty, revocable at pleasure, either before or after the three years fixed for its being at New Orleans; and that it might remain revoked until the United States implored His Majesty anew to restore it. It is not honorable to me, that such assertions should be attributed to me; I said, and it was my intention to say, that, in its origin, the right of the deposite granted to the United States in New Orleans flowed from a wish in His Majesty to grant it generously, and oblige himself to maintain it there for three years, as a convenience to the United States. Nothing is more common than for a nation to impose on itself an obligation, gratuitously, in favor of another, without more interest than the satisfaction of having done it a useful service without injury to itself. After making the stipulations and conclusion of the treaty of 1795, there was, no doubt, an obligation to maintain and comply with it; but, in the case of the deposite, there are two things essentially distinct, which ought to be considered: the deposite at New Orleans, and the indefinite deposite in some other place on the banks of the Mississippi. The three years being over, and injury arising to the royal revenue from the continuance of the deposite at New Orleans, to have continued it there notwithstanding, cannot be considered less than as a favor of the King my master, because no obligation existed on his part to do so; and, if the United States had desired that the deposite at New Orleans should have continued in a manner not precarious, but established and obligatory, it was necessary to have a new stipulation, because His Majesty was not obliged to do so. At present, as to what regarded the right of deposite in the other place, the United States did not require a new stipulation, because they had it by the treaty; but as the new place was not established by the treaty, it is clear the United States had to ask the fixing of it on the spot which they thought convenient, or the two Governments had to understand each other in the establishing it; for, as it was to be fixed to the satisfaction of the American Government, Spain could not do it alone, or without saying what were the qualities it ought to have to answer their ends. The difficulty is not in this, which is in itself simple, but, it is in examining its situation after the end of the three years in the capital, and the other four years in which His Majesty

generously continued it there, being under no obligation to suffer the inconveniences which were encountered in the said four years. And the question now is, whether he could or not suspend the deposite in New Orleans, before agreeing with the parties, concerning the fixing another; or, in other words, if, after the conclusion of the three years of the deposite at New Orleans, the King was obliged to suffer the inconveniences of its continuation, until they could enter into a convention or agreement respecting another place; or further, if the United States could, in rigorous justice, be made to suffer the intervening inconveniences of the suspension for the time necessary for the two Governments to agree upon the fixing it. The treaty says nothing of this, and I hope I have shown that good neighborhood and friendship should have permitted, for a short time, the inconvenience of the deposite at New Orleans, before proceeding to suspend it; and, for this reason, His Majesty revoked the edict of the Intendant. But speaking of what, in rigorous justice, can be supposed to be due to the solicitude of being indemnified for the same, I am of opinion, that, as the treaty said nothing about it, His Majesty was not obliged to continue the deposite at New Orleans, nor to suffer its inconveniences; although he was bound to consent to its establishment in another place, on which His Majesty could not determine alone, it being necessary that it should be fixed equally to the satisfaction of the United States. I repeat, that it is not my intention to approve the conduct of the Intendant, nor to diminish the rights of the United States under the treaty, but to examine points unsettled in it, and to deduce from thence whether Spain was or was not liable for the indemnifications arising out of the suspension of the deposite at New Orleans; an examination which may, in my opinion, have been excused, from the short duration of the existence of the injuries which might be considered as really attributable to the edict of the Intendant.

I beg your excellencies to accept the assurances of my respect, and hope that God will preserve your lives many years.

PEDRO CEVALLOS.

Messrs. Pinckney and Monroe to Mr. Cevallos.

ARANJUEZ, *March* 8, 1805.

SIR:

We have now the honor to answer your excellency's note, of the 24th ultimo, respecting the eastern limits of Louisiana, the receipt of which has been already acknowledged.

We are happy to find that we shall not differ as to the material facts on which the question depends, to wit, that France held Louisiana prior to the treaty of 1763, to an extent eastwardly to the Perdido, comprising in it the greater part of West Florida; that she ceded it, by that treaty, to Great Britain, who, in 1783, ceded it to Spain, Spain having possessed herself of it by her arms in the course of that war; that the treaties referred to in that of St. Ildefonso, whereby Spain ceded Louisiana to France, as having passed subsequently between Spain and the other Powers, are that of 1783, between Great Britain and Spain, whereby the former ceded to the latter that portion of Louisiana called by her West Florida, and that between the United States and Spain, in 1795. None others were made by Spain relative to that object; they, therefore, only could be referred to. We admit, also, that they were referred to by a real and sufficient motive.

We are also happy to find that we shall not differ in opinion on the principles of the law of nations, or the rules by which treaties are to be construed under them, especially the following, to wit, that treaties must not have an odious or absurd construction, when it is possible to give them a plain and simple one; that the intention of the party to a treaty is to be collected from the whole article; that each clause is to be taken into view, and the import of the whole collected from that of each clause; and that no part is to be supposed superfluous to which a rational meaning can be given.

We should be happy if we could agree in the application of these facts and principles to the point in question. We draw, however, from them, by the clearest evidence and most satisfactory reasoning, a conclusion, that, under the treaty between the United States and France of 1803, which is founded on that of St. Ildefonso, between Spain and France, in ——, West Florida was comprised in the cession of Louisiana to the United States. Your excellency, it appears, is of a contrary opinion.

Before we proceed to the inquiry, and to answer your excellency's note, we think proper to premise that it would have been more agreeable to the United States to have obtained the cession of that province of France, by a short definition of its boundaries; since, in that case, they would have known distinctly what they had acquired, and avoided the necessity of a discussion with Spain. But as these had not been traced between France and Spain, it was impossible to give such a definition. It was therefore agreed that France should cede to the United States precisely what she had acquired of Spain; and, that the extent of that cession might be known, that the third article of the treaty of St. Ildefonso, between France and Spain, should be inserted in that of Paris between the United States and France. Thus, that article, and it alone, became the extent of the right which the United States had thus acquired. There is nothing in the treaty, nor did any thing occur in the negotiation, to detract from its just and rational import. The United States were at liberty, as France would have been, had the cession not been made, to examine, under it, the extent of their rights, and, in so doing, to appeal to those facts and principles, which, in the estimation of the enlightened and impartial world, ought to govern in the case. It is by this investigation that the Government of the United States has formed its opinion of their rights; and it is from a regard to justice, and motives of respect to His Catholic Majesty, that they are now made the subject of amicable discussion with his Government. Having made these remarks, we proceed in the proposed inquiry.

We observe that your excellency relies much, in support of the pretensions of Spain, in the point in question, on the import of the term "retrocede," which is found in the treaty; that you consider it as going far to decide the question in her favor. We cannot but express our surprise that such reliance, or indeed that any, should be put on a term, vague and equivocal, at best, which, it is easy to show, neither has, nor was intended to have, any influence in the question. If it were of any importance to analyze that term, it might be contended, that, as France once possessed that province, a cession of it back to her, by any Power who had obtained it of a third, was a retrocession of it. By ceding it back to France, the former proprietor, it would, in respect to her, be a retrocession, although not one acre of it had been received of her by the Power making it; and it is very likely, under such circumstances, that such would have been the title of the treaty, or the phraseology of the article applicable to the subject. In the present case, all the territory which was ceded back to France had belonged to her before. Nineteen-twentieths of it, supposing West Florida to be a part, had been previously ceded by her to Spain, and that twentieth part had been ceded by her to another Power, to accommodate Spain, of whom Spain had obtained it. Was it not natural, then, when Spain ceded back this territory to France, that the term retrocession should be made use of? Had it been the object and studious endeavor of the parties to characterize in the treaty the former propositions and transactions respecting the territory, and no more could have been intended, it is not known how, even with the import annexed to the term by your excellency, a more suitable or just one could have been adopted for the purpose. But, as already observed, this term is of no real importance in the case, nor was it intended to have any by the parties, in the sense alluded to, as is perfectly evident by the other parts of the article. We find in it three distinct members or clauses, which were introduced for the express purpose of explaining what was intended to be done. By these, is fully and accurately defined what proportion of that province should be transferred to France, and what other proportion of it should be exempted from the operation of the treaty. If it had been intended that the term "retrocede" should be understood in the sense insisted on by your excellency, it is presumable that none others would have been used, since, not being necessary to illustrate, they could only serve to obscure and perplex. The introduction, therefore, of other clauses, plainly proves that that term was not to be relied on as expounding the object of the parties, but that those clauses were to do it. It will not be denied, that, although the title of the treaty might be what it is said to be, under the term "retrocede," introduced in every page, and although Spain had never received one acre of the territory from France, she might, nevertheless, by suitable operative clauses, convey and transfer to France all that portion of Louisiana which she possessed, if she was so disposed.

It is by the operative clauses of every treaty, and of every article in each, that their meaning is expounded. It is to them that we must respectively refer, in the present instance, for the intention of the parties in that of St. Ildefonso, and the extent of the rights of the United States acquired under it.

By the first clause of the third article of the treaty of St. Ildefonso, Spain cedes to France the province of Louisiana, "such as it is in the hands of Spain." It is to be observed, that the reference here made to that province was in its integral state, that is, while in the possession of France, and, of course, prior to the cession made of it by her in 1763, as will be more fully seen by the next clause. The simple question, then, on this clause is, what portion of Louisiana was in the hands of Spain when the treaty of St. Ildefonso was formed? All that portion, be it what it might, was clearly and positively comprised in the cession, and transferred to France; all that portion, be it what it might, not in the hands of Spain, was as clearly and positively excluded from it. This is the plain and obvious import of the clause; indeed, it admits of none other; by adhering to which, every thing of an absurd and odious tendency is avoided, simplicity in the construction is preserved, and, what is of equal importance, the integrity and fair intentions of the parties are manifested. All that portion of Louisiana, according to its ancient limits, which lies eastward of the Mississippi, from the 31st degree of north latitude to the northern limits of the United States, had been ceded, by the treaty of 1763, to Great Britain, to which France, Spain, and Portugal were parties, and afterwards confirmed by her to those states, at the close of the war of their revolution, in 1783, to which France, by her treaty with those states, in 1778, had already renewed her special sanction, as did Spain afterwards, by her treaty in 1795, with the addition of the right of deposite at New Orleans. It would, therefore, have been highly improper in the parties to the treaty of St. Ildefonso, to have formed it in such manner as to have admitted the cession to have applied, by any possible construction, to any part of the territory or rights belonging to it. Accordingly, we find, by the clear and obvious import of the article, that such a construction is altogether and absolutely precluded, and by terms the most suitable and judicious that could have been selected. We find, also, that the article is equally clear and explicit as to the position of the province which it was intended to cede. By ceding that portion, and that only, which was in her hands, Spain did what she had a right to do, and no more, of which a very distinct idea was conveyed in both respects. She excepted from the cession all the territory above described, which, of right, ought to have been excepted. She comprised in it all that she had a right to cede, including, of course, as being her property, and in her hands, West Florida.

In the second clause, the cession is further explained and confirmed in the following terms: "such as it was when France possessed it;" by which a clear and explicit reference is made to the province, at a period preceding the treaty of 1763, when France possessed the whole. This clause would, of course, have been understood to have comprised the whole, had no part been specially excepted from the cession. But we have already seen, that, by the operation of the first clause, all that portion of the province, according to its ancient limits, as known before the treaty of 1763, now belonging to the United States, was clearly excepted from it. In every other respect, however, its operation is uncontrolled. It certainly comprises all that part which was then in the possession of Spain, from whatever Power, or by whatever means, obtained. By referring to it, at an epoch anterior to the treaty of 1763, that is, when France possessed it, it was obviously the intention of the parties to reject all idea of subsequent divisions, modifications, or applications, by either of the Powers who were since possessed of it. It was well known that Great Britain had called that portion which was ceded to her by the treaty of 1763, West Florida; and it was probable that Spain might have called some other portion of it, adjoining Mexico, by some other name. Hence, it was possible, if, by any construction, an allusion to the province had been admitted at any period after 1763, that these distinctions and terms might have created some embarrassment in the meaning. To avoid that danger, it was deemed advisable to go back to an anterior epoch, and thereby put them entirely out of the question. This clause, then, shows still more clearly, that it was the intention of the parties to include West Florida in the cession, since, by taking them together, and giving to each and both their just construction, it is impossible to mistake their meaning. By the first, all that portion of Louisiana which was in the hands of Spain was transferred to France; but, as it was possible, for reasons just mentioned, that doubts might arise whether West Florida was comprised in the cession, by this it is expressly declared that no part of the province in the hands of Spain, which France had ever possessed, should be exempted from it.

By the third clause of the article, the cession of the province is declared to be in an extent "such as it ought to be after the treaties passed, subsequently, between Spain and other Powers." The treaties referred to here are, that between Great Britain and Spain, in 1783, whereby West Florida was ceded to the latter; and that between Spain and the United States, in 1795, whereby the boundary adopted in their treaty with Great Britain, with the right to the free navigation of the Mississippi, and of deposite at New Orleans, were established. What, then, is the effect of this third clause? To us, nothing can be more simple or intelligible. We will first examine it in reference to the first treaty, which alone creates the difficulty. By that, Spain became possessed of a portion of the province of Louisiana, which she had not acquired of France; by means whereof, such addition is brought within the scope of the two first clauses, already noticed, and is transferred by them to France. It is brought within the scope of the first, because "it is in the hands of Spain." It is brought within the scope of the second, because it is a part of the province, "such as it was when France possessed it;" and by the terms of this last or third clause, it is expressly designated as a portion of the territory which it was intended to cede, by that treaty, to France. If we examine impartially the import of these terms, we shall find that it is impossible to give them any other rational interpretation in reference to this object. The terms are, "such as it ought to be after the treaties passed subsequently between Spain and other Powers." This portion, having been a part of the province when France possessed it, and being now, by the treaty of 1783, vested in the hands of the same Power who held every other part, not expressly excepted from it as belonging to and secured to the United States, by many treaties, as already stated, ought to be considered as a part of it again. Had Spain possessed, and ceded that portion of Louisiana to Great Britain, by the treaty of 1783, or at any time before that of St. Ildefonso, this clause would have exempted it from the cession, as would both the others. Being out of the possession of Spain, those clauses could not have operated on it; and being ceded by Spain to another Power, in a treaty passed subsequently, that is, after 1763, the cession would have been sanctioned by this clause. But Spain did not cede that territory to Great Britain; on the contrary, she acquired it of her; and it is inconceivable to us, how that acquisition, which brought it into her possession, and subjected it to the control of the two first clauses, should be supposed to have exempted it from such control; how a treaty, which enlarged the limits of the province in her hands, without producing any other effect, should be construed as lessening the extent of the cession. The reference made by this clause to the treaty of 1783 must be considered as intended to produce an effect in the present one, correspondent with the spirit of that of 1783. It would be strange, indeed, if it counteracted that spirit, and produced an opposite effect. And in judging of the effect which it was thus intended to produce, not only the spirit of that treaty is to be regarded, but this clause must be construed in connexion with the preceding ones, so as to give them their just effect also. It is a well known rule in the construction of treaties, that "the interpretation ought to be made in such a manner that all the parts appear consonant to each other; that what follows agrees with what went before, at least, if it does not manifestly appear, that, by the last clause, something was changed that went before." If we apply this rule to the present case, the conclusion is unavoidable, since, by the construction we contend for, all the clauses have their just import, are consonant to each other, unite in the same object, and produce the same effect; which is to show that it was the intention of the parties to comprise West Florida in the cession.

With respect to the effect of this clause on the other treaty referred to in it, to wit, that of 1795 between the United States and Spain, it is obvious, that it was the intention of the parties to secure to those States, in the hands of the new proprietor, the rights which they had acquired on that territory by that treaty. It was, it is true, impossible for those parties, or any others, in any treaty between them, to destroy the rights of a third one. It was, nevertheless, very proper and honorable in them to insert a provision in this, for the security of those rights. Having thus examined carefully and impartially the third article of the treaty of St. Ildefonso, under which France ceded to the United States the province of Louisiana, and, as we presume, proved incontestably, by a just construction of the several clauses, that West Florida was a part of the cession, we will now proceed to notice some of the other remarks of your excellency which merit a more particular attention.

Your excellency observes, that, as the territory in question, to wit, that lying between the river Iberville and the Perdido, was called by Great Britain West Florida after it was ceded to her by the treaty of 1763, and as that name had been preserved to it by His Catholic Majesty in the title to his Governor at the Havana, since it came into the hands of Spain, it cannot be considered as comprised in the cession to France by the treaty of St. Ildefonso. But we have already shown, and we presume satisfactorily, that that objection is altogether unfounded, supposing the fact as thus stated to be correct in both cases; though it is proper to observe, that we had understood that the territory in question had been governed as a part of Louisiana after the treaty of 1783. Be that, however, as it may, it is proved, by referring to Louisiana at a period when it was possessed by France to characterize the cession made, that it was an essential object of the two first clauses to get rid of that objection; and that they have done so as effectually as if that division or name had never existed. It was also observed, that any construction of those clauses which should comprise West Florida within the cession, might, with equal propriety, be considered as applicable to all that portion of Louisiana which lies within the limits of the United States. We cannot perceive on what principle this remark is founded, since, as the facts are different, there is certainly no analogy in the cases. To support the doctrine, it ought to be shown, that West Florida is not in the possession of Spain, but of the United States, or some other Power. We have shown, by a fair construction of the clauses, that it is by virtue of that portion of the province being in the possession of Spain, that it was comprised in the cession; and by virtue of the other portion of it, that is, what belongs to the United States, being out of the possession of Spain, that it was excluded from it.

Your excellency observes, also, that if it had been the intention of the parties to include West Florida in the cession, it would have been easy to have expressed it. We do not know that it would have been possible to have expressed it in a more clear manner than is done; we are satisfied that other terms more comprehensive, and guarded in reference to all the objects which it was proper the parties should have in view, more intelligible, less free from objection, and, at the same time, so concise, could not have been found. With strict propriety may we say, that if it had been the intention of the parties to exclude West Florida from the cession, it was very easy to have done it, and that the means were obvious, since it was only necessary to have stated, that Spain retroceded to France that portion of Louisiana only which she had received from her. Had that been done, there would have been no occasion for the subsequent clauses, especially the two first, to explain the meaning of the parties, and define the extent of the cession. We might add, that, if the case admitted of any doubt, which, however, we deny, for, in our judgments, there never was a clearer one taken into consideration, from the nature of the transaction, that doubt ought to operate against Spain, since it is a well established doctrine of the law of nations, in the construction of treaties, that in all cases of cessions or grants, "if the party making them fails to explain himself clearly and plainly, it is the worse for him: he cannot be allowed to introduce subsequent restrictions which he has not expressed." We do not, however, think that the present case admits of any doubt.

We cannot suppose that the French prefect, M. Laussat, had any instructions from his Government by what limits he was to receive the province of Louisiana from the officers of Spain, or that he had its orders to surrender it to the United States by any of a definite nature. This opinion is founded on the treaty between the United States and France, by which the cession was made to those States, and in which no limits were defined, for the reasons stated in the commencement of this note. We entertain, as already observed, a very high respect for His Imperial Majesty, and we can never believe that he would, by any act of his, be willing to invalidate any of the rights which the United States had acquired under that treaty.

With respect to the opinion entertained by Mr. Ellicot on this point, we have only to observe, that, although we believe him to be a good astronomer and geographer, we are far from considering him in the light of an able civilian. It is presumed that he ran the line between the United States and Spain correctly, in the case alluded to, and that his charts may also be correct; but we doubt whether he ever read with attention either of the treaties on which the present question depends, or would be an able expounder of them, if he had. In making his book, which it appears he had completed before he was acquainted with the cession of Louisiana to the United States, or with the nature of that made by Spain to France, which was then for the first time known, it was natural that he should consult the old maps of the country, and regard the divisions that were made of it prior to that epoch, especially in conformity to the treaty of 1763. Under such circumstances, and in consideration that this question depends on treaties, your excellency will, we presume, see the evident impropriety of paying that deference to Mr. Ellicot's opinion which you have been disposed to allow it.

We have read, with much attention, your excellency's note of the 4th, on the subject of French spoliations committed within the limits of Spain, and are sorry to find, that the opinions which we respectively entertain on it are as remote from an accord as they were in the commencement. We have read with equal attention, your remarks on that of the suppression of the deposite at New Orleans, in which you do not seem to assent to the ideas which we deemed justly applicable, and thought it our duty to express, relative to that interesting and unexpected occurrence. Having said all that we have to observe on those points in our former notes, and having communicated fully our sentiments in this, as in that first presented, respecting the eastern limits of Louisiana, it remains that we should now proceed to the last topic depending between us, to wit, the western limits of that province. Having already had the honor to present our view of the rights of the United States on that point also, we shall be happy to be favored with that of your excellency on the same.

We avail ourselves of this occasion to observe, that we received with much pleasure your excellency's note of the 28th ultimo, in reply to our remarks on that of the 16th, the purport of which was further confirmed in that of the 4th, since it gives us the very satisfactory assurance, that it was not your intention, by any expressions in that note, to convey the unfavorable sentiments in regard to our Government and country, which we had supposed it did. It was with much reluctance, that we communicated to your excellency the impression which that note made on us, which we certainly should not have done had we not believed that it would have produced a similar one on our Government, on whom, we were persuaded, it was neither your wish nor intention to produce it. The frank and honorable explanation which you have given us in that respect, is a full confirmation of what we had anticipated on that head, and an ample assurance that, whatever may be the result of this business entrusted to us, we shall carry with us the sentiments of that high respect and consideration for your character which it justly merits.

We beg your excellency to accept the assurance of our high consideration and respect.

CHARLES PINCKNEY.
JAMES MONROE.

His Excellency Don Pedro Cevallos to Messrs. Monroe and Pinckney.

ARANJUEZ, *March* 14, 1805.

GENTLEMEN:

I have received your esteemed letter of the 8th, in which you are pleased to answer mine of the 24th ultimo, relative to the limits of Louisiana, and I cannot do less than immediately to reply to it.

I agree at once with your excellencies, that treaties ought not to receive odious and absurd interpretations, which are capable of clear and simple ones, and that the intention of the parties ought to be collected from the whole context, and from each article: from these principles and mode of examination of the third article of the treaty of St. Ildefonso, I deduce consequences from the same, very different from those which your excellencies have done.

Your excellencies believe to be of very little importance to the decision of the present question the word "retrocede" or "retrocession," which is the title of the treaty of St. Ildefonso, and is found in the said third article, and suppose it a term vague and equivocal, which has no influence on the question; and that, if it had been important to analyze it, it might be easily made to appear that with the expression "retrocede," it also intended to denote

that West Florida, or a part of it, ought to return to France, although she had not ceded it to Spain. For my part, I cannot but be surprised that your excellencies should consider vague and indeterminate an expression which serves to denominate the treaty, whose title literally copied is as follows: Traité préliminaire et secret entre la république Française at Sa Majesté Catholique, touchant l'agrandissement de Son Altesse Royale le Duc de Parma, en Italie, et la rétrocession de la Louisiane," and which governs the whole proceeding, and is conspicuous in all the clauses of the third article of the said treaty. On a single reading of this article, there is no one but must know that, according to grammatical order, and the common use of language and words, the words "to engage to retrocede" is the principal action of it, and this principal intention is conspicuous through all the context and clauses of the article; and that, although the following expressions may modify it, they can in no degree contradict it without giving to the whole an absurd meaning, and as repugnant to common sense as to the most simple rules of grammar and the art of writing; nor can it be said without discredit to the contracting parties, that they should avail themselves of an expression vague and equivocal, and use it exactly in the most important article, and upon one of the most interesting objects of the treaty; and that, with a view to find such vague expressions, they should select the word "*retrocede*," having at hand the word *cede*, which, followed by other explicit clauses that might have been inserted, would have explained with facility and precision the return of Louisiana to its former owner, and the cession of West Florida, if such had been the intention. But it was no doubt the intention of the parties that the expression "retrocede," which has given the name to the treaty, and serves to express the principal design of the third article, should be marked with all the exactness and grammatical rigor possible; nor is it susceptible of doubt that the expression "retrocede," in its obvious and grammatical sense, means to cede to one what it has received from it. Your excellencies ought not, therefore, to think it extraordinary that I have believed, and do believe, that this expression is of the greatest consequence to the decision of the present question. The force it carries with it makes us see at once with what exactness and simplicity the other parts of the article quadrate with it. If we set out from the beginning to give to the expression "retrocede" a meaning which it has not, it will not be extraordinary if we find some embarrassment and difficulty to decipher the said article. It says, in the first place, that it retrocedes Louisiana "avec la meme étendue qu'elle a entre les mains d'Espagne;" but this expression, in the mode in which your excellencies contrive it, appears absurd and contradictory. It is indubitable that Spain possesses West Florida as Florida, not as Louisiana, and this act, founded on an authenticity the most notorious, is marked, in the treaty of 1783 and 1795, in a manner which cannot be contradicted or admit of a doubt; consequently, Louisiana, "avec la meme étendue" which it had in the hands of Spain, is without West Florida, and to suppose that the cession could have comprehended this province, it was impossible to suppose it could be Louisiana, with the same extent, without incurring a palpable contradiction. Your excellencies know the force of this difficulty and wish to explain the first clause by the second, which says, "et qu'elle avoit lorsque la France la possédoit." But I ask, has the second clause a fixed epoch, which determines the time when France had it? Certainly not. Then the want of this fixed epoch alludes to the last time when France had it, that is, when she delivered it to Spain; an expression the more convenient, as in any other manner it will be contradictory with the first, which says, "avec la meme étendue qu'elle a entre les mains d'Espagne," if it was with more, it could not be with the same. It is more natural that a clause which has a fixed epoch, as the first has, should serve to clear up the sense of the second which has no epoch, or extent fixed, than that we should give so much force to the doubtful epoch of the second clause, as to make it destroy the clear and marked meaning of the expression "retrocede" in the first clause "avec la meme étendue." Admitting the explanation of your excellencies, the second clause is in contradiction with the first; admitting mine, both explain and combine simply, and prove that Spain delivered Louisiana to France, with the same extent that it had in her hands in 1800; and as France possessed it when she delivered it to Spain, but as neither in the one or other epoch West Florida made a part of Louisiana, the two clauses perfectly unite with each other, and both with the principal action "retrocede," which governs all the clauses of the article.

The third clause which your excellencies suppose can also be brought as a proof that West Florida is included in the retrocession of Louisiana made to France, is, to my understanding, a new proof of the contrary; it says, "et telle qu'elle dût être après les traités passés entre l'Espagne et d'autres Puissances." It is impossible to make any thing clearer than that the treaty did not alter any thing in the treaties which Spain had made with other Powers on this subject. There were two, one of 1795 with the United States, and one with England in 1783, by which Spain had acquired the territories to the eastward of the Mississippi, not as Louisiana, but as Florida, and, consequently, to be, as it ought to be, after this treaty, was with the exclusion of a territory possessed by England as West Florida, conquered by Spain as West Florida, and acquired irrevocably as West Florda, by the treaty of 1783, and received, in each of these solemn acts, a new qualification of its total separation from Louisiana and of the limits which separate them. Your excellencies contend that the treaty of 1783 was a new incorporation of the said territory to Louisiana; but I do not see in the said treaty of 1783 any thing but a confirmation of the right of conquest which His Majesty's arms had made of an English province called West Florida; the cession which France had made to England of the said territory had been an alienation, perfect, irrevocable, and perpetual. The territory became an English possession, and afterwards a Spanish one. That Spain, on the other side, and by other titles, should have acquired Louisiana, and that the two territories should return to be united in the one hand, in which they were before united, does not import, nor could it import, a legal incorporation of them, because their titles and times of acquisition were different. Spain had no Louisiana but what she received from France, and it was undoubtedly Florida she received from England.

It is not conceivable or imaginable, how the cession of a province or territory could occur without mentioning or naming it, or that it could be made only by designating it with a name, which, by the consent and notice of all the nations concerned, and the most authentic public acts, it had lost many years ago. This territory was called West Florida, and it was so called authentically; and by this name the contracting parties would have called it, had they imagined it was comprehended in the cession; as it is an acknowledged principle that the territories they change or cede ought to be designated by the names they then officially have; nor can it be said that, by its entrance into the possession of Spain, it returned to its ancient State and name, because all the public acts since its entrance into the possession of Spain, from the treaty of 1783, inclusive, have confirmed its separation from Louisiana, and its difference of name springing from the difference of its title of acquisition; after a separation so qualified, it was only an express and positive stipulation that could reunite it to Louisiana in its retrocession. Your excellencies have attempted in your note to persuade me that the treaty of 1783 reunited West Florida to Louisiana anew, attributing it to the motive which made France cede to England, in 1763, the territory to the east of the Mississippi, and this motive, your excellencies say, was to favor Spain. But, on my part, I cannot agree to this. France ceded this territory because she felt it her interest to do so, or was obliged to do so: but this is of no importance; for, be the motive what it may, the cession cannot be considered less than an effectual, irrevocable, and perpetual alienation, with all the consequences which were to make West Florida an English possession. Being so, Spain could conquer, acquire, and receive it from England, having this original and just title to it; and this alone is all she requires to make it her property in every sense of the word, and as independent of Louisiana as it was in the hands of England.

It results from this, that the contracting parties had no intention to include West Florida in the treaty of St. Ildefonso; this is the more confirmed, if we recollect that France could not do it, nor could she stipulate for the acquisition of any territory to the eastward of the Mississippi, without the consent of the United States, as she had obliged herself to this by an express stipulation contained in the sixth article of her treaty with the United States; which article says, "Le Roi très Chrétien renonce à posséder jamais les Bermudes, ni aucune des parties du continent de l'Amérique Septentrionale, qui, avant le traité de Paris de 1763, ou en vertu de ce traité, ont été réconnues appartenir à la couronne de la Grande Bretagne." It is to be seen from this, that France could not (if the United States did not consent, when she had bound herself by this treaty) acquire West Florida, which, by the treaty of 1763, belonged to the crown of Great Britain. If in the treaty of St. Ildefonso France had intended or proposed to acquire West Florida, it is clear she could not do so without the consent of the United States, and that this consent ought to precede all other stipulations; on the contrary, if France should have infringed the rights of the United States, which can in no manner be supposed, it would not be decorous in the United States to give to the treaty of St. Ildefonso an interpretation, from which it must result, as a necessary consequence, that France had violated their treaty with the United States, and that they founded their right to West Florida on this violation.

The opinion of the astronomer and geographer Ellicot, which is so exactly conformable to the ideas I have just stated, and whose concluding expressions I transmitted you in my letter of the 24th, is of very great weight and consideration on this subject. I do not suppose it, as your excellencies do, a question for a lawyer or civilian; it is, in its whole extent, entirely geographical; it only treats of the question, whether the territory to the east of the Mississippi, at the time of the retrocession, was Louisiana or West Florida. What person more proper to give an opinion on this subject than the one who has merited to be employed by the United States, in fixing the limits of the very territory he treats about? It is dishonoring his talents to say that he had not with him the maps, both ancient and modern, of the said territory, and the most authentic documents respecting it; and using, as he does, the expressions I copied for your excellencies in my letter of the 24th ultimo, after he knew of the acquisition of Louisiana by the United States, leaves no doubt that his love of truth and justice forced from him this sincere confession of the incontestable right of Spain to the territory of West Florida.

But all further reflections are unnecessary upon this subject, when it is considered that the treaty of St. Ildefonso was a contract between France and Spain, and that, of consequence, on whatever point of it (however it might appear doubtful,) on which France and Spain are agreed in their understanding and explanation of it, this uniformity of understanding has as much force as the most explicit and determinate stipulation, because no one can know as well as the contracting parties what the one was to cede, and the other to receive. The United States, who have succeeded to the right of France, can have no other right or claim than that which France supposed she had. France has been, and is now, persuaded that, by the treaty of retrocession, she neither did nor had any intention to acquire West Florida. The prefect Laussat, charged to carry the treaty into effect, instructed perfectly in its contents, and being depositary of the intention of his Government, was satisfied of the manner in which it was carried into execution, without being put into possession of West Florida; which act leaves no doubt of the manner in which France understood the treaty of St. Ildefonso should be executed. But if your excellencies should still consider this as insufficient proof, will you permit me to send you a copy of a declaration the most positive which can be imagined, in which the Government of France declares that it never thought of acquiring territory to the eastward of the Mississippi by the treaty of St. Ildefonso, much less has ceded it, or could cede it to the United States. The Minister of Foreign Relations of France has written upon this subject, on the 30th August last, to His Majesty's ambassador in Paris, and in his letter are the following remarkable expressions: "Les limites orientales de la Louisiane sont indiquées par le cours du Mississippi, et ensuite par la rivière d'Iberville, le lac Pontchartrain, et le lac Maurepas. C'est à cette ligne de demarcation que se termina le territoire cédé par l'Espagne à la France, en vertu du traité de 30 Ventose, an 9. La France n'auroit rien démandé à l'Espagne au delà de cette limite; et comme elle n'a fait que substituer les Etats Unis aux droits qu'elle avoit acquis, ils ne peuvent pas exiger de l'Espagne une cession de territoire plus étendue, à moins que cette concession ne soit négociée et stipulée entr'eux et l'Espagne par quelque convention ultérieure."

These expressions are so determinate and clear, as not to permit me to make any further reflections on them, persuaded that the simply reading them is sufficient for the conviction, that, as Spain did not think of ceding, nor France of acquiring, West Florida by the treaty of St Ildefonso, it is clear that the United States, who have succeeded to the right of France, could not acquire that which she supposed did not belong to her, and which she has declared she did not acquire, nor think of acquiring. This point appears to me so little susceptible of doubt after what I have said, and had the honor to say to your excellencies in my note of the 24th ult., to whose contents I again refer you, that I am confident the justice and well established good faith of the United States will acknowledge that they cannot found any right to West Florida from the treaty of St. Ildefonso.

In concluding this letter, I cannot but declare my satisfaction to your excellencies, that I see, by yours of the 8th, you are persuaded of my unalterable sentiments of respect and consideration for the United States, and also of my constant esteem for and wish to please your excellencies, which I now have the honor again to renew; praying God to guard your lives many years.

PEDRO CEVALLOS.

Messrs. Pinckney and Monroe to His Excellency Don Pedro Cevallos.

ARANJUEZ, *March* 16, 1805.

SIR:

We had the honor to receive yesterday your esteemed note of the 14th, and are sorry to find that we still continue so distant in our opinions upon the subject of it.

In our last, we gave your excellency so fully the view which our Government entertains of the right of the United States to West Florida, and are still so firmly persuaded of their undoubted right to the same, that we think it unnecessary to remark further on that point.

All the questions in controversy between us having been discussed at length, and having been favored with your excellency's opinion on each of them, except the western limits of Louisiana, we now take the liberty to request you to furnish us with the same, in answer to our communication on that subject.

We beg your excellency to accept the assurance of our profound consideration and respect.

CHARLES PINCKNEY.
JAS. MONROE.

Messrs. Pinckney and Monroe to Mr. Cevallos.

ARANJUEZ, *March* 30, 1805.

The undersigned, ministers plenipotentiary and envoys extraordinary of the United States of America, have the honor to inform His Excellency Don Pedro Cevallos, that the length of time since their last note to his excellency, to which no answer has been given, induces them to suspect that his silence is intended as an intimation of his desire that the negotiation should cease. They are sorry to add that the spirit with which the friendly advances and overtures of their Government have been received, would leave no doubt in their minds on this point, if his excellency had not given them reason to expect, by his note of the 4th instant, some propositions, on his part, for the fair and equitable adjustment of the differences subsisting between their Governments. Having completely fulfilled the orders of the President, in proving, by their communications, and by the time they have attended his excellency's propositions, the justice and moderation of his views, as of his friendly disposition and high respect for His Catholic Majesty, it remains that they should not be unmindful of what they owe to the Government and country, which they have the honor to represent. It neither comports with the object of the present mission, nor its duties, to continue the negotiation longer than it furnishes a well founded expectation that the just and friendly policy which produced it, on the part of the United States, is cherished with the same views by His Catholic Majesty. Under such circumstances, the undersigned consider it their duty to request of his excellency information whether it is his desire to terminate the negotiation on the point it now rests. In case it is, they think proper, in expressing their regret at the result, to add, that they shall not hesitate promptly to comply with it. But if it is still his excellency's desire to continue the negotiation, they have to request that he will be so obliging as to give them the sentiments of His Majesty's Government respecting the western limits of Louisiana, and that he will also accompany it with such propositions as he may think proper to make for the adjustment of the very important and interesting concerns between the two nations.

The undersigned have the honor to offer to, &c.

CHARLES PINCKNEY.
JAMES MONROE.

[TRANSLATION.]

Mr. Cevallos to Messrs. Pinckney and Monroe.

ARANJUEZ, *March* 31, 1805.

GENTLEMEN:

I have received your esteemed favor of yesterday, in which you were pleased to inform me that the delay of my answer to your favor of the 15th has made you suppose it was, perhaps, the disposition of this Government to put an end to the negotiation in its present state. In answer, it is my duty to inform your excellencies that it has always been the disposition of this Government to continue, until concluded, a negotiation which has for its object a termination of the discussions that exist between the two countries; examining, first, each controverted point, and endeavoring to fix, as far as possible, the rights of each country; to begin, afterwards, the negotiations that may be convenient to both: that, with this view, and according to this plan, we have examined and discussed the greatest part of the said points. There is now remaining to treat only respecting the western limits of Louisiana, on which point I promised to transmit to your excellencies the opinion of this Government with the greatest possible despatch, as I have already assured you; being very sorry that my many indispensable avocations, and the attention which a subject of this nature requires, have not yet permitted me to execute it, and that your excellencies should have interpreted my silence since as a wish to put an end unreasonably to the negotiation.

With demonstrations of my sincere respects, I renew to your excellencies, &c.

PEDRO CEVALLOS.

Mr. Monroe to His Excellency Don Pedro Cevallos.

ARANJUEZ, *April* 3, 1805.

Mr. Monroe presents his compliments to His Excellency Don Pedro Cevallos, and requests that he will appoint some day and hour convenient to his excellency, when he shall have the honor of a conference.

Mr. Monroe repeats to his excellency the assurance of his high consideration and esteem.

Messrs. Monroe and Pinckney to Mr. Cevallos.

ARANJUEZ, *April* 9, 1805.

The undersigned, ministers plenipotentiary and envoys extraordinary of the United States of America, have the honor to inform His Excellency Don Pedro Cevallos that they consider his omission to answer their notes relative to the western limits of Louisiana, for so long a term, with his refusal to accept their propositions of the 28th January, or to propose any others in their stead, for the amicable adjustment of the differences between the United States and Spain, as having evinced the sentiments of His Majesty's Government on that interesting subject, in terms too strong to be misunderstood. By refusing to answer propositions until a discussion was ended, in the mode which his excellency thought proper to pursue, and declining to bring it to an end, even in that mode, within the term which naturally belonged to it, the indisposition of his Government to such an adjustment is as strongly declared as if it was announced to them in form. They think proper to add, that, by exacting of them in the commencement a discussion in that very dilatory mode, they had even then anticipated unfavorably of the result. To their propositions, which embraced every object in a frank and explicit manner, they had expected a correspondent answer. In discharge, however, of this great trust confided to them by their Government, they were resolved to keep in mind, and to fulfil, in the best manner they could, all its duties, among which they considered it an important one not to fail in any circumstance of respect which was due to His Majesty or his ministry. On that principle they entered into the discussion in the manner proposed by his excellency, although it was contrary to their inclination, to their judgment of what was proper in such a case, and to what was agreed between them in their first interview. They did so, in the presumption that the discussion would be of but short duration; that it would not consume more than a few weeks before they reached its object; and that a conclusion of the negotiation afterwards, in one mode or other, would require a still shorter time. They well knew that the subject had been long before His Majesty's Government; that every part had been acted on by it, and was, of course, well understood; they were aware, also, that the extraordinary mission, which the President had appointed to His Catholic Majesty, had been announced to him, and been some time expected by his ministry. Under these circumstances, the undersigned could not doubt that His Majesty's Government would be prepared to meet that mission on every point, and to terminate it with the utmost promptitude. What, however, has been the result, and how has their accommodating spirit been requited? If the first indications were unfavorable, they have been fully confirmed since. The United States will be astonished to learn in what manner the friendly advances and liberal overtures of their Government have been received; that, after exacting from their ministers a form of discussion which tended unavoidably to delay, His Majesty's ministers had ceased at length to discuss at all.

The undersigned have thought proper to communicate to his excellency their sentiments of what has passed with that frankness which the nature of the subject requires, and which is due to the Government and country they have the honor to represent. In conformity with those sentiments of the conduct of His Majesty's Government towards the United States, at a period which, under existing circumstances, is made signal by the proof which the President has furnished of his strong desire to preserve the relations of friendship between the United States and Spain, it might be expected that, considering the negotiation as thereby terminated, as in truth it essentially is, they would take the step which is incident to that state of things, and that Mr. Monroe, retiring from Spain, would repair to his station at London. It is, perhaps, their duty to take that step at this time. They are, however, willing to make one further effort to accomplish the objects of the mission, and to add a new and solemn proof to those which already exist, that its failure, should such be the case, shall in no respect be attributable to their Government or themselves.

With this view, whose just and friendly character will, they presume, be duly appreciated, the undersigned have the honor to inform his excellency that they shall still remain in Aranjuez a reasonable time, to receive from him such propositions, on the part of His Catholic Majesty, for the amicable adjustment of all subsisting differences, and other objects of interest depending between the United States and Spain, as he may think proper to propose. With such propositions, should any be made, they will be happy to receive any illustration of them, which his excellency may be disposed to give. But it is proper to add, that they consider it incompatible with their duty to proceed in the discussion of the subject, or any part of it, until those propositions, which are again invited, are presented to them; that they cannot view his continuing to withhold them in any other light than as an explicit declaration that the further pursuit of the object of their mission is unacceptable to His Majesty. It may, indeed, be thought that, after having possessed his excellency with the propositions of their Government, they compromitted its character, by proceeding in the discussion in any mode, before they received his in return. To that proceeding they were prompted by a spirit of conciliation, which may justify it to a certain stage. Should they, however, persist in it after what has passed, they would forfeit all claim to that apology.

In inviting again propositions of His Majesty for the amicable adjustment of the points depending between the two nations, the undersigned have the honor to repeat to his excellency the assurance that they will receive them with the high consideration which is justly due to them. The sentiments of the Government of France have been communicated on two points, which grow out of the treaties between the United States and that Power. The sentiments of one party to a treaty, as is well known, cannot affect the rights of the other, in points which arise

between the parties themselves, much less in those which have reference to a third Power unconnected with it; nor ought they to influence its judgment, if the other party is an independent Power, as the United States are. This principle, which is invariable, is more especially sound in the cases referred to, for the reasons which have been heretofore given. The sentiments, however, of His Majesty the Emperor of France, on those or any other points in which the United States are interested, especially such as grow out of their treaties, are entitled to much consideration on their part. The undersigned have not failed to bestow it on those, which have been communicated to them by his excellency, as has been shown by their replies; they shall also be ready to show it in the treaty which they are desirous of forming with His Catholic Majesty, so far as a due regard to the rights of the United States and their indispensable duty will permit. The propositions which the undersigned had the honor to present to his excellency on the 28th January last, which embrace the whole subject, are, in their judgment, founded, in every particular, in the strictest principles of justice; they are such as the President ordered them to propose; they are such as he expects that His Catholic Majesty, from his known regard to justice, will not hesitate to adopt. They think proper, however, to add, that, in receiving the propositions which His Majesty may make for the amicable adjustment of those important concerns between the two countries, should any be made, and a difference in opinion appear on any point, they are disposed to do every thing to conciliate an agreement which their instructions will permit. It is the sincere desire of their Government to adjust amicably, at this time, with His Catholic Majesty, all these high concerns, in a firm belief that the interest of both countries would be essentially promoted by that result. To accomplish it, the undersigned will omit nothing on their part which it is in their power to do.

The undersigned have the honor to inform his excellency that they expect an early answer to this communication, and that by it will their future conduct be governed. They consider the negotiation as essentially terminated by what has already occurred; and, if they pursue it, it will be only on the proof of such a disposition on the part of His Majesty's Government as shall convince them, that there is just cause to conclude that it will terminate to the satisfaction of the United States. Having acquitted themselves, in every particular, to what was due to the just, the pacific and friendly policy of their Government, it remains that they should not be unmindful of what they owe to its honor, its character, and its rights. If His Majesty is disposed to adjust these important concerns, by an amicable arrangement between the two nations, on fair and equal terms, it may be easily and speedily done. Each party knows its rights, its interests, and how much it ought to concede, in a spirit of conciliation, to accomplish the objects of the negotiation. The undersigned feel the force of that sentiment, and will not fail to respect it. Should His Majesty's Government, however, think proper to invite another issue, on it will the responsibility rest for the consequences. The United States are not unprepared for or unequal to any crisis which may occur. The energy which they have shown on former occasions, and the firmness of their past career, must prove that, in submitting with unexampled patience to the injuries of which they complain, and cherishing with sincerity the relations of friendship with His Catholic Majesty, no unmanly or unworthy motive has influenced their conduct.

The undersigned request, &c. CHAS. PINCKNEY.
JAS. MONROE.

Mr. Cevallos to Messrs. Monroe and Pinckney.

ARANJUEZ, *April* 9, 1805.

GENTLEMEN:

In my letters of the 21st February and 14th March, I had the honor to explain to your excellencies the incontrovertible reasons on which His Majesty founded his right to West Florida. I showed to your excellencies, among other things, that the United States could not pretend to more right, nor to more extent of territory, than France had acquired by the treaty of St. Ildefonso; and that, confessing as France confessed, that she had not acquired, or thought of acquiring, by the said treaty, territory eastward of the Iberville, neither could she transmit to the United States any right over it.

Besides what I have said in the said notes, I consider it as indispensable to hand to your excellencies the adjoined copy of a note which the Minister of Exterior Relations has addressed to the chargé des affaires of His Majesty at Paris, under date of the 26th ultimo, showing, in the most positive terms, that France neither acquired any territory to the east of the river Iberville, nor transmitted any to the United States; which declaration ought, in my opinion, to remove the most remote idea of doubt upon the subject, as very pointedly observes the Minister of Foreign Relations of France, "faire connoitre les droits que la France avoit acquiré, c'est indiquer l'étendue et les limites de ceux qu'elle a transmis au Gouvernement Federal."

It not being possible, in my opinion, to contradict the evidence of this proof in favor of the rights of His Majesty over West Florida, it will be conformable to the good faith of both Governments, and contribute very much to facilitate the course of the present negotiation, that it should be considered as established between us, and as indubitable that the United States have not acquired any right to West Florida. Being about to enter immediately into the examination of the western limits of Louisiana, it cannot do less than embarrass the course of the discussion to leave behind and still depending a point which has been proved to demonstration. The acknowledgment of the right of His Majesty over West Florida, by the American Government, which is not more than an act of rigorous justice on their part, will facilitate and simplify very much the course of a negotiation, which has for its foundation the good faith of both Governments, and their wish to terminate their differences.

I renew to your excellencies the testimony of my distinguished consideration, &c. &c.

PEDRO CEVALLOS.

P. S. After writing and signing this, I received the esteemed letter of your excellencies of yesterday, to which I will answer as soon as possible.

P. C.

M. Talleyrand to M. le Chevalier de Santivanes.

PARIS, *5th Germinal, year* 13.

SIR:

I have received the letter which you have done me the honor to address to me on the 14th of March, which particularly relates to the limits of Louisiana on the side of West Florida.

This question cannot become the object of a serious discussion between Spain and the United States, if a view is taken of the clauses of the treaties of cession which have successively transferred Louisiana to France and to the Americans.

Spain retroceded to France the territory only which she had received from her. The rights of France have been since passed to the United States, and it was only with the same extent that she had acquired them.

This principle has been constantly pursued by His Imperial Majesty equally towards the court of Spain and the Federal Government. His Majesty having no pretensions but to the territory situated to the west of the Mississippi and of the river Iberville, he had not authorized his commissary at New Orleans to take possession of any other province, and he did not cede any other to the United States.

His Imperial Majesty has repeatedly authorized me to make the declaration, and I have repeatedly addressed it in his name to the ministers plenipotentiary of the United States accredited near him by the Federal Government. His Majesty persuades himself that this frank exposition of facts ought to be sufficient to prevent any difference

between Spain and the United States relative to the demarcation between Louisiana and the Floridas. To make known the rights which France had acquired, is to indicate the extent and the limits of those which she transmitted to the Federal Government.

Accept, sir, the assurances, &c. &c.

CH. MAU. TALLEYRAND.

Messrs. Monroe and Pinckney to Mr. Cevallos.

ARANJUEZ, *April* 12, 1805.

SIR:

We have the honor to acknowledge the receipt of your excellency's note of the 9th, with an extract of one from the Minister of Foreign Relations of France to the chargé des affaires of Spain, relative to the eastern limits of Louisiana.

Having had the honor to inform your excellency, in our note of the 9th, that we considered the negotiation as essentially terminated by the disposition which His Majesty had shown, and the part it had acted in it, and that we deemed it incompatible with our duty to proceed in the discussion of the subject, or any part thereof, until we were furnished with His Majesty's propositions for the adjustment of the whole business, we have only to refer, in reply to this communication of your excellency, to what was stated in that note on the most solid reasons. As soon as your excellency complies with that request, we shall endeavor, by all the means in our power, in the sentiments expressed in that note, to manifest the high respect of the United States for His Majesty the Emperor of France, and their disposition to conciliate, in the treaty they are desirous of forming with His Catholic Majesty, the mutual interest of both countries.

We repeat our desire to be furnished, as soon as possible, with your excellency's propositions, which have heretofore been so often requested in vain, for the adjustment of all the points that are depending between the two nations. If it is the disposition of His Majesty's Government to meet in this negotiation the friendly advances and overtures of the United States, there can be no motive for longer delay; but if the contrary continues to be shown, we shall hasten to withdraw from a situation, which, while it compromits the character of our Government, cannot be agreeable to ourselves.

We beg your excellency to accept the assurance of our high consideration and esteem, &c.

CHARLES PINCKNEY.
JAMES MONROE.

[TRANSLATION.]

Mr. Cevallos to Messrs. Pinckney and Monroe.

ARANJUEZ, *April* 13, 1805.

GENTLEMEN:

Complying with my promise, I proceed to examine, in this letter, the opinions of my Government, on the western limits of Louisiana; following the plan established from the beginning, proposed by your excellencies, and adopted by me, to examine each of the points depending between us, and determining, as far as possible, our respective rights on each. But before I proceed on the question, I should be wanting in the respect I owe my own Government, to those considerations to which my public character will not permit me to be inattentive, and also to that of which I believe I have not been undeserving in my private one, if I did not state to your excellencies my surprise at reading your esteemed letters of the 30th March, and 9th of the present month. It is only fifteen days since I had the honor to write to your excellencies my last note relative to the eastern limits of Louisiana, to which your excellencies did not find it convenient to answer, except in the general terms that we did not agree, and that we would pass to the other point of the western limits of Louisiana; and on the 30th March, notwithstanding my promise, and my word given, that I would treat the last depending point, as I had done the rest, your excellencies supposed you ought to state to me, that my silence for those days had induced a belief in you that I intended it as an intimation of my wish to end the negotiation. On a view of a discussion, pursued with so much punctuality and activity on all the controverted points, it appears to me as more natural, not to say more just, that your excellencies should have believed that the nature itself of the point I was about to treat on, or the indispensable occupations of my ministry, might have occasioned the delay, than to suspect that I wished to put an end to the negotiation, thereby breaking my word which I had pledged. My delicacy not permitting me to suffer such a suspicion to remain in the breasts of your excellencies, I stated, in my letter of the 31st ultimo, the sensibility which this had caused me; the motives which had prevented my writing more quickly upon the point of the western limits of Louisiana; and, lastly, I reiterated my promise to do so with all the despatch possible. Notwithstanding this your excellencies have thought proper, in your note of the 9th, to insist upon what you call my omission, and say that the ministry of His Majesty intend to cease the discussion entirely, with other assertions to the same effect, which cannot do less than make me feel very much, both as they respect my public and private character.

In answer to these, I shall confine myself to only stating to your excellencies, that the nature of the point itself of which I am about to treat, has been the cause of the small delay which I have had the misfortune to have so unfavorably interpreted by your excellencies.

The question upon the western limits of Louisiana is not a point which can be examined or discussed, upon viewing one or two documents, or other pieces of that kind which may be possessed at the first view. To treat this point with exactness, it is necessary to examine a collection of plans and documents and historical relations which include a space of more than one hundred and fifty years. These documents are not to be found in the department under my care; many of them belong to the Department of the Interior, besides those which are in the Vice-Royalty of Mexico. It has been necessary to search and examine those which are here, and to give them a certain classification. It was my intention to form a memoir, which should comprehend all the most important topics, accompanying them with the necessary maps and plans, and handing them to your excellencies, being anxious to make the opinions of my Government appear with all the exactness which the nature of the subject would permit; but the manner in which your excellencies express yourselves in your said letters is a sufficient excuse to me to alter my plan, and reduce it to a few pages, that I may not still lengthen a delay which has given rise to such disagreeable suspicions.

The western limits of Louisiana never having been fixed in the exact manner which can be done in territories sufficiently peopled and of small extent, it ought necessarily, at the time of fixing them, to be the object of a negotiation, in which both parties should be agreed as to the principal basis, and by a commission of limits which should regulate themselves by that basis in fixing the demarcation. The principle which ought to serve as a rule for the establishment of the said basis, cannot be any other than the knowledge of the possession which each party had acquired in these territories, and the different establishments made, by each in the said places, by the Spaniards in the province of New Spain, and also those belonging to Louisiana, drawing a line which shall divide the one from the other side, and continuing it by the most natural points of demarcation possible.

It results from this principle, that the examination into the above named limits is in a great degree historical, as it treats of the fixing the origin of many Spanish establishments, of the interior provinces, and of the French establishment of Louisiana.

If it had been proper to enter into a detailed examination at present, I would make a succinct historical detail of the Spanish establishments in the interior provinces of New Spain; but not to molest your excellencies with details that may be inconvenient at present, I will confine myself to saying something on the province of Texas

bounding on Louisiana, upon the demarcation of which depends the present questions. The province of Texas, where the Spaniards have had settlements from the seventeenth century, bounds by the east with Louisiana, and contains the extensive country which lies between the river Medina, where ends the Government of Cohacula, to the post, now abandoned, of Nuestra Señora del Pilar, of the Adaes, which is distant a few leagues from the fort of Natchitoches; twenty leagues from the Mission of Ais; forty from that of Nacogdoches; one hundred and fifty from the abandoned post of Oreoquisaw; two hundred from the bay of Espiritu Santo; and forty from the post of St. Antonio de Bejar.

It is beyond all doubt that, in the year 1689, by a commission from the Viceroy of Mexico, the Marquis de Moncloa, Captain Alonzo de Lem, who was then Governor of the province of Cohacula, went to examine the bay of Espiritu Santo, and the river St. Mazers which empties into it, to whom the Indian chief of Texas presented himself in the most friendly manner, and in 1690 he took possession of the territory, and founded the mission of St. Francisco of Texas.

By a royal order of His Catholic Majesty, November 12, 1692, they ordered new discoveries to be made in the said province by land and sea, which was in consequence then executed, and among other things they undertook the examination of the river Codachos. Twenty-two years after, the Duke of Lenares, being then Viceroy of Mexico, introduced from Louisiana, as far as the Spanish port of St. Juan Baptista, a Frenchman, Louis St. Dennis, and other three Frenchmen from Louisiana, with passports from the Governor of Louisiana to buy cattle in the Spanish missions of Texas: which Frenchmen were carried to Mexico, and then the fourth expedition was resolved upon to Texas, naming as chief of it the Alfarez Don Domingo Ramon. The expedition was received with inexpressible friendship by the Indians; and the Captain Ramon named the chief of the said Indian nations, and also son to the Governor of Texas, and he left there founded the four establishments and missions of St. Francisco, La Purissima Concepcion, St. Josef, and Nuestra Señora de Guadalupe, situated seven leagues from Natchitoches. By the royal order in 1719, they made various alterations in the command of the Spaniards employed in the province of Texas, and a little after died the said Captain Ramon in the port of St. Juan de Baptista on the river Granada. War having broken out between Spain and France during the regency of the Duke of Orleans, the French attacked the Spanish mission of Adaes, and its inhabitants were transferred for the moment to the post of St. Antonio de Bejar. But the Viceroy of New Spain, the Marquis de Valero, accepted the generous and honorable proposal which the Marquis St. Michael de Aguago made, offering his purse and person to dislodge the French of what they had unjustly seized and occupied, and to make war upon them. On being named Governor General of the New Philippines, or province of Texas, and of New Estremadura, the Marquis of Aguago raised five hundred dragoons and two companies of cavalry, and undertook his march for the province of Texas in 1179, and without opposition arrived at the Adaes, the French having returned to port Natchitoches. The King of Spain being informed of this expedition, and the recovery of the province of Texas, determined to fortify it, and that all hostilities should be suspended against the French.

The Marquis de Aguago re-established the other missions and founded the establishments, among them the posts of Nuestra Señora del Pilar de los Adaes; that of Loretto, on the bay of Espiritu Santo; that of Dolores, which is now known by the name of Ozquisau, and improved the situation of St. Antonio de Bejar by placing the establishment between the rivers of St. Antonio and St. Pedro.

The province of Texas being thus at peace, and re-established and increased, the Marquis of Aguago solicited the reunion there of two hundred Flascalan families, and as many from Galicia, in Spain, or the Canaries; and with some of these families, the King having agreed that four hundred families should go from the Canaries, they peopled the village of St. Fernando, close to the post of Bejar.

At the end of the year 1730, the Spaniards undertook several expeditions from the post of Bejar to the north of said province, on account of a disagreement with the Indians; and, in 1758, the Indians made an attack from the northern part on the post of St. Saba, and killed some soldiers and priests; on which account a detachment was ordered against the said Indians, under the command of Colonel Don Diego Ortiz de Parilla.

A little after, it was determined to organize a general and uniform establishment of posts to cover the interior provinces of New Spain, and they ultimately gave a commission to the Marquis de Rubi to go and revisit and examine their state. And the result of this commission, which it appeared lasted some years, was, that on the 10th of September, 1772, the regulation of posts had so extended itself as to establish a cordon of them from the coast of Señora to the bay of Mexico, where was situated the bay of Espiritu Santo, there being then in the province of Texas those of St. Antonio de Bejar, and that of the bay of Espiritu Santo, having neglected that of Arquisau and that of Nuestra Señora de los Adaes, which were no longer useful, as Spain was then the mistress of Louisiana.

From this simple and short explanation of those notorious and authentic facts, to prove the truth of which we find the most incontestable documents, supported by uninterrupted possession, results evidently the ancient and exclusive right which the Spaniards have to the province of Texas; that the possession of the province of Texas was acknowledged and respected by the French while they possessed Louisiana; and that the said province is belonging to, and has always belonged to, His Majesty.

That claim must be extremely illusory and unfounded which shall attempt to carry the western limits of Louisiana to the Rio Bravo, including therein great part of the interior provinces of New Spain, acquired and established at the cost of the treasures of Spain and the blood of her subjects, as has been proved to demonstration in the case of Texas, and can be strengthened more and more by a continued series of events and proofs relative to the said province of Texas and others of the interior provinces of New Spain, and also the acts and dates now existing respecting the subject. There are also many despatches, maps, and documents respecting this question, to be found in the Viceroyalty of Mexico, which is the principal centre of authority for all these provinces.

On my part, I have read with the greatest attention the memoir on the limits of Louisiana, which your excellencies enclosed me in your note of the 28th January, anxious to see if any thing could be found to support or give a color to the claim of the United States to carry their limits to the Rio Bravo; but the said memoir goes principally to treat of the establishment of Louisiana. I only find that your excellencies support the claim—first, in a gratuitous supposition that the coast belonged to France—a supposition that is contradicted by the most positive acts and dates abovementioned, by which it is proved that the province of Texas and its coast are belonging to the dominions of His Majesty. And, in the second place, in the general terms of the patent granted by Louis XIV. in September, 1712, in favor of Anthony Crozat, granting him the exclusive commerce of the country of Louisiana, whose extent was, as your excellencies understand it, with all the waters which directly or indirectly discharge themselves into the Mississippi, and the countries which they water. It would be very easy to make it appear that the most exaggerated claims of France never had the extent which your excellencies wish to give to Louisiana on this side. But even if they should have had such claims, or France positively should have tried to include, under the name of Louisiana, the territories which His Catholic Majesty possessed, what right or claim could be founded in a document which Spain never has recognised, nor does recognise, and which never could prejudice in any manner her acquired rights? The answer of Spain on this occasion is as simple as just: that, if Louis XIV. or the Government of France exceeded its powers in granting territories or rights over territories which were not their own, or that Spain claimed possession of, or property in, that grant ought to be considered as null as far as it extended over these territories, and that it flowed, without doubt, from the total ignorance which prevailed in those days with respect to the geography of the territories situated at a little distance to the west of the Mississippi, and of the establishments of the Spaniards in those parts. More ancient, and proved by repeated acts of possession, than the aforesaid patent of Louis XIV. is the royal order of the 12th November, 1692, already cited, by which His Catholic Majesty ordered them to make new expeditions to the Texas; and the same are the other authentic acts and establishments of the Spaniards in that quarter.

The limits between Louisiana and the Texas have been always known, even when the French possessed Louisiana. Near the beginning of the last century, the venerable Alanjet, of the order of St. Francisco, founded, in the province of Texas, towards the confines of Louisiana, different missions, among them that of Nacogdoches. And a few years after he wrote, and it was generally known in the writings of those times, that the province of Texas, or New Philippines, had its boundaries about the middle of the Gulf of Mexico to Poncenes, the Rio Grande, and to the East Louisiana. Depending on Louisiana, we find upon the river Colorado, which discharges into the Mississippi, the post of Natchitoches, which the French took from Spain. But, at seven leagues from this, you find the

aforementioned post of Nuestra Señora de los Adaes, belonging to the province of Texas; and it is undoubted that the Baron de Riperda, being Governor General of this province, and successor of Don Angal de Manos, appears to have made treaties and conventions with the Indians of the same province of Texas, stipulating that the Spaniards might make among them such establishments as they pleased, acknowledging from that time as depending on the province of Texas, the Indians Stydes, Nacogdoches, Asenares, Nobedacuis, Vidais, Ozquires, Malayes, Ocuanes, Tancques, and Apaches. To the year 1770, there always was in the fort of the Adaes, from the time of its establishment, a competent number of Spanish soldiers, and the same in that of Ozquisaz et St. Saba; and it was not until the year 1773 that the Lieutenant Don Josef Gonzales evacuated the post of Adaes, whose garrison was no longer necessary, as Spain possessed Louisiana.

It follows, therefore, that the boundary between the provinces of Texas and Louisiana ought to be by a line which, beginning at the Gulf of Mexico, between the river Caricut, or Cascassia, and the Armenta, or Marmentoa, should go to the north, passing between the Adaes and Natchitoches, until it cuts the Red river. And as from this point the limits which ought to be established on the northern side are doubtful and little known, it appears indispensable to refer them to the prudent investigation of commissioners to be named by both parties, in order that they, viewing the territory, and having with them the documents and dates that will be given them, rectifying what ought to be rectified, and furnishing the necessary light to both Governments, upon limits which have never been fixed or determined with exactness, may thus enable them to fix the demarcation completely conformable to the wishes of both.

With these views, the Government of Spain, ever since it had definitively fixed the retrocession of Louisiana to France, named a commissioner of limits, destined to complete this important object jointly with the commissioners France might think proper to name on her part. In the same manner, it appears to me indispensable to do now, if the demarcation is to be made with the necessary exactness; and that the United States, naming on their part a commissioner of limits, that they should proceed by common accord, and make upon the territory the investigation which may be necessary. It is more than a year that the Brigadier General the Marquis de Casa Calvo, and the Engineer Don Josef Martinez, have, with a sufficient number of persons to form the said commission on the part of His Catholic Majesty, been waiting in New Orleans the arrival of the commissioners of the United States to begin their labors.

It is only after the researches and investigation of the commissioners of both parties, furnished with such instructions as may be proper, that we can pursue the exact demarcation of limits, which, never before having been fixed with the requisite exactness, cannot now be determined upon with prudence, but upon a view of the territory, and having present the dates and documents necessary to illustrate the subject.

Although upon this point of the western limits of Louisiana I could have extended myself much more in detail, and accompanied my illustration with maps and documents, my wish to answer your excellencies on this point with promptitude prevented me. I, however, reserve to myself the power of doing so hereafter should it be necessary.

I hope your excellencies, on reviewing what has been urged on this point, will please to state to me your opinions upon the subject, and that you will acknowledge that, as well in it, as in the whole course of the negotiation, I have not deviated a jot from the principle proposed by your excellencies in your first letter of the 28th January, and adopted by me in that of the 31st of the same month—"Each of the points depending between the two Governments ought to be examined impartially, and all motives of complaint and inquietude considered and terminated amicably; to do which," &c. &c.

As I had the honor to state to your excellencies in my letter of the 5th March, and believe it indispensable to repeat here, on perusing the contents of your excellencies' letters of the 30th March and 12th April, I cannot but still consider it as premature to enter upon the forming of projects for a convention on the whole or upon the aggregate of the depending points, without analyzing them first, at least to a certain point, and without fixing the right of each country as far as possible; because, as your excellencies must know extremely well, before we can proceed to a convention on the whole, it is necessary to know, as far as possible, what are the rights and obligations of His Majesty, and what are the rights of the United States and their objections; which knowledge by detail ought to be the foundation of the negotiations, it being clear that, according to the extent which we believe the right and obligations of the one and the other party ought to be, so ought the convention, upon the whole, to be the more or less extensive.

I hope to have the honor of receiving your excellencies' answer on the point which is the object of this letter, and reiterate to you the demonstrations of my distinguished consideration, &c.

PEDRO CEVALLOS.

Messrs. Monroe and Mr. Pinckney to Mr. Cevallos.

ARANJUEZ, *April* 20, 1805.

SIR:

We had the honor to acknowledge the receipt of your excellency's note of the 13th, to which we hasten to give a reply. It is not without much surprise, that we find by it that your excellency should have construed the apprehension which we expressed in our note of the 30th ultimo, that you intended, by your silence, in not answering ours respecting the western limits of Louisiana for so long a term, to intimate a desire to terminate the negotiation at that point, as conveying any unfavorable imputation to your excellency either in your public or private character. We do not hesitate to disavow any such intention, and to assure you that nothing was more remote from our views. In making this frank declaration, we must be permitted to add, that we do not think that that note, or any other that we have written, ought to have had such interpretation. We are persuaded that, in all negotiations, each party has a right to terminate that in which it is engaged, whenever it thinks proper, and that it is responsible for so doing to its own Government alone. This right seems to be incident to the very nature of such transactions, and not to be restrained by any promise made in the commencement, or afterwards, by either party, of what it proposes to do in the sequel, in respect to the mode of prosecuting it. Such promise must always be made on the idea, and be so understood by the other party, that the negotiation will be continued. It can never be construed in such a manner as to compel the party to continue it in case any thing should occur to make it improper, in its judgment, so to do. It was in this light that we considered your excellency's promise, and were, therefore, far from supposing that, in making the inquiry which we did, under existing circumstances, we violated any rule of decorum or delicacy. Whether there was sufficient cause for the impression we had taken in that respect, we will not pretend to say. It is, however, most certain that we thought there was, and for the following reasons: 1st, because unusual delay had occurred since our last communication, which we could not otherwise account for; 2dly, because, as your excellency had repeatedly insisted on the relinquishment of the claim of the United States on Spain for compensation for French spoliations within her limits, and seemed in your note of the 15th to put the continuance of the negotiation on that issue, we were naturally led to suspect, on our repeating the assurance that we were decidedly of a contrary opinion, and could not abandon the claim, especially after so long an interval, that you had come to that resolution. Having this view of the subject, we did not know but that your excellency had adopted that mode of making known to us the views of your Government, as the one which was deemed most suitable to the purpose, and had even expected such an application on our part to lead to a more full and explicit declaration of them. In making the application, which we did with regret, we followed no rule, but were governed by an impulse which the occasion excited, and we trust merits to be considered as an honorable one—one to which your excellency has shown too great a sensibility, or you would not have so much misconstrued our meaning. We repeat, therefore, that we neither intended, nor do we think that any of our letters ought to be construed to convey any imputation unfavorable to your excellency in your public or private character, for which we renew the assurance of our high consideration and respect.

Our note of the 9th instant (for that of the 12th was only founded on it) was intended as a justification of the part which, under existing circumstances, we deemed it our duty to take. We intended it as a justification of our

conduct equally to His Majesty's Government and our own. We were of opinion, for the reasons therein stated, that, as there was no prospect of obtaining an accord on such terms as our Government thought reasonable and just, and as our Government and ourselves were compromitted by the manner in which the negotiation continued to be conducted, that it was not only useless but highly improper for us to pursue it. It is usual, in all negotiations, especially in important concerns, for one of the parties to present to the other a project of a treaty or convention for the arrangement of the objects in contemplation, founded on his instructions, and to receive from the other party a like one in return, in case any difference of opinion appeared on any point between them. It is by an exchange of such projects, that the views of their respective Governments are seen, and each party is enabled to determine at once whether there is any prospect of an agreement, and to act accordingly; it is by such exchange that the points of agreement and difference between them are shown, and that the topics of discussion are distinctly marked, in case the negotiation is carried to that length; it is, in short, by it, and by it alone, that the basis of the negotiation is formed, and the parties to it placed on equal ground. Whenever this rule is departed from, it must be to the disadvantage of the party whose case forms an exception to it. It is in the power of the other to continue the negotiation as long as he thinks fit, and finally to break it off, if he is so disposed, on his own terms. When we did ourselves the honor to present to your excellency, on the 28th January, our project for the arrangement of the points in question, with our note explanatory of it, it was in the expectation that we should have received a counter one in return, in case its conditions were not approved, with a note explicit to every point. We do not say that an express agreement to that effect was entered into, but as it was agreed that we should commence the negotiation in that mode, and as it was known to be the established usage in such cases, we concluded that the business would necessarily take that course. In that expectation, however, we were disappointed in both respects. It was, perhaps, our duty to have declined proceeding in the negotiation until we were furnished with such a communication; and, had we done so, we presume it could not have been refused. By proceeding in it as we have done, in the mode adopted by your excellency, we were governed, as heretofore observed, by a spirit of conciliation, in the belief that in that mode we should obtain the same end, without any essential difference in point of time. In these latter respects we were also disappointed. Your excellency has repeatedly observed, that you had followed the mode which we had recommended; but you will permit us to remark that, in this respect, your excellency has altogether misapprehended our idea, in one of its most important features. We said, it is true, in our first note, that it was proper to ascertain the rights of each nation on each point, and we still say so. But did it follow from thence that we were willing to dispense with the ordinary mode of proceeding in such cases? with the just claim to a counter project or proposition from your Government? Did we consent to a mode of discussion in which each point should be made the subject of separate notes, and that these should be subdivided, and each subdivision become so?—a mode which tended to create unavoidable delay. Most certainly nothing can be found in any communication from us, which gives the slightest approbation to such a proceeding. It is contrary to that which we expected would have been pursued in the negotiation; it is contrary to that in which we commenced it; and it has been the subject of serious and frequent complaint on our part since. It was after we saw with regret that three months had been consumed without effect, that unusual and unexpected delays had taken place in the discussion which seemed likely to be protracted to an indefinite length of time, that no basis of the negotiation was laid; no propositions were presented, though often requested with as much earnestness as delicacy would permit; and that to those which we did ourselves the honor to present, we were answered, not in a spirit of accommodation, but with demands that we should surrender unconditionally the just claims of our Government in some of the most important points, that we wrote that letter. To a situation so improper, it was impossible for us to remain longer insensible. We could not but recollect, independent of the justice of our pretensions, that some consideration was due to the friendly and respectful advance that was made by our Government; that special missions in their nature require despatch, and generally receive it; that on former and important occasions those of the United States had received it from France, Spain, and Great Britain; that to the present one, by many causes, the public sensibility had been much excited, and that our Government waited with anxiety the result: in addition to which, that one of the parties to it was the representative of the United States at another court, where their interests suffered by his absence. It was on a full view of these circumstances that that measure was taken—circumstances which appeared to us to be too imperious to have any cause for hesitation. In writing the letter, we meant, as already observed, to vindicate our own conduct to both Governments. We did not mean in the slightest degree to call in question the right of His Majesty's Government to manage the negotiation, or to conclude it in such mode as it thought fit. We only claimed to ourselves a right to withdraw from it, and report the result to our Government when it appeared to us impossible, after making due exertions, to accomplish the objects of our mission.

In our letter of the 9th, we invited again your excellency's propositions, which have not been furnished. Your excellency has, however, furnished us with your observations on the last point of discussion, that of the western limits of Louisiana, by which the negotiation approaches a conclusion in its ordinary form, by treaty or otherwise, which your excellency seems desirous to give it. Our wish has been invariably the same on this point, and we now feel ourselves called on, under existing circumstances, to give a new and signal proof of our disposition to conciliate. Anxious to adjust at this time the subsisting differences, and to place the relations of the two countries on a basis of permanent friendship, by arrangements founded on their common interest, we will not put to hazard these great concerns, by any act which may possibly impute the failure to us. Influenced by these considerations, we shall proceed to discuss this last point in reply to your excellencies' note, although the propositions have not been furnished, in the expectation that, after the discussion on this point is finished, as we trust it hereby will be, we shall experience on your part an equal co-operation to conclude the negotiation itself with the utmost promptitude.

We have gone thus into detail, to place in its true light the part we have acted in these concerns, and the motive of it. The present negotiation naturally forms an interesting epoch in the political relations of the two Powers, and it is important to the United States that it should be seen that nothing was omitted on their part which was due to the claims of justice and good neighborhood on the part of His Catholic Majesty.

In examining the question respecting the western limits of Louisiana, we are to be governed by those facts and principles which would have been applicable to France had she never parted with the province. All the rights which she formerly possessed over it were restored to her by the treaty of St. Ildefonso, and by her transferred to the United States by that of Paris, 1803: to ascertain these, it is necessary to go back to that epoch when the river Mississippi, with the waters which empty into it, and when the bay of St. Bernard were just discovered. The boundary to the West was never traced by an exact line of demarcation between that province and the possessions of Spain; and, in settling it at this day, the same principles and facts must govern as if it had been then made.

The facts which are material in the case are such as relate to the discovery and possession of the territory referred to by the subjects and under the authority of each nation. The principles are those which have been recognised by European Powers in similar transactions, and which of course ought to govern in the present one. It is by a correct view of the material facts, and the faithful application of these principles to them, that the right of each nation will be established in this point, and thereby the boundary between them.

By the memorial which we had the honor to present to your excellency on the 28th January last, the epoch of the discovery of the Mississippi and of the waters which empty into it, and of the bay of St. Bernard, and of the taking possession of the same, and of the country dependent thereon, is proved by documents which cannot be questioned. By these it is established, in respect to the Mississippi, its waters, and dependent country, as low down the river as the Arkansas, by the Sieurs Joliet and Marquette from Canada, as early as the year 1673, and to its mouth by the father Hennison, in 1680, and by De la Salle and Joutel, who descended the river with sixty men to the ocean, and named the country Louisiana, in 1682, and in respect to the bay of St. Bernard, in 1685. This was done at those periods in the name and under the authority of France, by acts which proclaimed her sovereignty over the whole country to other Powers, in a manner the most public and solemn, such as making settlements and building forts within it. Of these, it is material to notice in the present inquiry two only, which were erected in the bay of St. Bernard, on the western side of the river Colorado, by M. de la Salle, who landed there from France with two hundred and forty persons, in 1685. It was on the authority of the discovery thus made, and of the possession so taken, that Louis XIV. granted to Anthony Crozat, by letters patent, bearing date in 1712, the exclusive com-

merce of that country, in which he defines its boundary, by declaring that it comprehended all the lands, coasts, and islands, which are situated in the Gulf of Mexico, between Carolina on the east, and Old and New Mexico on the west, with all the streams which empty into the ocean within those limits, and the interior country dependent on the same. Such are the facts on which the claim of France rested: such are those on which that of the United States now rests.

The principles which are applicable to the case are such as are dictated by reason, and have been adopted in practice by European Powers, in the discoveries and acquisitions which they respectively made in the new world: they are principles intelligible, and, at the same time, founded in strict justice. The first of these is, that when any European nation takes possession of any extensive seacoast, that possession is understood as extending into the interior country, to the sources of the rivers emptying within that coast, to all their branches and the country they cover; and to give it a right, in exclusion of all other nations, to the same, (memoir ——, page 116,) it is evident that some rule or principle must govern the rights of European Powers, in regard to each other, in all such cases; and it is certain that none can be adopted in those to which it applies, more reasonable or just than the present one. Many weighty considerations show the propriety of it. Nature seems to have destined a range of territory, so described, for the same society to have connected its several parts together by the ties of a common interest, and to have detached them from others. If this principle is departed from, it must be by attaching to such discovery and possession a more enlarged or contracted scope of acquisition; but a slight attention to the subject will demonstrate the absurdity of either. The latter would be to restrict the rights of a European Power, who discovered and took possession of a new country, to the spot on which its troops or settlements rested: a doctrine which has been totally disclaimed by all the Powers who made discoveries and acquired possessions in America. The other extreme would be equally improper; that is, that the nation who made such discovery should, in all cases, be entitled to the whole of the territory so discovered. In the case of an island, whose extent was seen, which might be soon sailed round, and preserved by a few forts, it may apply with justice; but in that of a continent, it would be absolutely absurd; accordingly, we find that this opposite extreme has been equally disclaimed and disavowed by the doctrine and practice of European nations. The great continent of America, north and south, was never claimed by any one European nation, nor was either portion of it. Their pretensions have been always bounded by more moderate and rational principles. The one laid down has obtained general assent.

This principle was completely established in the controversy which produced the war of 1755. Great Britain contended that she had a right, founded in the discovery and possession of such territory, to define its boundaries, by given latitudes in grants to individuals, retaining the sovereignty to herself from sea to sea. This pretension, on her part, was opposed by France and Spain, and was finally abandoned by Great Britain in the treaty of 1763, which established the Mississippi as the western boundary of her possessions. It was opposed by France and Spain on the principle here insisted on, which of course gives it the highest possible sanction in the present case.

The second is, that, whenever one European nation makes a discovery, and takes possession of any portion of that continent, and another afterwards does the same at some distance from it, where the boundary between them is not determined by the principle above mentioned, the middle distance becomes such of course. The justice and propriety of this rule is too obvious to require illustration.

A third rule is, that, whenever any European nation has thus acquired a right to any portion of territory on that continent, that right can never be diminished or affected by any other Power, by virtue of purchases made, by grants or conquests of the natives within the limits thereof. It is believed that this principle has been admitted and acted on invariably since the discovery of America, in respect to their possessions there, by all the European Powers. It is particularly illustrated by the stipulations of their most important treaties concerning those possessions, and the practice under them, viz: the treaty of Utrecht, in 1713, and that of Paris, in 1763. In conformity with the tenth article of the first mentioned treaty, the boundary between Canada and Louisiana on the one side, and the Hudson's Bay and Northwestern companies on the other, was established by commissaries, by a line to commence at a cape or promontory on the ocean, in 58° 31′ north latitude, to run thence, southwestwardly, to latitude 49° north from the equator, and along that line indefinitely westward. Since that time, no attempt has been made to extend the limits of Louisiana or Canada to the north of that line, or of those companies to the south of it, by purchase, conquest, or grants from the Indians. By the treaty of Paris, 1763, the boundary between the present United States and Florida and Louisiana, was established by a line to run through the middle of the Mississippi, from its source, to the river Iberville, and through that river, &c. to the ocean. Since that time no attempts have been made by those States since their independence, or by Great Britain before it, to extend their possession westward of that line, or of Spain to extend hers eastward of it, by virtue of such acquisitions made of the Indians. These facts prove incontestably that this principle is not only just in itself, but that it has been invariably observed by all the Powers holding possessions in America, in all questions to which it applies relative to those possessions.

The above are the principles which we presume are to govern in the present case. We will now proceed to apply these principles to the claim of the United States, as founded on the facts above stated, relative to the discovery and possession of Louisiana by France, and to designate the limit to which we presume they are justly entitled, by virtue thereof, in the quarter referred to.

On the authority of the principle first above stated, it is evident that, by the discovery and possession of the Mississippi, in its whole length, and the coast adjoining it, the United States are entitled to the whole country dependent on that river, its several branches, and the waters which empty into it, within the limits of that coast. The extent to which this would go, it is not in our power to say; but the principle being clear, dependent on plain and simple facts, it would be easy to ascertain it.

It is equally evident, by the application of the second principle, to the discovery made by M. de la Salle of the bay of St. Bernard, and his establishment there on the western side of the river Colorado, that the United States have a just right to a boundary founded on the middle distance, between that point and the then nearest Spanish settlement, which, it is understood, was in the province of Panuco, unless that claim should be precluded on the principle first above mentioned. To what point that would carry us, it is equally out of our power to say; nor is it material, as the possession in the bay of St. Bernard, taken in connexion with that on the Mississippi, has been always understood as a right to extend to the Rio Bravo, on which we now insist.

In support of this boundary, we rely much on the grant of Louis XIV. to Anthony Crozat, in 1712. That grant, it is true, establishes no new right to the territory. The right had already accrued by the causes and to the extent contended for, which was never abandoned afterwards, except by the treaty of 1763, which does not affect the present question.

This boundary is also supported by the opinions of the best informed persons who have written on the subject, with which we have become acquainted. By an extract from a work on Louisiana, written by the Colonel Chevalier de Champigny, in 1773, who, being of the country, was doubtless well informed, the Rio Bravo is laid down as the western boundary of that province. This fact is again asserted, with more minuteness, in his second note to that work, in which he states that Louisiana was bounded, before the treaty of 1763, to the west, by the mountains of New Mexico and the Rio Bravo. In a book containing several memoirs on different subjects, published about three years since at Paris, is one entitled a "Memoir, historical and political, on Louisiana, by the Count de Vergennes, minister of Louis XVI," in which it is stated that Louisiana is bounded to the east by Florida, and to the west by Mexico. The opinion of geographers, in general, confirms that of other writers. By a chart of Louisiana, published in 1762, by Don Thomas Lopez, geographer to His Catholic Majesty, it appears that he considers the Rio Bravo as the boundary of the province, as it does by that of De Lisle, of the Royal Academy of Sciences at Paris, which was revised and republished in 1782. Others might be quoted, but it is useless to multiply them.

Having thus shown the principles on which the United States found their claim to the Rio Bravo as the western boundary of Louisiana, we will proceed to examine the claim of Spain which is opposed to it, as presented by your excellency, in your esteemed note of the 13th inst. We find by it, that all the facts relied on in support of the claim of Spain, relate to the province of Texas, the whole of which lies eastward of the Rio Bravo, and, as we suppose, within the limits of Louisiana. They amount to this, that, at different epochs, certain religious missions were estab-

lished within that province, the first of which was in 1690; that, in 1692, a royal order issued, directing new discoveries to be made in it, under which the river Colorado was explored; that, in 1714, Louis St. Denis, a Frenchman, with a passport from the Governor of Louisiana, made a visit to Mexico on some commercial projects, passing by the Spanish post St. John the Baptist, on the Rio Bravo, at which time Don Diego Ramon was sent into the province of Texas, where he was well received by the Indians, among whom he then founded several religious missions, one of them at a post within seven leagues of Natchetoches; that treaties were afterwards made with some tribes of Indians, who acknowledged their dependence on Spain; that, during the regency of the Duke of Orleans, hostilities took place between the French and Spaniards, in which the former attacked the latter at Adais, and broke up the establishment for a time; that, in 1730, the situation of the post Antonio de Bejar was improved by the Marquis de Aguago, who settled a certain number of families in its neighborhood; that, in 1755, hostilities took place with the Indians, who attacked the post of St. Saba, and killed some soldiers and priests; in consequence of which, a detachment was sent against them, under the command of Don Diego Otiz Pamille; that, after this, the Marquis de Rubi was empowered to organize a system of defence for the provinces of New Spain, which was completed in the year 1772. These, we believe, are all the facts stated by your excellency, on which we think proper to make a few remarks.

It is evident, as every fact above stated was posterior, and even by many years, to the completion of the title on which the United States rely, that if the principles by which they support that title are sound, there is not the slightest foundation for the claim of Spain to rest on. Every act of Spain, within the limits which it appears justly belonged to France, was an encroachment, which the friendly relations between the two Powers might authorize in a wilderness, but which could give no title. That those acts were considered by the French as encroachments at the time they were made, is proved by many facts and documents the most authentic. In respect to the Spanish post, in the neighborhood of the Natchetoches, on which your excellency seems chiefly to rely, we beg to refer you to Colonel Champigny's work, page 10 of his notes, by which it is stated, that the post which the Spaniards had established there was on the territory of the French. We refer you also to Du Praty's History of Louisiana, volume 1, page 12; by which it appears that the Spaniards were introduced there under the auspices of the French, by Louis St. Denis, to favor a contraband trade with Mexico; that the favorable reception given by the Indians to Don Diego Ramon was owing to St. Denis, who was recognised by them as their great chief; prior to which year, it appears, by the same author, that there was not an establishment of any kind east of the Rio Bravo, and only that of St. John the Baptist on the western bank of it. But the most authentic and conclusive of all proofs of the light in which these acts of the Spaniards were viewed by the French is, that hostilities actually did take place between them respecting those posts, which history has recorded, and your excellency admitted.

Your excellency has noticed, in your statement, some concessions or acknowledgments made to the Spaniards by the Indians of their dependence on them; but these, it is presumed, could convey no title to the sovereignty of the territory against France. The third principle relied on above is conclusive to this effect. Within the known limits of Mexico, there is a vast tract of vacant territory to the north, held and inhabited by the Indians. If any other Power was to treat with, and receive similar acknowledgments of them, would Spain admit that the territory was thereby transferred from her to such Power?

On this view of the subject, in which we have attempted to illustrate more in detail, but have added little to the contents of the memorial which we had the honor to present to your excellency, on the 28th January last, we rest the title of the United States to the Rio Bravo as the western boundary of Louisiana. As every point has been thus fully discussed, we flatter ourselves that we shall now be honored with your excellency's propositions for the arrangement of the whole business. The country on both sides of the Mississippi is yet a wilderness, and it is important to make those arrangements which their mutual interests may require while it is so. As your excellency is possessed of the sentiments of our Government on every point, it is unnecessary to add more than to repeat, that on receiving your excellency's propositions we shall have every disposition to conciliate the views and interests of His Majesty's Government which can be expected from the just and friendly policy of the United States.

We request your excellency to accept, &c.

CHARLES PINCKNEY.
JAMES MONROE.

His Excellency Don PEDRO CEVALLOS, *First Secretary of State, &c. &c.*

Messrs. Pinckney and Monroe to Mr. Cevallos.

SIR: ARANJUEZ, *May* 12, 1805.

Animated by the same desire which has governed us since the commencement of the negotiation, and influenced by that which was expressed by your excellency in our interview last evening, we are willing to state the ultimate conditions on which we are authorized to adjust the several points depending between our Governments. With this view, we do ourselves the honor to inform your excellency that, on condition His Catholic Majesty will cede the territory eastward of the Mississippi, and arbitrate the claims of the citizens and subjects of each Power, according to the convention of August 11, 1802, we will make the Colorado the boundary between Louisiana and Spain, by a line to be run in the manner proposed in the project which was presented on the 28th January last, the United States ceding all right to any territory westward of that line; we will establish a district of territory of thirty leagues on each side of that line, or on the American side only, if preferred by Spain to be run from the Gulf of Mexico to the northern boundary of Louisiana, which shall remain neutral and unsettled for ever; we will relinquish the claim to spoliations which were committed by the French within the jurisdiction of Spain, in the course of the last war, the United States undertaking to compensate the parties in a sum to be specified; and we will also relinquish all claim to compensation for the injuries which were received by the suppression of the deposite at New Orleans. Your excellency will, we are persuaded, see in these propositions a most unequivocal proof of the sincere desire of our Government to meet the views of His Catholic Majesty in the points referred to, in a spirit of conciliation and concession, to place the friendly relations of the two Powers, who, as neighbors, have so many and powerful motives to promote that object, on a basis never to be shaken. We have endeavored also to give the strongest proof in our power of our disposition to conciliate the views which have been expressed on two points by His Majesty the Emperor of France, since, in case His Catholic Majesty adopts the propositions, and cedes the whole of the territory eastward of the Mississippi, we are willing to accept the cession of West Florida from him; and, in assuming the payment to our citizens of their claims for French spoliations, we make it, as we presume, in a great measure, without any consideration whatever, as we consider that the concession which we propose to make on the western side of the Mississippi is, in itself, an equivalent for all the territory claimed by Spain on its eastern side. If these propositions are accepted, we have to request that your excellency will be so good as to notify us of it, that a convention, founded on them, may be concluded without delay. If they are rejected, we have then to request that your excellency will consider the United States as in no respect bound by them, and the whole subject as standing on the same ground, in any future negotiation, as if none such had been made. In either event, we have to request that your excellency will be so good as to give us an early and explicit answer to the same.

We request your excellency to accept the assurance of our distinguished consideration and esteem,

CHARLES PINCKNEY.
JAMES MONROE.

His Excellency Don PEDRO CEVALLOS,
First Secretary of State, &c. &c.

P. S. We do ourselves the honor to enclose your excellency the two notes which we submitted to your view last evening, with our signatures.

Propositions to the Secretary of State.

On condition that Spain will cede, on her part, the territory to the east of the Mississippi, and arbitrate her own spoliations conformably to the convention of August 11, 1802, the United States will cede, on their part, their claim to territory west of a line to be drawn from the mouth of the Colorado to its source, and from thence to the northern limits of Louisiana, in such manner as to avoid the different rivers and their branches which empty into the Mississippi.

They will establish a territory of thirty leagues on both sides of this line, which shall remain unsettled forever, or of thirty leagues on their own side, if Spain desire to extend her settlements to the Colorado.

They will also relinquish their claim for French spoliations, which amounts to one hundred and sixty-four vessels, by undertaking to satisfy the parties themselves in a sum to be specified.

They will relinquish, likewise, their claim to compensation for the suppression of the deposite at New Orleans.

From the 1st of October, 1796, until the ———, there were brought into the ports of His Catholic Majesty, in Europe and Africa, by the French, 168 vessels.

Of the above, have been condemned, - - - - - - -	74	
Acquitted, ransomed, or compromised, - - - - - -	23	
		— 97
Cases of the violation of the Spanish territory, condemned, - - - -		13
Run ashore and lost, - - - - - - - - -		1
Unaccounted for, - - - - - - - - - -		7
Result not known, - - - - - - - - - -		50
Total by the French, - - - - - - - - -		168

A statement of the facts relative to American vessels taken by French privateers, and brought into Spanish ports, obtained from the most authentic sources.

Of the French spoliations, there have been fifty appeals from the consular judgments in Spain to the Council of Prizes at Paris, of which thirty have been released, nine condemned, and twelve are yet depending. Not one sous has been paid in any case, nor is there a single case of such spoliations on the list of liquidations now at the French treasury, which are to participate of the twenty millions of livres to be paid by the United States to their citizens, under the treaty of 1803, on account of French spoliations.

The American minister never did demand payment of French spoliations made in Spain, knowing them as such: nor did the American agent ever demand it by his order or knowledge. The first intelligence which the American Government had of appeals being permitted from the French consular tribunals in Spain to the Council of Prizes in France, was received from Spain herself. As soon as it was received, the Secretary of State wrote to the American minister in Paris, to know what the fact was, and instructed him, at the same time, to prohibit the agent from acting in such cases, it having been at all times the opinion of the Government that Spain alone was answerable, of whom only has the recompense been demanded.

Taken by the Spaniards, since the 1st of October, 1796, until the ———, 104 vessels and 4 cargoes.

Of the above, have been condemned - - - - -	29 vessels.	
Acquitted, ransomed, or compromised, - - - - -	51	
Disappeared, unaccounted for, or depending, - - - -	24	
Total by the Spaniards, - - - - - - -		104 vessels, 4 cargoes.

His Excellency Don Pedro Cevallos to Messrs. Monroe and Pinckney.

GENTLEMEN: ARANJUEZ, *May* 15, 1805.

I have read, with due attention, your esteemed note of the 12th, and the propositions you have been pleased to make in the name of your Government, reduced to the following: that Spain shall cede the Floridas, on her part, and shall arrange the point of the claims of the individuals of both nations, conformably to the convention of the 11th August, 1802; and that, on their part, the United States would fix the river Colorado as the limit between Louisiana and the Spanish possessions, in the form that the said note expresses; and that they will abandon the claim arising from the damages occasioned by the French on the coasts and in the ports of Spain, during the last war, as also that for indemnification for damages occasioned by the suspension of the deposite at New Orleans.

On viewing these propositions, I cannot refrain from saying to your excellencies that I do not see in them any convenient terms for entering into the exchange or contract proposed; for, although His Majesty has the power to bargain for the Floridas, as owner of them, in the fullest extent, and has also the right, if he pleases, to ratify the convention of August 11, 1802, which is suspended for the reasons your excellencies know, there are wanting equal right and power in the United States to make the cession your excellencies mention. The United States having no right to demand of Spain compensation for damages occasioned by the French privateers, as I have demonstrated in my notes on that point, and to which I again refer, Spain, therefore, could not receive from the United States the renunciation of a right they have not, and which she does not recognise as belonging to them. The same may be said as to the claim for the suspension of the deposite at New Orleans, and as to the claim to fix the limit of Louisiana at the Rio Bravo; from which claim flows the assertion, that the fixing it at the Colorado is to be considered as a cession. It is equally necessary for me to observe to your excellencies, that the Spanish Government has made it appear, and is equally ready to show more and more, by the most irrefragable proof, that the limit which separates Louisiana and the Spanish possessions is a line which, beginning in the Gulf of Mexico, between the rivers Caracut or Carcase and the Armienta or Marmentao, ascends towards the north, between the Adais and Natchitoches, until it cuts the Red river; and as from this point they are doubtful and little known, the limits which ought to be marked on the northern side appear to be proper subjects for reference to the prudent investigation of commissioners of limits, to be named by both parties; who, having the view of the territory, and all the documents and dates which may be necessary, before them, rectifying what ought to be rectified, and furnishing the light necessary to both Governments, on limits which have never yet been fixed or determined with all the exactness necessary, may be thus able to establish the demarcation completely to the satisfaction of both Governments.

In this view of the subject, it cannot be concealed from the penetration of your excellencies, that, as a consequence of the propositions you have made by your note of the 12th, Spain would cede to the United States, not only the territories which indisputably belong to her to the east of the Mississippi, that is the two Floridas, but also others, equally her own, in the interior province of New Spain, without receiving any thing in return but the renunciation of a right which she does not acknowledge in the United States, which is, to reclaim for the damages arising from the suspension of the deposite, and for those occasioned by the French privateers, on the coast and in the ports of Spain, during the last war; when, on the contrary, Spain thinks she has shown that she is in no manner liable for the same.

The justice of the American Government will not permit it to insist on propositions so totally to the disadvantage of Spain; and, however anxious His Majesty may be to please the United States, he cannot, on his part, assent to them, nor can he do less than consider them as little conformable to the rights of his crown.

I renew to your excellencies the demonstrations, &c.

PEDRO CEVALLOS.

Messrs. Monroe and Pinckney to His Excellency Don Pedro Cevallos.

ARANJUEZ, *May* 18, 1805.

SIR:

We have received your excellency's letter of the 15th, by which we perceive, with regret, that the propositions which we had the honor to make to His Catholic Majesty, on the part of our Government, on the 12th instant, for the adjustment of the several points depending between the United States and Spain, have been absolutely rejected. By this answer, which we presume is given by the order of His Majesty, we consider the negotiation concluded; we have, therefore, only to remark, that we shall hasten to communicate the result to our Government, who will not fail to bestow on it the attention which is due to a concern of such high importance to the United States. The special mission to His Catholic Majesty being thus ended, it becomes the duty of Mr. Monroe to repair immediately to London, where he is the resident minister of the United States; for which purpose, your excellency will be so obliging as to furnish him with the necessary passport. As preparatory to that step, we have to request your excellency will be so good as to obtain for him an early audience of their Majesties, that he may be enabled to take his leave of them; and, at the same time, to renew the assurance of the high consideration entertained for them by our Government.

We beg your excellency to accept the assurance, &c.

CHARLES PINCKNEY.
JAMES MONROE.

His Excellency Don Pedro Cevallos to Messrs. Pinckney and Monroe.

ARANJUEZ, *May* 20, 1805.

GENTLEMEN:

Having given an account to their Majesties of the contents of your esteemed letter of the 18th, in which you request the necessary passport for Mr. Monroe to return, agreeably to his wish, to his residence at London, obtaining before his departure an audience of leave, their Majesties have fixed to-morrow, being Wednesday, at half-past eleven, for the audience which Mr. Monroe wishes, and, without loss of time, I shall have the honor to send the necessary passport for Mr. Monroe.

I have the honor to reiterate the demonstrations of my distinguished consideration, &c.

PEDRO CEVALLOS.

Mr. Monroe's address on taking leave.

On my arrival here, I had the honor to assure your Majesty of the high consideration of my Government for your Majesty's person and Government. I then hoped to have had the honor to conclude the special mission with which I was charged, in conjunction with the minister plenipotentiary of the United States near your Majesty, to the advantage and satisfaction of both parties; but being disappointed in this respect, all our propositions, which we deemed just, being rejected, and none others ever offered on the part of your Majesty's Government, though often invited, it is my duty to return to my station at London. We have transmitted the result to our Government for its decision. Under these circumstances, I have thought it my duty to take leave of your Majesty in the usual form. In so doing, I avail myself of the occasion to assure your Majesty, an assurance which I give with pleasure, of the high consideration of my Government, and of the pleasure it would have derived from an amicable adjustment, on just and fair principles, of all the questions depending between the two nations, to accomplish which it has made so many friendly advances and exertions.

Messrs. Monroe and Pinckney to Mr. Madison.

ARANJUEZ, *May* 23, 1805.

SIR:

We are sorry to inform you that the negotiation with which we were charged by the President with the Government of Spain is concluded, after failing in all its objects, notwithstanding our unwearied and laborious exertions, for so great a length of time, to procure to it a different result. We have heretofore availed ourselves of such opportunities as offered to transmit you copies of the papers which had passed in our correspondence with the minister of Spain on the subject, at the dates of our several letters which accompanied them, by which you were apprised of the tone which this Government had assumed in the negotiation. We have now the pleasure to transmit to you, by Captain Dulton, a copy of those, and every subsequent paper which has passed in it. These will give you so clear a view of the transaction, that you will not be at a loss for the policy of Spain in the business, or of the motives which governed us in every stage of it. We endeavored, in obedience to our instructions, to adjust the differences subsisting between the two countries, on such conditions, and to establish their future relations by such arrangements, as were in our judgment safe, honorable, and advantageous to Spain, and we pursued the object in a mode the most conciliating that we could adopt. In respect to the conditions, we were, indeed, willing to make some sacrifice on our own responsibility, in the persuasion that, under existing circumstances, our conduct would be approved. But a very different spirit animated this Government in every respect. We experienced, on its part, neither a spirit of candor nor conciliation in the management of the business, nor of accommodation in the conditions. In this latter point it has disclaimed our rights in every question on which it was possible that a difference of opinion could exist; it has pushed the pretensions of Spain to the most extravagant extent in each; and insisted, finally, in a tone not a little imperious, that those exaggerated pretensions should be the standard by which the subsisting differences and their future relations should be regulated. So far as depended on us, the business might have been ended in a few weeks, but nothing was more remote from the views of this Government than to bring it to an early conclusion. On the contrary, its ingenuity was displayed in an effort to prolong the negotiation to the latest possible epoch. When we asked of the minister either the acceptance or rejection of our propositions, he replied, that he could do neither till His Majesty should be correctly informed of his rights; that a discussion of every point was necessary to give him that information; and that, after he obtained it, he should give us the answer which we desired. Seeing very distinctly, almost from the commencement, that we had nothing to expect from the justice or friendship of this Government, and being of opinion that the delay which was so studiously sought on its part was with no friendly views to us, we resolved, as early as the 12th of February, to push the business to a conclusion as soon as we could consistent with that prudent and respectful course of conduct which might be necessary to procure it a favorable one. With this view, and as we saw that he disapproved of our propositions, we called on him, in a note of that date, for his own, to which we received a similar reply. His Majesty, he said, was not yet informed of his rights in the points in question; he must get that information from discussion; and, after the discussion should be ended, that he would proceed, by negotiation, to the arrangement of the whole business, in such manner as might prove of advantage to both countries. In our interviews, he repeatedly intimated, that, although we might disagree on every point in the discussion, yet that his Government would be willing, after it was gone through, on a view of the whole subject, to make some sacrifice, as he termed it, to obtain an amicable adjustment. It became, therefore, necessary, even at this period, to decide whether it would be best to desire an explicit answer to our propositions, and, in case it was refused, to end the negotiation at that stage of the discussion. We bestowed on this point all the consideration which it merited; and the result of our deliberation was, that it would be best to proceed in the

discussion till it was concluded; in a belief, however, that that would soon take place. We did not wish to furnish any pretext to his Government, how little plausible soever it might be, to sanction his declining to settle by treaty all the differences subsisting between the United States and Spain at this time. We thought it might be useful to answer some of his remarks, and to place in a more distinct light some of the questions that were involved in it; and we were not aware that the delay necessarily incident to it would put us in a less favorable situation to obtain a compliance with our just demands; in addition to which, it seemed proper for us to wait and see what the sacrifices were which he proposed to make when the discussion was concluded, and to which we were the more disposed, from a presumption, against the evidence of very strong facts, that this Government must have too just a knowledge of its interest to court a contest with us, especially by refusing its assent to the just and reasonable terms on which we insisted. Under these impressions, we proceeded in the business for some time, till finally there remained only one point, that of the western limits, to be treated of. Here it appeared to us that Mr. Cevallos had resolved to terminate it, having failed for so long a time to answer our last note, after having pressed some points in a manner to excite that expectation. We asked him, by a note of the 30th March, if such was his intention, intimating, if it was, that we should not oppose it. He replied, that it was not, and that he should send us a note, as soon as he could, on the western limits. We waited several days for his note, without receiving one; we then desired an interview, in which we asked when we should receive one? He replied, as soon as possible; that he was engaged in it. Would it be in the course of the week? It would not. In the course of the next? He could not promise it; he could neither fix the day nor the week. How long did he think it would require to conclude the business, that is, for him to be ready to conclude it, since it depended on him, as we could terminate it at once, and had been ready so to do from the commencement? He thought it was possible to finish it in three months from that time, but would not engage for it. It was on this conversation that our note of the 9th of April was written, which obtained from him his reply of the 12th, and in it his essay on the western limits. We had resolved, when our note of the 9th was addressed, to proceed no further in the discussion till we received his propositions, and intimated to him in it that we deemed it incompatible with our duty so to do. But, as we had now entered on the last point of discussion, which brought the business in his own mode so near to a conclusion, as we wished to show the absurdity of his arguments on that point, and to establish, in reference to it, the perfect solidity of our claim to the Rio Bravo; and, also, as we wished to remove some impressions of a personal nature, which he seemed to have taken from our notes of the 30th of March and 9th of April, and in a spirit of perfect conciliation to open the door again to, and invite on terms the most liberal, the amicable adjustment of the business, we resolved to waive all form, and to proceed in the discussion. Accordingly, we answered his note on the western limits, in which we also took a review of the part which we had respectively acted in the negotiation, placed in its true light the conduct of each party, and again invited his propositions. This note bore date on the 20th of April, seven days after that of his, to which it was in reply, and to which we expected, of course, an early answer. We waited patiently for one till the 1st instant without effect; when, it being the day of his weekly rendezvous with the several members of the diplomatic corps, we asked him, in a private interview, when we should hear from him on the subject of our last. He said it would be soon, as he was engaged on it. Would it comprise propositions? To which his reply was understood to be in the affirmative. Another week had elapsed, when a similar occasion furnished another opportunity to make the same inquiry. His reply to it was still equally vague and unsatisfactory. As we had anticipated such a one, we had made up our mind as to the part it became us to act in that event. We had resolved, on a view of the whole subject, to wait no longer for his propositions, but to offer him on our part such terms as we were willing to close the business on, by treaty, if they were accepted, or without, if they were rejected. With this view, we observed to him that we were disposed to make him a new and more advantageous offer, in which we should go further than our instructions permitted, but which we should do to meet as far as we could the views of His Majesty, for the purpose of terminating the business amicably at once. He replied, that such a proposition on our part in the present stage would be premature, as the discussion was not concluded. We had long seen through Mr. Cevallos's views, and given him cause to know that, in following him in the discussion, we had done it not solely because he had invited us so to do, but from superior considerations which justified us in that conduct; not because we were the dupes of his management, but that we really wished to furnish an incontrovertible proof of the sincere desire of our Government to preserve the relations of friendship with Spain, and of the steadiness and magnanimity with which it pursued that object, while the pursuit could be attributed to such generous motives. As this trait in Mr. Cevallos's conduct corresponded with the others, we were not at all surprised by it, nor would we be diverted from the course which we had resolved on. We, therefore, wrote him, on the 12th, a note, in which we made him the propositions abovementioned, in terms of perfect respect, and to which we asked his explicit answer. On the 16th we received one which was perfectly so. This answer being of the character already stated, left no cause to doubt the part which it now remained for us to take. Accordingly, on the 18th, we informed him that his note of the 15th had ended the negotiation, on which it became our duty to report the result to our Government, and for Mr. Monroe to repair immediately to London, where his duties required his presence. As preparatory to this latter measure, we requested an audience of their Majesties, to enable him to take leave of them in the usual form, and a passport to leave the country; both of which were granted in the course of a few days.

As the above details furnish some facts not to be found in the correspondence with the minister of Spain, we have thought it our duty to give them. If any doubts existed on a view of the other documents, by any circumstance which occurred in the course of the negotiation relative to the policy of this Government in it, we are persuaded that these will tend to remove them.

We do presume that the motive of this Government in seeking delay, by the management which it used, was its utter indisposition to accommodate the business with us on just principles. With such a determination, delay might be, on many considerations, desirable to it. Having the support of France on some important points, and knowing that an attempt was making by her to induce our Government to yield explicitly on them, it might wish to protract the business till that end was accomplished. Besides, it might hope to profit by the events of the present war. But, on our part, we did not see that any advantage could be gained by prolonging the negotiation, while we were persuaded that some essential injury might result from it. By prolonging, after so much time had already been consumed in it, we thought that we should have furnished the proof of timid councils; that we expected that our Government would yield to the pressure made on it, and thus tend to confirm this Government and that of France in increasing that pressure. While the negotiation was continued under existing circumstances, it seemed to us as if those Powers would have essentially the control of it. But, by withdrawing from it, we were persuaded that we should show the independence of our Government and country to the parties, and put the affair on its true ground in the eyes of other Powers, from which some advantage might result hereafter.

Of the terms on which this Government would have concluded a treaty with us, you will be able to form a tolerably correct opinion in some important points, by the documents which we send you. You will observe that it never furnished us with any propositions whatever, though often requested; that it refused to ratify the convention of August 11, 1802, but on conditions we were positively forbidden to accept; that it refused any accommodation on account of French spoliations, or the suppression of the deposite at New Orleans; disclaimed our right to West Florida, and asserted theirs on the west of the Mississippi to a line which should commence at the Gulf of Mexico, between the Caracut and Marmentao rivers, and run thence between the Adais and Natchitoches to the Red river, &c.

The propositions which we made were not only in the spirit, and in conformity to our instructions, but such as we thought, in every respect, just and reasonable. Our claim to the Rio Bravo appears to us to be as well founded as that of Spain to any portion of Mexico which is vacant, and we do conceive that the accommodation which we offered on that side of the Mississippi was worth at least that which was asked in return for it on the eastern side. The territory is more extensive, and it is at least as important to Spain to be accommodated on the side next Mexico as to the United States in respect to Florida; and the advantage of the parties is the standard by which the value ought to be estimated. Besides, we were convinced, if we succeeded at all, we were as likely to do it on these propositions as on any we could make at this time, short of the extravagant pretensions above stated. We are convinced, if we do succeed by other terms than those, that it will be owing to the successful course of events, and to the

imposing attitude and decision of our Government and country. To have proposed other terms at this time would have produced no effect as to an adjustment, while it would have weakened our claims and injured us on any future occasion.

In proposing to accept a cession of West Florida from Spain, and to relinquish the French spoliations, in the manner expressed in our note, we did it with a view to satisfy the pretensions of France in these respects. We deemed it advisable to take that ground, in the presumption that her Government might possibly avail itself of the opportunity thereby furnished to separate itself from the question, and eventually use its influence with Spain to adjust the business. You will observe that that proposition offered no relinquishment of those claims, but in case the whole project was accepted; in which case the United States were to pay on that account to the creditors a sum to be specified, for which they would have found in other respects a reasonable indemnity.

As we did not wish to compromit our Government more than was unavoidable, it was thought proper that Mr. Monroe should take leave of their Majesties in the usual form. In so doing, he avails himself of the opportunity to observe to His Majesty that the failure of the negotiation was attributable to his Government, and not that of the United States, for reasons which he took the liberty to mention. A copy of his address is enclosed. As nothing was said in my communication respecting the ordinary mission, it remains of course in force. At present it is our opinion that Mr. Pinckney should continue here, or leave some person charged with our affairs, should he find it inconvenient to remain till the orders of our Government are received on the subject. We are, however, strong in the persuasion that all our concerns depending with this Government, as well those of individuals as of the public, will remain suspended by it till our differences are adjusted.

The result of this negotiation forms an interesting crisis in our affairs, which it has been impossible to prevent, and to which the wisdom, firmness, and virtue of our Government will be fully equal. Having justice on its side, and having given the most ample proof of its moderation, there can be no doubt that its decision on the part now to be taken will be such as to sustain the high character of the American nation, vindicate its just rights, and merit the general approbation of our fellow-citizens.

We are, dear sir, with very great respect and esteem, very sincerely your very obedient servants,

CHAS. PINCKNEY.
JAMES MONROE.

9th CONGRESS.] **No. 191.** [1st SESSION.

SPAIN.

COMMUNICATED DECEMBER 10, 1805.

DECEMBER 10, 1805.

To the Senate and House of Representatives of the United States:

The enclosed documents relating to my message of the 6th instant, not being ready at that date, I thought it better not to detain the message, but to communicate these papers afterwards, as supplementary to those then sent. They are not of a nature to be deemed confidential.

TH: JEFFERSON.

Extract of a letter from Charles Pinckney, Esq. minister at Madrid, to the Secretary of State, dated

AUGUST, 1805.

I have written to you lately very often, informing you of the Spaniards being now in the habit of capturing our vessels as much as during the last war. The following is the list transmitted to me of American vessels taken by the Spaniards, and sent into Algeziras for adjudication, since the date of my last to you:

Brigantine Ann Isabel, of Virginia, Williams, master.
Brigantine Vereries, Pisa.
Brigantine Dido, Shail, master, from Marblehead.
Ship Mary, Robert Stevenson.
Ship Eagle, Nehemech Shaler, last from Liverpool.
Brigantine Jefferson, Simon Buhmond.
Brigantine Polly and Nancy, of Baltimore, John Croan.
Schooner Molengue, John Waterman, of New York.
Schooner Leffen, William Maret, of Virginia.
Brigantine Diana, Silvester Simmons, of New Haven.

Extract of a letter from Charles Pinckney, Esq., minister at Madrid, to the Secretary of State, dated

SEPTEMBER 22, 1805.

My last informed you that I was still under the necessity of remaining here until the 22d October, on account of all the mules being embargoed for the King's service until that day, so that I could not before go to the Sitio to take leave; that I had still been without the pleasure of seeing Mr. Erving or Mr. Bowdoin; and that not being able to wait for them any longer, I should, when I went away, leave Mr. Young charged with our affairs, until they or one of them came; that, during this time, and constantly, I had been busily employed with this court in endeavoring to arrest the numerous depredations of their privateers on our commerce, and their condemnations of our vessels, and that to do this my exertions have not only been unceasing, but more than twenty letters have passed between Mr. Cevallos and myself on the subject. I have now the pleasure to send you the result, by enclosing the copy of a letter which I have just received from Cadiz, and which I have received in such an unquestionable shape as to leave no doubt of its authenticity. By this it appears my exertions have been effectual, and will probably prevent future captures on that ground.

[TRANSLATION.]

From the Secretary of State and of the Marine to the Director General of the Fleet.

ST. ILDEFONSO, *September* 3, 1805.

SIR:

The minister of the United States, complaining of new injuries and captures of American vessels by Spanish cruisers, has given information of the carrying to Algeziras of eleven vessels of his nation, under pretext, as he says, of their carrying English merchandise. The King, being made acquainted with it, has been pleased to determine, that if there be no other cause for the capture of these vessels than that alleged by the minister, they should be put at liberty again; since, according to the fifteenth article of the treaty with the United States, *the American flag*

secures the freedom of the merchandises, although they may be enemy's property. But if the cause of the detention be any other, His Majesty requires that they be decided in due course, and with as little delay as possible. I communicate it to you by the Royal order, in order that you may communicate it to the Generals of the Departments of Marine, in order that they may make it known to the commandants of marine in every district, and to the owners of privateers, informing them that they will be responsible for the injuries they may occasion.

Extract of a letter from Josiah Blakely, Esq. Consul of the United States at St. Jago, in Cuba, to the Secretary of State, dated

JUNE 7, 1805.

The brig Trio, of New York, from Liverpool for New Orleans, cargo dry goods, has been wholly unloaded, and is now offered for sale. After taking all the dry goods out of the ship Governor Strong, of Alexandria, Clark, master, her captors have returned her to the captain.

Since the last evacuation of Hispaniola, more than one thousand American seamen have been landed in this port, most of them without clothes, and all without any possible means of support but such as they receive from their own Government.

Extract from the same to the same, dated

JULY 1, 1805.

The scene of robbery, destruction, evasion, perjury, cruelty, and insult, to which the Americans captured by French pirates, and brought into this and the adjacent ports, have been subjected, perhaps has not been equalled in a century past.

[ENCLOSED IN THE LETTER OF MR. BLAKELY'S OF JULY 1, 1805.]

Vessels.	Of what place.	Whence.	Master.	Where bound.	When captured.	Privateer.	Commander.	Cargo.
Schooner Maria,	Charleston,	Bayamo,	B. Repon,	Charleston,	March 14, 1805,	Talouvie,	C. Filke,	Wood and hides.
Brig Bulia,	New York,	New York,	Robert Perry,	Island of Cuba,	March 14, " (plundered.)	Languille,	Cadet,	Flour and provisions.
Schooner Tickler,	Baltimore,	Gonaives,	Thomas Frost,	Port-au-Prince,	April 4, "	-	-	Coffee and cotton.
Brig Alert,	Baltimore,	Jeremie,	Samuel Smith,	Baltimore,	April 2, "	Regulator,	John Jack,	Coffee.
Sloop Little Jack,	New York,	Jeremie,	John Jones,	New York,	April 1, "	L'Esperance,	Brig Joseph,	Coffee.
Schooner George,	Washington, N. C.	Manchinel,	N. M. Pidge,	Georgetown, S. C.	April 1, "	Not believed,	Chevalier,	Rum, sugar, and molasses.
Ship Governor Strong,	Alexandria,	Liverpool,	Thomas Clark,	New Orleans,	April 1, "	Languille,	Cadet,	Salt, crockery ware, &c.
Brig Trio,	New York,	Liverpool,	George Frame,	New Orleans,	-	-	-	Bale goods and crates.
Schooner Ann,	Baltimore,	Jeremie & Jamaica,	Robert Dobbin,	Baltimore,	April 27, "	Regulator,	John Jack,	Coffee.
Brig Ohio,	New York,	New York,	William Rust,	Jamaica,	May 6, "	Desirée,	N. Papon,	Staves, corn, &c.
Ship Ann,	New York,	Savannah,	Caleb Johnson,	Jamaica,	May 6, "	Desirée,	N. Papon,	Rice, lumber, beef, &c.
Brig Fame,	New York,	St. Jago de Cuba,	John Powell,	New York,	April 25, "	Independence,	Bartholomew,	Logwood, sugar, and coffee.
Brig Fame,	Bedeford,	Boston,	Andrew Sprigg,	Baracoa,	April 6, "	La Size,	Dumaine,	Lumber, beef, fish, &c.
Schooner Mary Brownrig,	New York,	New York,	Samuel Magrath,	St. Jago de Cuba,	April 23, "	-	-	Provisions and dry goods.
Brig Sally,	Summerset,	Jamaica,	John Chase,	Summerset,	April 25, "	Jalousie,	Camile,	Rum.
Brig Susannah,	Philadelphia,	Philadelphia,	Samuel Creswell,	St. Jago de Cuba,	May 22, "	La Size,	Camile,	Flour.
Ship John and James,	Baltimore,	Baltimore,	Chs. Langford,	St. Jago de Cuba,	April 11, "	L'Incroyable,	Chevalier,	Flour, provisions, and dry goods.
Schooner Harriet,	New York,	New York,	Robert Williams,	St. Jago de Cuba,	June 4, "	Renard,	John Jack,	Flour, fish, and dry goods.
Brig Clarissa,	Philadelphia,	Charleston,	G. B. Dawson,	Barcelona,	May 29, "	La Size,	Dumaine,	Flour, provisions, and dry goods.

ST. JAGO DE CUBA, *July* 1, 1805.

Copy of a letter from Captain John Stinson, Commander of the ship Huntress, to the Secretary of the Navy.

LONDON, *August* 20, 1805.

SIR:

On my arrival at Liverpool I wrote, for the information of Government, giving a statement of the capture of the ship Huntress, laden with Government stores. On my arrival here Mr. Lyman informing me he had not written, induced me to forward this lest the first should miscarry.

On June the 1st, latitude 36° 20′ north, longitude 74° 50′, I was brought to by a Spanish schooner privateer called La Maria, commanded by Antonio Lobo from Porto Rico. The reason Lobo gave for detaining the ship was her being bound for a British port, and not having a *Spanish passport.** After robbing the ship of ten barrels of bread, one barrel of tar, and sundry other articles, took all my crew out excepting the cabin boy; put a prize master and eleven Spaniards on board, and ordered the ship for Porto Rico. On June 9th, in sight of Bermudas, was retaken by two English Guineamen; after taking the Spaniards out, put a prize master and crew on board, and ordered the ship for Liverpool, where she arrived 16th ult. much damaged.

I have the honor to be your very humble servant,

J. STINSON.

Copy of a letter from Lieutenant Joseph J. Maxwell to his excellency General Castanio Algeziras.

U. S. GUNBOAT, No. 3, HARBOR OF ALGEZIRAS, *June* 15, 1805.

SIR:

I have the honor to acquaint your excellency that I was this morning brought to by four armed boats under Spanish colors, who, after exercising the utmost insolence, and without assigning the smallest reason, conducted me to this port.

The orders received from my Government were to proceed with all possible despatch to the commander of the American squadron in the Mediterranean. The serious consequences attending this unwarrantable detention must be too obvious to your excellency to require a remark. I shall only observe that, if your Government authorizes indignities of this nature, to my own I must appeal for redress. I am sensible, however, this cannot be the case, and persuade myself that your excellency will readily redress the insult offered the American flag in this instance, and take measures to prevent a repetition.

Under this impression, I am, very respectfully, your obedient servant,

JOS. J. MAXWELL.

His Excellency General CASTANIO.

Copy of a letter from Lieutenant Joseph J. Maxwell, commanding Gunboat No. 3, to Commodore John Rodgers.

U. S. GUNBOAT, No. 3, HARBOR OF SYRACUSE, *July* 8, 1805.

SIR:

I have to acquaint you that, on the morning of the 15th June last, Gibraltar bearing northeast, distant two leagues, I was brought to by four Spanish gunboats, who, without examining a paper, or assigning any other reason than their suspicion of my being an Englishman, took charge and conducted me into Algeziras.

It is necessary to remark that my guns were at that time in the hold. Immediately on my arrival I stated officially the circumstance to the General of Marines, which I also enclose for your perusal. The boat was instantly discharged with many apologies, and offers of supplies and assistance should I stand in need of them. I was requested to wait a short time the General's answer. I did so till 4 P. M. Apprehensive I might be detained much longer, and knowing the importance of the boats joining you without the smallest delay, I weighed without it, and stood over to the rock, where, for the first time since our separation on the 15th May, I found the John Adams.

I should have waited on the General of Marine personally, but could not procure pratique.

I proceeded immediately to mounting my guns, and sailed from Gibraltar the 18th June.

I have the honor to be, respectfully, sir, your most obedient servant,

JOS. J. MAXWELL.

COMMODORE RODGERS.

CONSULATE OF THE UNITED STATES, *Island of Cuba:*

I, Henry Hill, Jun., consul of the United States, for the said island, residing at the city of Havana, do hereby certify, that the documents hereunto annexed, marked with the letters from A to G inclusive, and stamped with my consular seal, are true and faithful copies of the originals lodged and recorded in my office, having been by me therewith carefully collated and compared.

In testimony whereof, I have subscribed my name and affixed the seal of my office at Havana aforesaid the 30th day of August, one thousand eight hundred and five, and in the year of the independence of the United States, the thirtieth.

HENRY HILL, JUN.

A.

CONSULATE OF THE UNITED STATES OF AMERICA, *Island of Cuba:*

By this public instrument be it known unto all whom the same doth, shall, or may concern, that, on the day of the date hereof, before me Henry Hill, Jun., consul of the United States of America, for the island of Cuba, resident at Havana, personally came and appeared William Cory, of Charleston, South Carolina, master of the brig Ann, and Caleb Cory, mate of said brig, who being by me severally duly sworn on the Holy Evangelists of Almighty God, did solemnly depose and declare, that being at the port of Cavañas in this island, in the month of May last, where they were loading said vessel with a cargo for the United States, they saw lying there an American schooner called the Betsey of New Bedford, taken by a French privateer called the Eugene, commanded by captain Joseph Dumas, some time previous, and sent into that port, which said schooner had a cargo in, consisting of about seventy-six puncheons of rum, and seven or eight barrels of sugar.

That during their stay there, they frequently saw the people belonging to said privateer taking out the cargo of said captured schooner and carrying it on shore and selling it.

That the said privateersmen to their knowledge took out the whole of the said vessel's cargo, and carried it on shore, where it was sold. That it was so taken out and carried on shore in open day without any appearance of opposition from the officers of the said port of Cavañas; that after the said privateersmen had plundered the whole of the cargo aforesaid, and taken it from the said vessel, and all her valuable rigging and sails, they took the said vessel off the mouth of the said harbor of Cavañas and sunk her.

* She had on board, besides the ordinary marine papers, a special passport from the President of the United States, reciting the nature of her cargo, and its destination for the supply of the Mediterranean squadron of the United States. She had also the passports of the British and French ministers.

And the deponent, William Cory, further saith, that the said privateersmen offered to sell him rum from the said cargo at thirty dollars a puncheon, which this deponent refused to buy, even at that low price, well knowing they had no title to it, and that in them to dispose of it was robbery and piracy.

That he was informed by the guard, which was on board his vessel, that said privateersmen had bribed the principal officer of said port, by giving him four puncheons of rum to consent to the landing and sale of said cargo; and further the deponent saith not.

WILLIAM CORY,
CALEB CORY.

In testimony whereof, I have hereunto set my hand and affixed my consular seal this eighth day of August in the year of our Lord one thousand eight hundred and five, and of the independence of the United States, the thirtieth.

HENRY HILL, Jun.

B.

Consulate of the United States of America, *Island of Cuba:*

By this public instrument be it known unto all whom the same shall, doth, or may concern, that I, Henry Hill, Jun., consul of the United States of America for the island of Cuba, resident at Havana, do hereby certify, that, on the day of the date hereof, before me personally came and appeared Jacob R. Valk late master, and George Allcock, late mate of and belonging to the schooner Sea Horse, of Charleston, who, on their solemn oaths, which they then took before me upon the Holy Evangelists of Almighty God, did, severally, solemnly depose and declare, that they, the deponents, on the 9th day of June, sailed and departed in and with the said schooner laden with a cargo of flour and German linens from Charleston aforesaid, bound on a voyage to Spanish America; that the said schooner at the commencement thereof was tight, staunch, and strong, and in every respect well fitted, furnished, found, manned, and equipped, for the due performance of the said voyage, with variable winds and weather, and without any particular occurrence until the 13th day of July, when they made the island of Blanca, on the 14th the Fortugas, and on the next day arrived off Laguaira. That they lay off and on Laguaira aforesaid, until the 20th following. In the course of which time he, the deponent, Jacob R. Valk, made application for admittance to entry; and being informed that that port as well as all others on that coast were shut against neutrals, he proceeded agreeable to his orders and instructions for this port of Havana. And the said several deponents did further depose, that in proceeding for the said port nothing material happened, until the 24th following of said month of July, when being off the island of Jamaica they were brought to by His Britannic Majesty's armed schooner Superior, and upon being examined and found to be neutral were politely dismissed. That they prosecuted the said voyage, making the best of their way for this said port, and experienced nothing remarkable until the 4th of August inst., when doubling cape San Antonio, in this island of Cuba, they were brought to by a schooner under French colors, and boarded by an officer and four men, who took possession of said schooner Sea Horse, and sent the deponent Jacob R. Valk, and two of his crew, on board the said privateer, with the said schooner's papers. That the officer on board said schooner Sea Horse hailed the commander of said privateer, and said, that as he knew her to be a good prize he would bring her to anchor, immediately upon which both vessels bore away for Pueeta Fuera, about four leagues from cape San Antonio.

That the commander of said privateer, aided by several Spaniards, who came on board her in canoes from their habitations on that coast, began rummaging the Sea Horse, opening the hatches, and breaking open the packages and cases of dry goods, principally consisting of German linens, whilst the crew of the said privateer were continually passing and repassing from one of the said vessels to the other, and most of them in a state of intoxication.

And the said deponent, Jacob R. Valk, did further depose, that being detained on board said privateer from the 4th to the 6th, he had ample opportunity of observing and examining her, and found her to be an American built vessel, having painted on her stern, *Caroline of Charleston*, which was very visible, notwithstanding some black paint had been put on it to efface it, but which was not done effectually. That she was mounted with one carriage gun, and one swivel, and supplied with small arms and manned with ten men, and two negro boys, exclusive of the captain, who said his name was Paul, and the privateer the Volante. And the said deponent did further depose, that the said Paul told him that he should be sent in an open boat to Havana, and upon his answering that he was determined to remain with his vessel wherever she went; the said Paul replied that if he again opened his mouth he would set him ashore in the woods, and leave him to perish. And the said several deponents did further depose, that on the same evening they were all embarked in an open boat, under the conduct of a Spanish fisherman, to go to a place about seventeen leagues distant called Mantua, where they received their clothes, which had been previously taken from them.

And the said Jacob R. Valk did further depose, that the said captain of said privateer, after having robbed and plundered him of all his sea charts, his vessel's and his own private papers, and also his perspective glass or telescope, and twenty-one ounces in gold, returned him six of said ounces to defray his expenses to this said port. And the said several deponents did severally further depose that James Richardson and Jacob Shoemaker, both citizens of the United States, and seamen belonging to said schooner Sea Horse, conducted themselves upon the capture aforesaid in a very mutinous manner, and remained with their own voluntary will with the said privateer.

And I, the said consul, do further certify, that the said Jacob R. Valk did, upon his arrival at Havana aforesaid, in due time and form, note and enter with me his protest in all the premises aforesaid, and now requires of me to extend the same and make this public act thereof, reserving to himself the privilege of making any other protest in the premises as occasion may require.

Wherefore, the said Jacob R. Valk doth, and I, the said consul, at his request do, by these presents most publicly and solemnly protest as well against the Governor at Laguaira aforesaid, and all other public officers, whom it may concern, for the refusal of admittance to entry as aforesaid at that port, as against the commander and officers and crew of the said privateer for the capture, and detention, and robbery, and plunder of the said schooner Sea Horse, and her cargo, and against all and every person and persons, whom it shall or may concern, for all damages, costs, charges and expenses, already suffered, or which shall or may be hereafter suffered and sustained in the premises on account thereof, that the same be borne by those to whom of right it shall appertain to be adjusted and recovered in time and place convenient.

Done and protested at Havana aforesaid.

JACOB R. VALK,
GEORGE ALLCOCK.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said consul, have hereunto set my hand and affixed my consular seal this twenty-first day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the thirtieth.

HENRY HILL, Jun.

C.

Consulate of the United States of America, *Island of Cuba:*

By this public instrument be it known to all whom the same doth or may concern, that I, Henry Hill, Jun., consul of the United States of America for the island of Cuba, resident at Havana, do hereby certify, that, on the day of the date hereof, before me personally came and appeared John L. Cranston, late master of the schooner Caroline, of Charleston, who, being by me duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose and declare that, on the 12th day of April last, he sailed and departed in and with the said schooner from Charleston aforesaid, with passengers, bound for St. Thomas, where he arrived on the 1st day of May following: that he sailed from thence on the 4th, with ballast, bound to Laguaira, and arrived off the said port on the 10th, and continued laying off and on until the 14th; that his sails being very much split, and the vessel otherwise in a bad

state, and not being able to obtain permission to enter said port, he determined to bear away for the first port he could make, and on the day following was captured by His Britannic Majesty's ship of war Fortune, Henry Vansittart, commander, who took out him, the deponent, and his crew, and took possession of the said schooner, which he armed as a tender to cruise off Curacoa. That on the 25th the said schooner was delivered up to him, being plundered of the boat, oars, anchors, stores, &c. That being very much in want of repairs he thought it most prudent, as well for the preservation of the said vessel and their own lives, as to procure supplies, which they likewise stood very much in need of, to bear away for Jamaica. And on the 29th of May arrived at Kingston in the said island, where he in due form made his protest.

That he sailed from thence, after having received the necessary repairs and supplies; and having on board twenty puncheons of rum, the property, as he verily believes, of Andrew Ker, of Charleston aforesaid, a citizen of the United States, on the 9th July following, bound for Charleston aforesaid, and on the 15th was boarded by a felucca pirate, commanded by one Paul Cazafranca, who took from him all the vessels, papers, and all his letters, &c., and also possession of said schooner as a prize, with which he proceeded to Puerta Fuera, about four leagues from Cape Antonio, where he came to anchor; that he there unloaded said vessel and supplied the fishermen who were there with some of the rum belonging to the said cargo. That they continued there until the 23d following, when he sent the said schooner with the said deponent and crew to Mantua Pavola, where she arrived on the same day. And he, the deponent, with said crew, remained there until the 9th day of August, instant, without clothes or money, all of which and every thing else, except two or three shirts, they were robbed of by the said captors; that he there procured a boat, and upon the promise of paying one hundred dollars, was brought to this port of Havana, where they arrived on the 14th instant.

That he, the deponent, immediately despatched a memorial to his excellency the Governor, stating the circumstances, and praying for the restoration of said vessel and cargo; to which said memorial he has received no reply, and is of opinion that the same will be taken no notice of.

And on this same day also personally appeared before me, Andrew Ambree, mate, and William Wood and John Judson, seamen, late of, and belonging to, said schooner, who being by me severally duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose, that all and every the matters and facts relating to the voyage aforesaid, and the captures aforesaid, are in every respect true.

And the said deponent, John L. Cranston, did, upon his arrival, in due time and form note and enter with me, the said consul, his protest in the premises, and now requires of me to make this public act thereof, reserving to himself the privilege of further extending the same, or to make any other in the premises, as occasion may require.

Wherefore, the said John L. Cranston doth, and I, the said consul, at his request, do by these presents most publicly and solemnly protest, as well against the seas, gales of wind, and bad weather, the said schooner experienced on the said voyage, as against the commander, officers, and crews of the said ship of war Fortune and felucca pirate, for the captures, plunder, and detention aforesaid, and for all costs, damages, losses, and expenses already, and which shall or may be hereafter, sustained on account thereof; to the end that the same be borne by those to whom of right it shall belong to be adjusted and recovered, in time and place convenient.

Done and protested at Havana aforesaid.

JOHN L. CRANSTON,
ANDREW AMBREE, his × mark.
WILLIAM WOOD, his × mark.
JOHN JUDSON.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said consul, have hereunto set my hand and affixed my consular seal, this nineteenth day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States, the thirtieth.

HENRY HILL, Jun.

D.

Island of Cuba—*Havana:*

By this public instrument of protest, be it made known and manifest unto all whom the same doth, shall, or may concern, that, on the day of the date hereof, before me, Henry Hill, Jun. consul of the United States of America for the island of Cuba, resident at Havana, personally came and appeared John Date, late mate of the brig Success of New York, whereof Nicholas Brum was master, John Fuller and Josiah Pelt, late seamen, belonging to said brig, James Ferguson and John Smith, late passengers in said brig, who, being severally duly sworn on the Holy Evangelists of Almighty God, did solemnly depose and say, that they sailed from Kingston, (Jamaica,) on the 6th day of the present month of July in the said brig Success, bound to New York, (where the said brig is owned,) with a cargo on board consisting of fifty puncheons of rum; that nothing material happened them until the 12th day of the same month, when, being in sight of Cape Antonio, (the west end of this island of Cuba,) about four miles distant, they were met with, and the said brig was boarded by a small felucca privateer under Spanish colors, which these deponents understood to be the Buena Union, Captain Ulariago, from this port of Havana, (then under the command of the mate, the said Captain Ulariago as these deponents understood, being in the city,) who, without any examination into the said vessel's papers, captured her, put a prize master and crew on board, and forcibly deprived the said master and these deponents of the possession of the said brig and her cargo, and took the whole crew, including the said master and the said passengers, (except six Frenchmen, who were passengers in said brig,) on board the said privateer. That the said master of the said brig was cruelly flogged, beaten, and otherwise abused on board the said privateer, and was then sent on board of his said brig. That these deponents were also cruelly flogged and beaten on board the said privateer, and at night thrown into the hold and placed in irons, where they lay, without having any sustenance, until the day following, when they were liberated from the irons and suffered to come upon deck.

That the said brig was not then to be seen, and these deponents were told by the privateersmen, that they had sent her to Campeachy. That the said privateer two days afterwards came to anchor in a small bay near said cape, when these deponents were turned ashore, (after being robbed of many articles of their personal apparel,) and the mate of the said brig of his books, charts, and quadrants, without any sustenance or the means of obtaining it; and were left to wander in an inhospitable part of the island, far removed from any town or inhabitants, and to support their lives in the best manner they could.

That being desirous of finding some town or inhabitants, amongst whom they might procure the necessaries of life, they wandered about a day or two, and at length came to a small village, where they were taken up before the commandant, who conceived them to be Englishmen, and forwarded them to this place, (Havana,) as such; whither they arrived on the 30th instant, and were conveyed first to the guard-house, and afterwards to the common prison of the city, where they remained until this day, when they were liberated by order of the Governor, and paid to the jailer seventeen dollars and a half jail fees.

And thereupon the said several deponents did, in behalf of the said master, the owners, freighters, and all others concerned in the said brig and cargo, request of me to make their protest and this public act thereof. Wherefore, the said deponents do, and I, the said consul, at their request, also do by these presents, most publicly and solemnly protest as well against the commander, officers, and crew of the said privateer and the owners thereof, as against all and every other person and persons whom it shall or may concern, for the capture and detention of the said brig and cargo, and the subsequent circumstances, and for all costs, damages, charges, and expenses attending the same, to the end that the same be suffered and borne by those to whom of right it shall appertain, to be adjusted and recovered in time and place convenient.

Done and protested at Havana aforesaid.

JOHN DATE,
JOHN FULLER,
JOSIAH PELT,
JAMES FERGUSON,
JOHN SMITH.

In testimony whereof, the said deponents have hereunto subscribed their names, and the said consul have hereunto set my hand and affixed my consular seal, this thirty-first day of July, A. D. eighteen hundred and five, and of the independence of the United States, the thirtieth.

HENRY HILL, Jun.

E.

Island of Cuba—*Havana:*

By this public instrument of protest be it made known and manifest unto all whom the same shall, doth, or may concern, that, on the day of the date hereof, before me, Henry Hill, Jun. consul of the United States of America for the island of Cuba, resident at Havana, personally came and appeared Henry Palmer, master of the brig Jason of Philadelphia, who, being by me duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose and declare, that on the 7th day of April last, he sailed and departed in and with the said brig, laden with a cargo of salt, earthenware, porter, dry goods, &c. from Liverpool in England, and bound to New Orleans, consigned to different persons there, and to the best of his knowledge and belief, the property of citizens of the United States.

That in the prosecution of the said voyage, nothing material happened until the 20th day of June, when being in sight of Cape Antonio, four or five leagues distant, he discovered two sail, at about two o'clock in the afternoon, which appeared in chase of his said vessel. That one of them came up with his vessel about half past four o'clock, when she hoisted English colors and fired two guns, on which he hove to and waited her coming up with him. That after having come within hail, he was ordered by a person on board said privateer to come on board with his papers, which he did after this deponent was on board the said privateer, the English colors were taken down and Spanish hoisted; and this deponent understood the said privateer to be called the Buena Union, commanded by José Antonio Ulariago; the captain of which immediately after ordered the people of this deponent out of the boat, and sent four men in his said boat on board his said brig, and detained this deponent, with two men who had come with him, on board said privateer.

That after the people had got on board said vessel, some conversation passed between the captain of the privateer and the people he had sent on board the brig; and immediately after they altered the course of his said brig, and stood in towards the island of Cuba; soon after, the other vessel which was in sight came up, which he, the deponent, understood was the French privateer Napoleon, commanded by one Pierre Liquet, which also changed her course, and stood in towards said island, in company with said Spanish privateer and the deponent's brig. That on the same day, at about ten o'clock at night, the three vessels aforesaid came to anchor near Cape Antonio, where the best bower anchor was lost, and a part of the cable belonging to said brig, and where was also lying at anchor a small felucca French privateer. The morning following, the 21st ultimo, the privateersmen proceeded with his said brig to a small bay, where there are a number of small islands, about six leagues from where the said brig had been anchored, and the said privateers accompanied her. In which bay the said brig was brought to anchor, where also the said privateers came to anchor. That amongst these islands there was lying an American schooner called the Mary of Camden, which had been taken some time previous by the small felucca aforesaid, which accompanied the other privateers from Cape Antonio.

That this deponent was suffered, in the evening after coming to anchor, to go on board his said vessel, where he discovered that all his papers, of every description, as well as those relating to the vessel as to the cargo, and his own private papers, were taken; and that the privateersmen had broken into the hold of his vessel, and taken out of a cask, which they had broken open, a number of bottles of porter which belonged to the cargo of said vessel; that two days after their arrival at said bay, to wit, on the 23d, the privateersmen opened the hatches of his said vessel, and took several packages of dry goods upon deck, when they descried a sail in the offing, on which the goods were put below, and the hatches shut, and the said three privateersmen went out in pursuit of said sail, but soon after returned; that, on the day following, the 24th, the privateersmen again opened the hatches of his said vessel, and took out all the dry goods, being about thirty-two packages, also one cask, containing twenty bags of shot, and also a number of casks of porter, which they sent on board the different privateers, and also put on board the French privateer Napoleon all the dry goods and the said cask of shot, and nineteen half-barrels of salt, and likewise robbed and plundered the said vessel of a considerable quantity of her rigging, furniture, and apparel.

And the said deponent doth further depose and say, that they put on board the said schooner Mary twenty casks of porter, some crates of earthenware, and other articles.

That, on the 28th, the said brig was got under way, having a prizemaster on board from the said Spanish privateer, and eight men to her also belonging, together with this deponent and three of his men, the mate having been put on board of the privateer with three others of the crew of the said brig; that he, the deponent, was informed they were coming with said brig to Havana, but after coming to anchor at various places on the coast, at several of which a quantity of porter and salt was taken out of said brig and given to different people on the coast; and on the 9th instant they came to anchor with said brig in the harbor of Cavañas.

That, the day following, this deponent demanded leave to go on shore in order to make his situation known to the commandant, but was refused, and kept prisoner on board his said vessel until Sunday the 15th, when he was taken out with one of his men, and put on board a small open boat, in which also embarked the prizemaster and four men belonging to the said privateer, and was informed by the prizemaster they were coming to this port; that, on the day following, they arrived at this said port, and this deponent was forcibly taken to the guard house, and not permitted to have any communication with any person; and was so kept in prison until the next day, till about ten o'clock, when he was taken to the marine office and questioned relative to his capture, and was there set at liberty; that he, the deponent, frequently demanded his papers of the said privateersmen, which consisted of the papers of the said brig, invoices, and bills of lading of cargo, about two hundred and twenty letters, and various other papers, but was uniformly refused them.

And on this same day, before me also personally appeared Nathaniel Houston, chief mate, late of, and belonging to, the said brig Jason, who, being by me duly sworn upon the Holy Evangelists of Almighty God, did solemnly depose and declare, that all and singular the matters and facts before stated and set forth are in every respect true.

Whereupon, the said Henry Palmer doth, and I, at his request, do most publicly and solemnly protest, as well against the commanders, officers, crews, and owners, of the said Spanish and French privateers, as against all and every other person and persons whom the same shall or may concern, for the unlawful capture and detention of the said brig whilst in the prosecution of a lawful voyage, and the depredations, robbery, and plunder, committed upon the said vessel, her rigging, furniture, and cargo, and for all damages, losses, costs, and expenses which shall or may be sustained in the premises on account thereof. And the said Henry Palmer doth hereby reserve to himself the privilege of making any other, or additional protest, as need and occasion may require.

This done and protested at Havana, as aforesaid.

HENRY PALMER.
NATH. HOUSTON.

In testimony whereof, I have hereunto set my hand and affixed my consular seal, this 20th day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States, the thirtieth.

HENRY HILL, Jun.

F.

Consulate of the United States of America—*Island of Cuba*:

By this public instrument of protest be it known unto all whom the same shall, doth, or may concern, that, on the day of the date hereof, personally appeared before me Jacob Paiddrick, a citizen of the United States, born in the county of Camden, State of North Carolina, late mate of the schooner Mary, of Camden, aforesaid, Stephen

Charles, master: also, John Davis and Jeremiah Graves, both citizens of the United States, and late mariners on board of said schooner; who, being severally duly sworn on the Holy Evangelists of Almighty God, did depose and say, that they sailed from Jamaica on board of said schooner, bound for Charleston, S. C.; and that, while lawfully and peaceably pursuing their said voyage on board said vessel, with a cargo, consisting of thirty puncheons of rum and five hogsheads of molasses, the property of citizens of the United States, they, together with said vessel and cargo, on the 22d of May aforesaid, were captured by a felucca privateer, under French colors, one Paul, commander, who took possession of said vessel and cargo, and brought her to an anchor the same day, near Cape Antonio; that the aforesaid Stephen Charles, master of said schooner Mary, was forcibly taken out of his said vessel, and put on board of an American vessel bound to Charleston; that these deponents, after remaining six or seven days on board said schooner, during which time she continued at anchor, were forcibly taken out of said vessel, and put on shore at Cape Antonio, without any sustenance, or means of obtaining it, and told to stay there and die, or go where they pleased; that they found several fishermen near the place aforesaid, who, pitying their distressed situation, hospitably supplied them with provisions during six or seven days; at the expiration of which time, Anselmo Henrique, who had a canoe, and was fishing on the coast, was prevailed upon, at the instance of these deponents, to bring them to this city of Havana, on condition of their giving him their clothing, which they, these deponents, were obliged to do; that the said Anselmo Henrique, having received their clothing, took them on board his canoe, and proceeded with them on their way hither, as far as the port of Cavañas; the commandant of which port would not suffer them to proceed further in said canoe, declaring them to be Englishmen and spies, and placed them in the stocks as prisoners, and kept them there about fourteen hours, when they were liberated and suffered to proceed to this place by land, with the said Anselmo Henrique, where they arrived this day.

And thereupon the said deponents, in behalf of themselves, the said Stephen Charles, and all others concerned in said schooner and cargo, do, by these presents, most publicly and solemnly protest, and require of me to protest. Wherefore, at the request aforesaid, I, the said consul, do protest, as well against the commander, officers, and crew, of the said felucca privateer, (the name of which is at present unknown,) Paul, commander, and all others whom it may concern, for the illegal capture of the said schooner Mary and cargo, and the treatment of the said master, Stephen Charles, and they, the said several deponents, experienced as aforesaid, and the dangers and hardships they encountered in consequence thereof, and for all damages, losses, costs, and charges attending the same.

This done and protested at the said city of Havana.

JACOB PAIDDRICK,
JOHN DAVIS,
JEREMIAH GRAVES.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said consul, have hereunto set my hand, and affixed my consular seal, the 14th day of June, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the twenty-ninth.

HENRY HILL, Jun.

G.

Declaration of John Evans, master of the ship Eliza, of Norfolk, and of Charles Simmons, Jun., and Edward Lowrie, seamen belonging to said ship.

Before me, Henry Hill, Jun., consul of the United States of America for the island of Cuba, resident at Havana, on the day of the date hereof, personally came and appeared John Evans, master of the ship Eliza, of Norfolk, and Charles Simmons, Jun., and Edward Lowrie, seamen belonging to said ship, who, being by me severally duly sworn upon the Holy Evangelists of Almighty God, did depose and say, and first the said John Evans:

That he sailed from Norfolk in the said ship on or about the 12th day of October last, with a cargo on board, consisting of staves and provisions, bound for Kingston, Jamaica, the said cargo being the sole property of Conway and Fortescue Whittle, merchants of Norfolk, and citizens of the United States; that he arrived in and with said ship on or about the 5th day of November following, when the said cargo was sold for account of the said Messrs. Conway and Fortescue Whittle; that from Kingston he proceeded in and with said ship to Anotta bay, on the north side said island of Jamaica, for the purpose of loading his said ship with a cargo, where he actually purchased and loaded on board said ship, a cargo, consisting of one hundred and seventy-nine puncheons of rum, for the sole account and risk of the aforesaid Messrs. Conway and Fortescue Whittle; that he sailed from thence in and with said ship with said cargo, on or about the 21st day of March following, bound to Norfolk aforesaid, with all the necessary and usual documents on board, to prove the said ship and cargo bona fide American property, belonging to citizens of the United States; that on the 27th day of same month, while peaceably and lawfully navigating his said ship for the port of Norfolk aforesaid, then being in sight of the Isle of Pines, on the south side of this island of Cuba, he was met with, boarded, and unlawfully captured by a privateer under French colors, called the Vigilant, commanded by one Amado Dejan, as he understood, who forcibly and unlawfully deprived this deponent of the possession of his said ship and cargo, and placed a prizemaster and men on board thereof, from the said privateer, and with force and violence took this deponent out of his said ship, together with Onis Danion, first mate, and Richard Thomas, second mate thereof, and six of the seamen of his said ship, and landed them on the west end of said Isle of Pines, with only one day's provisions, and without the means of procuring further sustenance; that this deponent, with his said mates and crew, remained at said port of said island, which is entirely uninhabited, about two weeks, and supported themselves on fish which they caught, there being no other food or sustenance to be procured; at the expiration of which time, that he, with his said mates and crew, took passage in a Spanish vessel which casually touched there, and were transported to the east end of said island of Pines, where there are some inhabitants, from whence this deponent, with his said mates and crew, after remaining four or five days, took passage in a Spanish vessel, and proceeded to Batabano, in this island of Cuba, from whence they proceeded by land to the city of Havana; that, after being some days in this city, this deponent heard his said ship had been taken into Batabano, and soon after saw the prizemaster here who was put on board his said ship, who gave to this deponent the following papers of said ship, declaring, at the same time, that he considered the said ship and cargo American property; that the captain of said privateer had absconded, and left him without support, and that he had no idea of pursuing her as lawful prize, and had abandoned her; that the papers which were delivered to this deponent were the following: 1st, The Mediterranean pass of said ship; 2d, Sea-letter; 3d, Clearance from Norfolk; 4th, Articles of agreement between master and mariners of said ship; 5th, Certified list of crew; 6th, Bill of health, &c.; 7th, Ship's log book. That the said ship had a register and certificates of property of cargo, bills of lading, invoices, &c. at the time of capture, which were taken from him, and which were not delivered up with the other papers, and which this deponent understood, and has reason to believe, were unlawfully and wantonly destroyed; that this deponent, after ascertaining that his said ship was in Batabano aforesaid, and after receiving the said papers, did, on the 7th day of May last, present to his excellency the Marquis of Someruelos, Captain General of said island of Cuba, a memorial, wherein he stated the capture of the said ship, and prayed that she might be restored to the rightful owners, from whom she had been unlawfully captured; that, not having any reply to his memorial, he, shortly after, again memorialized his excellency, praying that he would order his ship to be restored; that not having any reply to this, his second memorial, and understanding that a part of his crew who were suffered to remain on board at the time of capture, were detained as prisoners on board in the said port of Batabano, and were suffering for the want of the necessaries of life, and that the Frenchmen who remained on board, and the Spaniards from shore, were daily plundering from his said ship and cargo, and wishing to know the state thereof, and to grant some relief to his crew, he proceeded to Batabano without a passport, (the Captain General having refused him one,) with intent to go on board his said ship; that on his arrival at Batabano, he was prevented by the commandant there from going on board his said ship, and was ordered by him immediately to return to this city, or that he would send him back prisoner under a guard of soldiers, wherefore this deponent was obliged to return; that, on the 14th day of June, he again memorialized his excellency, presenting, therewith, all the papers of the aforesaid ship, delivered up to him by the prizemaster aforesaid, (except

the sea-letter, which was presented with his first memorial,) in consequence of which, on the day following, a decree was given, ordering his said ship and cargo to be restored and delivered him, and a passport granted for him to proceed to Batabano and take possession thereof.

That for this purpose he proceeded to Batabano, and on his arrival there the 24th of June, he presented his passport and order to the commandant there, who sent with him an officer and two soldiers to execute the said order and give him possession of his said ship. That accordingly, on the 25th day of June, he received possession of his said ship, and on examination thereof, and of her cargo, there was a deficiency of the following articles, which had been plundered from her since the capture aforesaid, to wit: two boats, a string cable, three anchors, two new top-sails, a new foresail, four studding sails, two royals, several spars, all her spare running rigging, all her cabin furniture and water casks, besides blocks and many other small articles, and from her cargo ninety-six whole puncheons of rum, there being only eighty-three remaining on board, and many of these wanting from ten to fifty gallons, so that this deponent conceiving that the contents of the said eighty-three puncheons would not more than fill sixty.

That an account was presented to him at Batabano against said ship of upwards of nine hundred dollars, for various articles which had been taken up upon the credit of the said ship by the Frenchman who captured her, which this deponent was obliged to satisfy before he was suffered to depart with his said ship. That on the 12th day of July instant, he departed in and with the said ship, from the bay of Batabano, and arrived at this port of Havana, on the 26th day of July instant, without any material accident happening, and came to anchor at the mouth of the harbor, not being permitted to come on with said ship for the purpose of supplying himself with the necessary stores, cables, &c. to proceed on his voyage to Norfolk, aforesaid, whither he is bound.

And the aforesaid Charles H. Simmons and Edward Lowrie depose and declare, that all and every the matters and things set forth and declared by the said John Evans in the preceding declaration, relating to the capture of the said ship, and to the deficiency therein stated of her cargo, apparel, furniture, &c. are to their knowledge just and true.

That they were detained on board said ship after the capture, and held prisoners on board, frequently wanting for the necessaries of life, until she was given up to the said Captain Evans, as stated in his declaration.

That before the said ship was taken into Batabano, she was brought to anchor by the said privateersmen upon the coast of Cuba, about ten leagues to the west end of said port of Batabano, where they took from her cargo a number of puncheons of rum and put them on board of a schooner.

That the said ship was again brought to anchor before her arrival at Batabano, about one league from the port, where the said privateersmen also took from her cargo a number of puncheons of rum, and put them on board a Spanish sloop, which these deponents understood belonged to the King's pilot at Batabano, who assisted the said privateersmen in the robbery.

That on the said ship's arrival at Batabano, a number of puncheons of rum were there taken out of said ship, and carried on shore by the said privateersmen, assisted by some Spaniards from shore, who during the said ships remaining there, night after night, smuggled on shore from the said ship quantities of rum, which they drew from the puncheons on board into small kegs. That the said Frenchmen and Spaniards daily plundered the rigging and furniture of said ship, and were very abusive and gave much ill treatment to these deponents.

JOHN EVANS,
CHARLES H. SIMMONS, Jun.
EDWARD LOWRIE.

And the said John Evans having applied to me, the said consul, to make this his protest in the premises, I have granted this public certificate thereof, to serve and avail him and all in the premises aforesaid, as occasion may require.

Wherefore, the said John Evans in behalf of himself, the freighters, owners and all others concerned in the said vessel and cargo, doth, and I the said consul at his desire, do by these presents, protest as well against the commander, officers, and crew of the aforementioned privateer as against all and every person and persons concerned therein, for the capture of the said vessel and the robbery and plunder committed upon the said vessel and cargo, for all damages, losses, costs and expenses already sustained, or which shall or may hereafter be sustained, suffered and incurred in the premises on account thereof.

Done and protested in the city of Havana agreeably to mercantile laws on such cases used and approved of.

In testimony whereof, the said deponents have hereunto subscribed their names, and I, the said consul, have hereunto set my hand and affixed my consular seal this 2d day of August, in the year of our Lord one thousand eight hundred and five, and of the independence of the United States the thirtieth.

HENRY HILL, Jun.

St. Juan, (Porto Rico,) *September* 12, 1805.

Sir:

When depredations on neutral property by Powers at war become the order of the day, when no respect is paid to existing treaties, I conceive it a duty incumbent on every individual to note every such infringement, and to give advice of it to the Executive of that Government to which he belongs.

As I am unaccustomed to a forensic style, I shall simply relate my own case, and whatever has come under my immediate observation during my short stay in this island: I left Norfolk on the 1st of June last in the brig Catharine, bound for the island of Antigua, laden with a cargo of provisions and lumber, where I arrived, and sold said cargo. I left the island of Antigua on the 29th July, with a return cargo, bound back to Norfolk; on the 4th August, in latitude 23° 10′ north, longitude 65° west, was captured by the French brig called General Blanshot, John Baptiste de Brun, commander, and sent into one of the ports at the west end of this island. The privateer plundered me of my stores and ship's provisions and part of the cargo. The vessel was immediately stripped of her sails and rigging and sent ashore; my people taken out, put on board of another vessel, and sent out of the island. Under these circumstances I came to the city and applied to the Governor, requesting his interference; stating to him that my papers were perfectly regular, and that my capture was of course illegal; and, I likewise requested him to order security to be given for the amount of my brig and cargo, as the agent of said privateer was a resident merchant of this city. But all my representation has been to no effect: he has absolutely refused to take cognizance of my business. My papers remain in the hands of Mr. Daubon, the agent of the captors. I may be detained here many months to come, and the vessel and cargo exposed to a total loss. My trial, if any I am to have, must be, by the determination of this Government, either at Martinique or Guadaloupe; thus, under the present circumstances, this island may become the asylum of pirates and robbers. No pretence has been given for my capture; as I came from an English island I might have English property on board. At the time of my capture, my cabin boy was carried on board the privateer, and put in irons, threatened with severe chastisement unless he would declare that specie was deposited in some part of the vessel. This attempt proving fruitless, I now (in all probability) must be the victim of measures dictated by men without principles of honesty or honor. Thus far as relates to myself. I shall now take the liberty of relating to you some other particulars that have come under my observation. At my arrival at the port of my entry on the west end of the island, I found at anchor the brig Susanna, of Portland, Maine, the captain's name I do not recollect; said brig arrived the day before and prize to the same privateer; she was from Portland bound to Jamaica, and was taken on her outward bound passage with a cargo of fish and lumber; said brig was immediately unloaded and ballasted with sand, and without more ceremony, the captain and crew of said vessel, together with the mate and crew of my own vessel, were shipped off with a very scanty supply of provisions, and left to search for the first port they could make. On the 4th instant, arrived the brig Polly, of Tiverton, Rhode Island, captain Trip; and on the 5th instant the schooner Mary Ann, of Boston, captain Anthony,

and bound to the island of Barbadoes, loaded with cattle and horses, and provisions on the deck. They are prizes to a Spanish xebeck, from Cadiz, bound to Vera Cruz. The captains live still on board with their crews, and may remain so for many days to come; while the captor and his agent are prosecuting every measure to effect the condemnation of said vessels as lawful prizes. I am, &c.

JOSEPH LEONARD,

Native of New Hampshire and a resident of Virginia.

JAMES MADISON, Esq. *Secretary of State of the United States of America.*

CONSULAR OFFICE OF THE UNITED STATES OF AMERICA, *Gibraltar:*

[L. S.] On this 13th day of September, 1805, personally appeared in my consular office of the United States of America, John Allen, commander of the sloop Ranger, belonging to the Government of the aforesaid United States, and John Thompson, master's mate on board said sloop Ranger, who, after being sworn on the Holy Evangelists, did declare jointly and severally, each speaking for himself, that they sailed in and with said vessel from Boston, in America, on or about the 21st day of July last, on the service of said Government, in company with the sloop Traveller, commanded by captain Benjamin Prince, with whom they parted company a few days after their leaving Boston, by stress of weather.

That, on the 23d of August last, being in latitude 40° 32′ north, and longitude 30° 33′ west, a schooner came up with them, mounting six guns with sixteen blunderbusses, and about eighteen men, who, although the American colors were flying on board the Ranger, and the vessel hove to, fired three broadsides at her without showing any colors, ordering captain Allen to go on board them, which he did; they then came on board the sloop Ranger, broke open captain Allen's chest and trunk, taking from them twelve white shirts, a suit of uniform, six pair silk and six pair of cotton stockings, twelve handkerchiefs, two blue jackets, three white dimity waistcoats, two new hats, two pair new shoes, and two pair nankeen pantaloons, a spy-glass, sixty-three gallons brandy, butter, cheese, pork, and other articles of ship's stores; likewise, the doctor's box, the mate's, and some of the men's clothes and money; also, a letter from the Governor of Malta, and several other papers.

That the commander and crew of the said schooner privateer behaved in a most insulting and abusive manner, and they seemed by their appearance, language, dress, and manners, to have been Spaniards; wherefore, they make this declaration, and protest, not only for the robbery committed, but also for the insult shown the flag under which they sailed.

JOHN ALLEN,
JOHN THOMPSON.

Sworn and declared the day and year first above written, before me,

JOHN GAVINO,

Consul of the United States of America.

Extract of a letter from Governor William C. C. Claiborne to the Secretary of War, dated

NEW ORLEANS, *March* 15, 1804.

SIR:

In consequence of a letter I received from Mr. Joseph Chambers, the United States factor at Fort St. Stephens, informing me, that he had a quantity of peltry, &c. ready for exportation, and desiring that I would make arrangements with the Spanish authorities, to secure to articles to and from the factory a passage free from interruption or duties, I addressed to the Governor of West Florida, (who is now in this city,) a letter of which the enclosed No. 1 is a copy, and on this day I received an answer, of which No. 2 is a copy. From these documents, you will discover that the interest of the factory, is in a measure subjected to the caprice of a Spanish officer.

No. 1.

Copy of a letter from Governor Claiborne to Governor Folch, dated

NEW ORLEANS, *March* 7, 1804.

SIR:

The President of the United States, with a view to preserve a good understanding with the Choctaw Indians, has established a factory or trading house at Fort St. Stephens, on the Tombigbee river. The goods transmitted to this factory, and the peltry, &c. exported therefrom are the property of the United States, and I persuade myself, that, on their passage by the way of Mobile, no duties will be exacted, or interruption offered by the authorities of Spain.

I beg leave to remind your excellency, that, by a treaty between the United States and His Catholic Majesty, they are mutually bound to restrain the Indians within their respective limits from committing hostilities against the adjacent settlements of either Power.

The prosperity, therefore, of the factory at Fort St. Stephens is interesting to both our nations, since the influence which the American Government may acquire in the Choctaw councils will be used not only to secure peace and safety to our own frontiers, but to the dominions of His Catholic Majesty.

Accept assurances of my great respect and high consideration.

WILLIAM C. C. CLAIBORNE.

His Excellency GOVERNOR FOLCH.

No. 2.

Copy of a letter from Governor Folch to Governor Claiborne, dated

MARCH 15, 1804.

SIR:

In order to answer your letter of the 7th instant, with due propriety, and according to the spirit of the Royal orders prevailing on the subject, I consulted the Intendant Mr. John D. Morales, who has given me his opinion in the following terms:

My opinion, sir, respecting the particulars related in Governor Claiborne's letter to you, is, that we cannot deviate from the order given to us by His Catholic Majesty, which I have transcribed to you in my last, of the 8th instant. For the same reason, when His Excellency General Wilkinson requested to allow the pass of two American vessels, one in the spring the other in the fall, which I did not grant, and His Majesty approved my conduct, and caused the treaty to be carried into execution.

These circumstances will convince your excellency, that it is not in my power to comply with your request; however, I will represent the case to the King, and inform you of the result as soon as possible.

Accept assurances of my respect and consideration.

F. FOLCH.

His Excellency GOVERNOR CLAIBORNE.

Extract of a letter from Joseph Chambers, United States factor, to the Secretary of War, dated

CHOCTAW TRADING HOUSE, *April* 11, 1804.

"It may not be improper in me to state, that it will be impossible for to continue the trading house on the river Tombigbee, and to afford to the Indians that friendly accommodation intended by the Government without incurring certain loss, unless we are speedily freed from the heavy exaction of twelve per centum demanded by the Spanish officers at Mobile, on all exports that pass this port, and the same on imports, making together nearly one fourth per cent."

Extract of a letter from Governor Claiborne to the Secretary of War, dated

NEW ORLEANS, *April* 20, 1804.

"In conformity with my advice, Joseph Chambers, United States factor for the Choctaw nation, has shipped a quantity of peltry for Philadelphia, (via New Orleans.) On the passage of the peltry down the Mobile river, a duty was demanded by the Spanish officers at the town of Mobile, and which Mr. Chambers paid, not, however, without entering a protest against the proceeding, a copy of which I now enclose you.

"Some provisions sent by the contractor from this city to Fort Stoddert were also detained at Mobile, until a duty of twelve per cent. was paid thereon; duties are also exacted on all exports passing down the Mobile, and paid very reluctantly by our citizens.

"The Spaniards are fortifying Pensacola and the town of Mobile; at the former place there is to be stationed five or six hundred men, and at the latter a battalion of artillery, and one company of dragoons are now employed."

Protest of Joseph Chambers, United States factor.

Whereas, by the order of the proper officers of the Government of the United States of America, sixty bales, three hogsheads and one barrel of peltries and furs, the property of said Government, collected at the Governmental trading house, established by authority, for the friendly accommodation of the Choctaw nation of Indians, was directed to be transported from said trading house, in the county of Washington, Mississippi Territory, by descending the Tombigbee or Mobile river, and from thence to the city of Philadelphia, in the Atlantic part of the United States, (via New Orleans.) The said cargo of peltries and furs, being on its passage as aforesaid, at the mouth of said river at the post of Mobile, the officers of His Most Catholic Majesty the King of Spain did at that post demand a duty of twelve per centum upon *their* estimated value of said cargo, to be paid for the use of His Majesty, and it was then made known and properly certified to the said officers, that the said peltries and furs were the property of the United States, and was then on its passage from one part thereof, to another. Notwithstanding which, the said officers did on the thirteenth day of April, A. D. one thousand eight hundred and four, detain and stop the said cargo at the said post of Mobile, and did then and there refuse to permit it to proceed on its passage, until the said duty of twelve per centum, amounting to one hundred and eighty-two dollars and sixty-eight cents, was paid.

Now the undersigned agent of the United States, having paid the aforesaid sum of one hundred and eighty-two dollars sixty-eight cents; not admitting the right of His Most Catholic Majesty's officers to exact or impose the aforesaid duty in manner and form aforesaid, cannot suffer a proceeding so unaccommodating, and apparently unjust, to pass with tacit acquiescence, and in compliance with his official obligations he enters this his remonstrance and solemn protest.

Because, the exaction of a duty upon the property of a Government passing upon navigable waters, (which are the common highways of nature,) from one part of its territories to another, although this passage might intersect the limits of a different Government, is in violation of a right which ought not to be questioned by nations friendly to each other.

Because, His Most Catholic Majesty has manifested a disposition friendly, liberal, and just, towards the Government of the United States, and the chief magistrates of each nation have mutually cultivated peace, harmony, and good will, between their respective citizens and subjects, it is therefore supposed that this proceeding is without His Majesty's orders or his knowledge, and that it has probably emanated from the same source from which the unauthorized act of shutting the port of New Orleans against the United States' right of deposit in the year one thousand eight hundred and two, proceeded. That the proceedings aforesaid may be duly made known to His Most Catholic Majesty the King of Spain, and to the President of the United States of America, and thereby become the subject of proper investigation, this remonstrance and protest is made and delivered to Colonel Maximilian Maisant, commandant political and military at Mobile.

Done at Mobile, this 13th April, 1804.

JOSEPH CHAMBERS,
Agent to the Choctaw trading house.

Copy of a letter from Joseph Chambers, United States factor, to the Secretary of War, dated

CHOCTAW TRADING HOUSE, HOBUKINTOOPA, *December* 12, 1804.

SIR:

Enclosed herewith is a copy of a letter from Michael Aelava, collector of the customs at the port of Mobile, to me, and my reply thereto: his letter and the vessels with the goods I met at Fort Stoddert, on my way to Mobile. I have earnestly to solicit you will direct me how to proceed in the particular business to which these letters relate, also, to give instructions for my Government generally, in my intercourse with the Spanish officers at Mobile, for your instructions would relieve me from much anxiety, occasioned by my fears, that, by acting from my own discretion, I may commit errors, or do things that might not meet your approbation; increased hindrances and obstacles are given by the Spanish officers at Mobile to this house; although justice demands that I should state that Michael Aelava, collector, has been very civil and respectful in the execution of what he states to be the duties of his office, and the orders of his superior officers.

There will be a considerable quantity of peltry and fur to remit the ensuing spring from this house; if a duty is to be allowed to the Spaniards upon its passage by Mobile, I must be furnished with the means to meet it. I, however, flatter myself that we will in a very short time have the free and unfettered navigation of the Mobile river.

I have the honor to be, sir, with perfect respect and attachment, your most obedient humble servant,

JOSEPH CHAMBERS.

GENERAL DEARBORN, *Secretary of War.*

Copy of a letter from Michael Aelava to Joseph Chambers, dated

MOBILE, *November* 20, 1804.

SIR:

From what Mr. Smith gave me to understand, I have expected since Sunday last to have seen you here; the weather now is favorable, and I do not wish to detain the vessel. Mr. Smith has bound himself to me to pay the duties

on his goods at the end of the year if Governor Folch does not free them; in full assurance that I have to do with a man of honor, and that you will acquiesce to the above conditions; and if not convenient for you to come down yourself, you can make out an obligation, (in the manner Mr. Smith has done,) for what goods belong to you, and send it to me as soon as possible, for as a public officer I must always have documents to show.

I am, with consideration and esteem, your most obedient servant,

M. AELAVA.

Document, relative to the obstruction of our commerce on the Mobile.

Copy of a letter from Joseph Chambers to Michael Aelava, Collector of the Customs at Mobile, dated

FORT STODDERT, *November* 27, 1804.

SIR:

I had the honor to receive your letter of the 20th current, yesterday. It should have been known, that I did at Mobile, in April last, protest against the right to exact duties from the United States, for its property passing by water, from one of its ports to another, although, in such passage, it might intersect the territory of another Government; therefore, there was no ground of assurance or even probable expectation, that I would consent to, or acquiesce in the decision of Governor Folch, only on this question. Further, it will be recollected by the commandant, Captain Osorno, Colonel Maxent and Mr. Simpson, that I did at that time refuse to sign a bond for duties, (but the necessity of the case only induced me to pay the duties then demanded,) consequently, a bond could, or ought not to be expected from me in this instance, to authorise the passage of public goods, for the *Indian trading house*, and the *Indian presents*, and more especially when we take into view the fifth article of the treaty of San Lorenzo de Real of the 27th October, 1795, between the United States and the King of Spain, and which the stoppage of these goods, might, perhaps, have tended to counteract. Here I quoted the article. Vide treaty, article 5.

The United States have suffered Spanish subjects, for their own private account and interest, to furnish the Indians within their limits with merchandise without tax or hindrance.

The Spanish Government by its officers at Mobile have levied, and demanded oppressive taxes on the property of the United States, which property or merchandise was expressly intended by the American Government for the humane and benevolent purposes of cultivating peace, friendship, and good will, between the Indians within their limits and the white people; and also to promote the civilization and happiness of these Indians.

Under the foregoing circumstances, no bond could, or will be given by me, without express orders from the Government under which I have the honor to act. No great public accommodation (for it is the Government only that is interested) is received by the permission for these goods to pass, after some of them had been detained one month or thereabouts, without any notice being given for what cause, and, knowing, as I presume was known and well understood, that they were the property of the United States, and consequently, they must have been permitted to pass as their property only, without any relation to my individual honor or interest, and upon the Governmental responsibility. I feel confident that the American Government will cause justice to be done towards you as an officer, for the friendly accommodation intended them by the forwardment of their vessels. I shall send a copy of your letter, and of this, to the proper officers of Government, also inform them of the respectful manner in which you have exercised the duties of your office in your concerns with me.

I am, &c.

JOSEPH CHAMBERS.

Governor Claiborne to the Secretary of State.

NEW ORLEANS, *August* 7, 1805.

SIR:

In my communication of the 29th ultimo, was enclosed a letter to me, from the Marquis of Casa Calvo, (soliciting that the Spanish officers now in this territory may be exempted from the payment of the municipal tax,) together with a copy of my answer thereto.

I now have the honor to transmit you a second letter from the Marquis on the same subject, together with a list of the officers alluded to, and if it be not improper, I should be glad to hear your sentiments as to the propriety of the exemption solicited; my own opinion is, "that the officers generally who possess property within this territory are liable to taxation; nor can exemption be made in favor of the Marquis and the members of his family, until he shall have been recognized by the President as an agent of Spain." You, no doubt, will be surprised to find so many foreign officers in this city; the fact is, sir, they are wedded to Louisiana, and necessity alone will induce them to depart. I have repeatedly, by letter and verbally, informed the Marquis, that the continuance in this territory of "so many Spanish officers, so long beyond the right occasion for it," was not seen with approbation, and urged their departure. The Marquis has as often assured me of his disposition to comply with my wishes, but you will perceive that the inconvenience is not yet remedied.

I have the honor to be, sir, with great respect, your humble servant,

WILLIAM C. C. CLAIBORNE.

The Honorable JAMES MADISON, *Secretary of State.*

To the Governor of the Territory of New Orleans.

NEW ORLEANS, *August* 2, 1805.

SIR:

In consequence of the letter your excellency has been pleased to write to me, relating to the doubt which I manifested concerning the persons employed in the commission of limits, and other subjects of His Catholic Majesty, who are yet in, but about to depart from this province, I enclose to your excellency the list of persons who now compose the said commission, together with that of the individuals who are about to depart from this country, as soon as their business therein shall be terminated, and also, that of the retired individuals, and of the widows on pensions, who may remain in this province. May your excellency live many years.

THE MARQUIS DE CASA CALVO.

I do certify the above translation.

MOREAU LISLEY, *Interpreter.*

A list of the individuals composing the expedition of the limits of the province of Louisiana, as approved by His Catholic Majesty's order of the 20th August, 1804.

Principal Commissioner—The Brigadier General Marquis de Casa Calvo.
Associate Commissioner—Lieutenant Colonel Don Joseph Martinez de Crosa, brigade major in the corps of engineers.
Secretary—The Commissary at War *ad honores*, Don Andrew Lopez Armesto.
Clerk—The first sergeant of the regiment of the Havannah, Antonio Martinez.
Captain—Don Nicholas Finiel.
Captain in the army—Don Stephen Minor.
Captain in the militia—Don Thomas Power.
Chaplain—Don Sebastian Gili.
Surgeon—Don Joachim Ablandedo.
Commander of the escorting troops—Don Benigno Gareior Calderon, adjutant in the regiment of Louisiana.
Sergeant of the same—John B. De la Cruz, with a corporal and ten grenadiers.
Adjutant—Don Ignatius Fernandez, adjutant of the regiment of Louisiana.
Officer of the revenue—Don John Tala.
Clerk of the same—Don Felix Tala, his son.
Surgeon of the Hospital—Don Fernando Moreno.
Commander of the galliot and smaller boats—Don Anthony Molina.
Carpenter—Manuel Guillemain.

NOTE. That, for the purpose of purchasing timber for the navy, the fourth officer of the naval administration Don Anthony de J. Carra, and his clerk Don John B. Bernendez, are in this place.

ANDREW LOPEZ ARMESTO, *Secretary.*
MOREAU LISLEY, *Interpreter.*

NEW ORLEANS, *July* 30, 1805.

List of the persons employed by His Catholic Majesty, who are to depart as soon as their business is terminated.

ADMINISTRATION OF THE KING'S REVENUE.

1. Dohn John Ventura Morales, paymaster general of the army, late Intendant *pro tempore* in this province.
2. Don Gilbert Leonard, treasurer of the army, late paymaster general *pro tempore* in the said province.
3. Don Manuel Armirez, treasurer *pro tempore.*
4. Don Cayetano Valdez, secretary of the Intendancy.
5. Don Francis Arroya, destined by a royal order for Porto Rico.
6. Don Joseph Ruida, who is to go to Campeachy.

CUSTOM-HOUSE.

1. Don Joseph Anthony de Hoa, administrator.
2. Don Anthony Morales, treasurer.
3. Don Manuel Toledano, officer of the guard of the custom-house.

ROYAL HOSPITAL.

1. Don Joseph Trustas, surgeon, who has order of the King to retire into Pensacola.

SURVEYOR GENERAL.

1. Don Charles Trudeau.

DON ANDREW LOPEZ ARMESTO,
Secretary of the commission.

I do certify the above translation.

MOREAU LISLEY, *Interpreter.*

NEW ORLEANS, *July* 30, 1805.

A list of the officers in His Catholic Majesty's service, who are to depart immediately after having terminated their business.

OFFICERS WHO BELONGED TO THE LATE STAFF OF THIS PLACE.

Town Major—Lieutenant Colonel Don Gilberto Guillemard, who is on the point of going to Pensacola.
Adjutant—Lieutenant Colonel Don Paul le Blanc, who is to go to the same place.
Adjutant—Captain Henry Mentzinger, who is ordered to go to the said place.

OFFICERS OF THE REGIMENT OF LOUISIANA.

Captains—Lieutenant Colonel Don Zenon Trudeau,
" " Don Ignatius Delino,
" " Don Joseph le Blanc,
" " Don John Lassize,
" " Don Felix Trudeau.

NOTE.—They ought to have joined their corps, and, for not having yet done it, are exposed to lose their commissions.

MILITIA.

Captain—Don Lewis de Clonet, late commander of the same.

ARMY.

Lieutenant Colonel—Don Peter Rousseau, who has solicited his retreat.
Captain—Don Henry Peyroux.

POSTS.

Don Peter Marin, late administrator of the same.

ANDREW LOPEZ ARMESTO.

I do certify the above translation.

MOREAU LISLEY, *Interpreter.*

NEW ORLEANS, *July* 30, 1805.

List of the retired officers, and of other persons employed in the service of His Catholic Majesty, who remain in this province in order to settle their business, or on account of their old age or infirmities.

1. Don Nicholas d'Annoy, colonel of the royal corps of artillery.
2. Don Manuel Perez, lieutenant colonel.
3. Don Peter Favrot, lieutenant colonel, and captain of grenadiers, (with a royal permission for two years.
4. Don Manuel Panzos,
5. Don Francis Rivas,
6. Don Joseph Barmonde,
7. Don William Dupare, } Captains.
8. Don Lewis Tudice,
9. Don Stephen Lamorandier, } lieutenants, with the grade of captains.
10. Don Charles Morant, adjutant general of militia.
11. Don Charles de Villiers,
12. Don John Vives, } first lieutenants of militia, with a royal permission for three years.
13. Don Peter Faillon,
14. Don Joseph Piernas,
15. Don Manuel Soileau,
16. Don James Fernandez,
17. Don Silvestre, } second lieutenants of militia.
18. Don Henry Darcancel, officer of administration.

NOTE.—By a particular favor of His Majesty, the widows of the persons employed, who are enjoying of pensions, though they are unable to go to Pensacola, are the following:

1. Donna Marquisite Waths, widow of the Brigadier Don Manuel Gayero de Limos, late governor of this province.
2. Mrs. Villemont;
3. Mrs. Bouligny;
4. Mrs. Panis;
5. The Baroness de Brouner;
6. Mrs. Trevino;
7. Mrs. Causat;
8. Donna François Trudeau;
9. Mrs. Zespedes.

NOTE.—There was a small number of retired serjeants and privates who are to go to Baton Rouge or Pensacola.

ANDREW LOPEZ ARMESTO.

I do certify the above translation.

MOREAU LISLEY, *Interpreter.*

NEW ORLEANS, *July* 30, 1805.

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120 MILES FROM NEW ORLEANS, *August* 26, 1805.

SIR:

The report of the retrocession to Spain, of the country west of the Mississippi, had also prevailed in New Orleans.

The evening prior to my departure, being on a visit to the Marquis of Casa Calvo, I asked him if he knew upon what authority that report was circulated; he answered in the negative, and added, that he had understood the negotiation was suspended, and that Mr. Monroe had left Madrid; he further said, that the minister of State (Cevallos,) has informed him, the Marquis, that the desire of the Court of Spain was to make "the Mississippi river the boundary, and, in time, it was expected that that object would be attained." The Marquis delivers himself in the French language. From my imperfect knowledge of French, it is probable I may have misunderstood some of his expressions, but I am sure I have given you the substance of what he said. The prospect of a retrocession of the west bank of the Mississippi, now is, and has always been the theme of the Spanish officers who remain in this territory, and many citizens seem to view it as an event likely to happen—an impression which I greatly regret, since it tends to lessen their confidence in the American Government, and to cherish a Spanish party among us. Next, therefore, to a final adjustment of limits with the Spanish Government, I most desire to see every Spanish officer removed from the ceded territory. There certainly must be a power somewhere vested, to cause to be executed the clause in the treaty which directs "the Spanish forces to be withdrawn (within three months) from the ceded territory," and I should indeed be pleased to have it hinted to me, that in my character as commissioner or Governor, I could, on this occasion, take, (if necessary,) compulsory measures.

I have the honor to be, sir, very respectfully, your humble servant,

WILLIAM C. C. CLAIBORNE.

The Hon. JAMES MADISON, *Secretary of State.*

Extract of a letter from Governor Claiborne to the Secretary of State, dated

NEW ORLEANS, *October* 24, 1805.

SIR:

I am sorry to inform you of the embarrassments to which the citizens of the United States are subjected who navigate the Mobile river. All American vessels passing by the town of Mobile, are brought to, and a duty of —— per cent. exacted both on imports and exports. These duties are even required on articles passing to and from the garrisons and factories of the United States. I have addressed, on this occasion, a letter to Mr. Morales, by whom, it is said, this proceeding was authorized; but in his answer, which was this morning received, he professes to be unacquainted with the particulars, and declines any interference until he should advise upon the subject with the Governor of West Florida.

I have certain information of the arrival at Pensacola of four hundred troops from Havana, and that a much arger number is daily expected. I also learn from a source entitled to credit, that three hundred men are ordered from Pensacola to Baton Rouge, and that eight hundred Spanish troops have lately been posted on the frontier of the province of Texas. It is a fact known to me that a Spanish agent has contracted with a merchant of this city, for the delivery at the town of Mobile, of four thousand barrels of flour, and that this same agent not being able to effect a contract for the delivery of four thousand pair of shoes at Mobile, has purchased a quantity of leather. The Marquis of Casa Calvo being absent from this city, it is my intention to require of Governor Folch an explanation of the object of these military movements. I flatter myself that hostilities between the United States and Spain may be avoided, and that an honorable adjustment of our differences may ensue. But I am inclined to think that the Spanish agents calculate on a speedy rupture, and are making all the preparations which their means permit, to commence the war in this quarter to advantage. New Orleans would unquestionably be the first object of attack, and with a view to its security, I should be pleased to see Fort St. John repaired, and put in a state of defence; that fort commands the mouth of the Bayou St. John, and, if strengthened, would present a great impediment to the passage of troops from Pensacola and Mobile by the way of the lakes to this city; the works are in ruins, but might readily be repaired and made defensible without any considerable expenditure.

Extract of a letter from Henry Toulmin, Esq. Judge in the Mississippi territory, to the Secretary of State, dated

JULY 6, 1805.

"You are informed, no doubt, that all the vessels to and from this country, even though bound to Fort Stoddert, and clearing out from Fort Stoddert, are obliged to come to at Mobile, and to pay twelve per centum ad valorem on their cargoes, according to the estimate of the Spanish officers.

"Such an exaction as this, you may well conceive, must be ruinous to this country, and is, moreover, the source of perpetual heart-burnings and contention between our citizens and the subjects of His Catholic Majesty.

"There are two vessels, which have lately undertaken, as I am told, to pass without calling at Mobile, from this country, laden with cotton. I cannot but anticipate unpleasant consequences, but will inform you of the result when acquainted with it."

Extract from the same to the same.

AUGUST 8, 1805.

"I mentioned to you in a letter some time since, that I understood that a vessel then lying in the river was about to pass the Mobile without calling. Captain Schuyler, who is just now from Orleans, tells me that she passed Mobile in the night; that the Spaniards were exceedingly irritated, and threatened to imprison the owner of the cargo on his return from Orleans, and to confiscate the vessel, if she ever appeared there again. They also talked of building a gunboat for the purpose of compelling vessels to stop."

Extract from the same to the same.

OCTOBER 11, 1805.

"Duties are still rigorously insisted upon at Mobile, cargoes unladed and inventories taken of them, in order to ascertain the duties to be paid. The schooner Cato, which went down the river without calling, is still detained, and will probably be confiscated, if not her cargo. I could not even get a few articles belonging to the United States from on board of her, which I had requested to apply for when there, in behalf of Mr. Dinsmoor and Mr. Chambers. If they continue their exactions, this country must inevitably be ruined: I mean that the settlements will be abandoned. Many are now preparing to go; some probably for other reasons, but the greater part, I believe, on this account; and most who go will become subjects of the Spanish Government."

The Governor of Mississippi Territory to the Secretary of State.

MISSISSIPPI TERRITORY, TOWN OF WASHINGTON, *September* 14, 1805.

SIR:

The enclosed affidavits, marked No. 1 to 11 inclusive, will inform you of some outrages committed within this territory by two Spanish parties. The letters, marked No. 1 to 5, and an order to Colonel Ellis, will inform you of the steps which I have thought it advisable to take. The messenger with my letter to Governor Grand Pré has not returned, although he was requested, and undertook to be back by this morning. I have not received any answer to my despatch to you on this subject of the 14th June.

If, sir, I am to risk any thing on this occasion, it shall be in defence of the liberties and the property of the citizens, and in support of the honor and independence of my Government: and I hope the measures taken and advised by me will not be found adverse to the views of the Executive or to the interest of the United States.

I am, with respect, yours,

ROBERT WILLIAMS.

The Hon. JAMES MADISON, *Secretary of State.*

AFFIDAVIT, No. 1.

WILKINSON COUNTY, MISSISSIPPI TERRITORY:

Personally appeared before me, one of the Justices of the Peace for said county, Arthur Cobb, Jun. and being duly sworn, according to law, on his oath deposeth, that on the night of the 3d of September, 1805, being at the house of Samuel Kemper, or otherwise the tavern of the Kempers, between the hours of eleven and twelve, he wakened from his sleep by the cry of murder and robbers. On leaving his bed, he saw a man in actual contest with Samuel Kemper; on proceeding further, he saw another man, and afterwards one more, and all being armed with instruments of death, such as guns and pistols, he thought proper to retreat to call assistance; that afterwards a pistol was found, which must have belonged to one of those men, and from every appearance he believes it to belong to Ira Cook Kneeland.

ARTHUR COBB, Jun.

Subscribed and sworn to before me,

JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 2.

Likewise, as sheet No. 1, appeared William Westbery, and deposeth, that at the same time being awakened from his sleep by the breaking open the door—that on rising he saw he thinks five men in the act of beating with a stick Samuel Kemper in the town of Pinckneyville—that he saw them drag him by the hands, heard the men give orders to tie his hands with a rope—that said Samuel Kemper gave the cry of murder, and that was the last he saw or heard of them.

WILLIAM WESTBERY.

Subscribed and sworn before me, this 3d day of September,

JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 3.

Likewise at the same time appeared before me, James Latta, who deposeth on oath, that at the same hour, being just awakened by some man requesting to see Samuel Kemper, he heard them ask for whiskey, and being asked who he was, said a friend; that they then being in the house, broke open the door of said Kemper's private lodging room; that he, Latta, attempting to rise, was thrown back on the bed by two men, who said they would take his life if he spoke; that there appeared to be five men in number, and all disguised in black paint, that after some short time he got an opportunity of escaping—when he went for assistance, and before his return, they had borne off the said Samuel Kemper, and he saw them no more.

JAMES LATTA.

Subscribed and sworn before me, this 3d day of September.

JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 4.

WILKINSON COUNTY, MISSISSIPPI TERRITORY:

Personally appeared before me, one of the Justices of the Peace for said county, John Atkinson, Henry Gamheart, Richard Richardson, and John Whitaker, who, being duly sworn according to law, on their oaths depose, that on the night of the 3d September, 1805, being at the house of Nathan Kemper, in the vicinity of Pinckneyville, between the hours of eleven and twelve, they heard some person hail the house, and on being asked two or three

times who they were, they steadfastly affirmed it was Captain Abrams. Immediately afterwards they opened the door, which swung on the inside of the house and was fastened by a string on the inside—immediately on this Reuben Kemper appeared to be only at that moment awaked from his sleep, asked who was there? when they immediately seized him, dragged him out of the house, and tied him, after bruising him very much with a club or clubs.

Almost at same time they dragged Nathan Kemper from the bed wherein he lay with his wife, and tied him also, but did not beat him as much as they did Reuben. Said Nathan Kemper, requesting to see his wife, was refused in very rough language; she likewise was refused in her request of seeing her husband. On Nathan Kemper's asking what they had done to deserve such treatment, was answered, God damn! you have ruined our country, which he, Atkinson, believes to be the American territories of Spain. That the said Nathan Kemper's wife received considerable injury from the violence of these men, who all appeared armed with guns, pistols, or clubs. That in the act of confining the above two men, they cocked and uncocked their guns a great many times, and ordered every man in the house to tell his name, and kept a strict guard at both the doors of the house, and would not admit of any one of the family, or any one that did not belong to their party, passing and repassing, as they frequently presented their guns cocked, and said they would blow the first one through who attempted to oppose them. That they then gave a regular military word, forward march, and at the second word of command they proceeded on their way, and bore off both Reuben and Nathan Kemper.

That the next morning they saw a considerable quantity of blood apparently issuing from the wounds of Reuben Kemper.

JOHN ATKINSON,
HENRY GAMHEART,
RICHARD RICHARDSON,
JOHN WHITAKER.

Subscribed and sworn to before me, third day of September,

JOSHUA BAKER, *J. P.*

AFFIDAVIT, No. 5.

TERRITORY OF ORLEANS, *County of Point Coupée:* *September* 5, 1805.

On this day appeared before me, Ebenezer Cooley, a Justice of the Peace for the county of Point Coupée, Nathan Kemper, who, being duly sworn, declared, that, on the night of the third instant, as he believed, between the hours of eleven and twelve, the doors of his house were forced open by a party of armed men, amounting, as well as he could ascertain, to the number of eighteen or twenty; that, as soon as the party had entered, they cried surrender; seized his brother Reuben, and dragged him out at the door; after a struggle, during which they had beat him with a club, and so choked him that he had barely power to say, I surrender. During this time a part of the same party seized the deponent by different parts of the body, and dragged him from his bed, where he lay with his wife and child, out through the door; after which he heard some of the party, who remained in the house, cry out, if the bitch utters another word, put her to death. Whereupon, he heard a blow given at the bed, and though he frequently called to his wife, to know if she was still alive, could get no answer. After the deponent and his brother Reuben had been fast bound, they were conducted along the road leading to Pinckneyville, as far as the plantation of Mr. Abraham Horton, being still within the limits of the Mississippi territory; and thence down the main road leading towards the line of demarcation. At some small distance above the line they were conducted a short way into the woods, where they halted a considerable time, until he heard a detachment of the same party coming along the main road, to which they were again led back from the wood, and discovered their brother, Samuel Kemper, in the custody of the said detachment. From thence they were conveyed across the line of demarcation, and delivered to Captain Solomon Alston, by whose party they were put on board a pirogue, at Tunica landing, under a guard of six armed men, who said their orders were to take them to Baton Rouge, and there deliver them at the fort. From Tunica they departed about day-break, and, as they passed along by the shore of Point Coupée, called out that they were American citizens, and clandestinely taken from their habitations within the Mississippi territory. After which they were rescued by Lieutenant Wilson, commandant of the garrison at Point Coupée. The deponent further says, that, among those who surrounded his house, he recognised the following persons: Minor Butler and his brother-in-law, Ritchie, Abraham Horton, and several of said Horton's negroes, all inhabitants of the Mississippi territory.

NATHAN KEMPER.

Sworn before me, this 5th day of September, 1805,

EBENEZER COOLEY, *Justice of the Peace.*

AFFIDAVIT, No. 6.

TERRITORY OF ORLEANS, *County of Point Coupée:* *September* 5, 1805.

On this day appeared before me, Ebenezer Cooley, Justice of the Peace for the county of Point Coupée, Samuel Kemper, who, being duly sworn, declared, that, on the night of the 3d instant, about the hour of twelve, as he believed, being at his house in the town of Pinckneyville, in the Mississippi territory, he heard a knocking at the door, and asked who was there? An answer was made, which he did not understand, and the outer door burst open. The door of the bedroom was then forced, and a blow made at the bed with a double-barrelled gun. Deponent was then seized, and dragged out of the bed by a number of men, who drew him into the room which they had first entered, and from thence, after a struggle, into the street. He was then thrown on the ground, and a rope was tied round his neck, by which he was dragged about one hundred and fifty yards. He was then suffered to stand upright, and attempted, by crying out, to give an alarm, upon which he received a stroke of a pistol on the head, by which he was stunned. The rope being removed from his neck to his arm, he was compelled to run for the space of about a quarter of a mile, after which he was forced to get up behind a man on horseback; a negro, who ran on foot, still holding the rope by which his wrist was tied. He was then led along the main road across the line, and delivered to a party of men, who conducted him to the landing of Bayou Tunica. Then he was put on board a pirogue, with his two brothers, Reuben and Nathan Kemper, and conducted down the river towards Baton Rouge. When opposite Point Coupée they gave the alarm, and were received by Lieutenant Wilson, commandant of the garrison of Point Coupée.

SAMUEL KEMPER.

Sworn before me, this 5th day of September, 1805,

EBENEZER COOLEY, *Justice of the Peace.*

AFFIDAVIT, No. 7.

TERRITORY OF ORLEANS, *County of Point Coupée:* *September* 5, 1805.

On this day appeared before me, Ebenezer Cooley, Justice of the Peace for the county of Point Coupée, Reuben Kemper, who, being duly sworn, declares, that, on the night of the 3d instant, about the hour of twelve, being at the house of Nathan Kemper, within about two miles of Pinckneyville, within the limits of the Mississippi territory, the house was surrounded, and the doors thereof forced open, by a party consisting of at least nineteen persons, whereof some were negroes, and some white men in disguise. That, among the latter, he recognised and personally knew the following persons: Louis Ritchie, Minor Butler, Abraham Horton, James Horton, and two others, whose names he did not recollect, but expected soon to be able to ascertain, all of whom are inhabitants of

the Mississippi territory; and Marcus Carr, James Say, Philip Say, and others, residing within the Spanish lines. Of the negroes, whose number amounted to seven, at least three, whose names are William or Bill, Nat, and Moses, and others, whose names he did not recollect, he knew to be the property of the above mentioned Abraham Horton. That the said party, all of whom were well armed, after having forced their way into the house, violently forced him from his bedroom, after a struggle of about fifteen minutes, during which he received several violent blows on the head and face; and, after having torn off his shirt and tied him with cords, forced him over the line into the Spanish territory, where they delivered him up, with his two brothers, Nathan and Samuel Kemper, bound in the same manner, to Solomon Alston, who commanded a large party of armed men. That said Alston received them within ten or fifteen feet of the line, on the Spanish side; that from thence they were conveyed to the Bayou of Tunica landing, bound, as already mentioned, and nearly naked, where they were put on board a pirogue, and there tied all three together, by orders of said Alston. That said pirogue was commanded by William Breher, and manned by Charles Stewart, Adam Bingaman, John Ratliff, George Rowe, and John Morris; that they departed from the Bayou Tunica for Baton Rouge, at day-break, where said William Barker had orders to deliver the prisoners up to Governor Grand Pré. That, as they passed along the shore of Point Coupée, the prisoners found means to declare their situation to Doctor Powles, who immediately gave information thereof to Lieutenant Wilson, commandant of the garrison at Point Coupée. That Lieutenant Wilson immediately manned his boat, boarded the pirogue, and took the prisoners, with those who conducted them, into custody, about the hour of twelve the same day.

REUBEN KEMPER.

Sworn before me, this 5th day of September, 1805,

EBENEZER COOLEY, *Justice of the Peace.*

Affidavit, No. 8.

Territory of Orleans, *County of Point Coupée:* *September* 5, 1805.

On this day appeared before me, Ebenezer Cooley, Justice of the Peace for the county of Point Coupée, Adam Bingaman, who, being duly sworn, declared, that, on the night of the 3d instant, at a very late hour, he was one of a party commanded by a Captain Alston, and stationed within a few yards of the line of demarcation, at the Spanish side, for the purpose, as declared by Captain Alston, of seizing the Kempers, who were expected to come from the American territory. That, at the distance of about fifty yards above the line, he saw a party approach, who were hailed by Captain Alston, to whom they delivered three prisoners. The party, to which deponent belonged, was then ordered by Captain Alston to conduct the prisoners to Bayou Tunica, where the prisoners were put on board a pirogue, and ordered off for Baton Rouge, at about day break on the 4th. That, as they were passing opposite the post at Point Coupée, their pirogue was boarded by Lieutenant Wilson, with a party of his men, who took the prisoners and their conductors into custody.

ADAM BINGAMAN.

Done before me,

EBENEZER COOLEY, *Justice of the Peace.*

Affidavit, No. 9.

Territory of Orleans, *County of Point Coupée:* *September* 5, 1805.

On this day appeared before me, Ebenezer Cooley, Justice of the Peace for the county of Point Coupée, William Barker, who, being duly sworn, deposed and declared:

That, on the night of the 3d instant, he was one of a party of militia commanded by Captain Alston, which party was stationed for about two hours within a few paces of the line of demarcation on the Spanish side. That they heard a noise which was made a short distance above the line, and soon after saw a party cross the line, who delivered to Captain Alston three prisoners, whose names were Reuben, Nathan, and Samuel Kemper. Captain Alston ordered the prisoners to be immediately conducted to the Bayou Tunica, where they were put into a pirogue, to be conveyed to Baton Rouge; that deponent was commanded by Captain Alston to keep a strict watch on them, and to give them no opportunity of escaping until he should deliver them at the fort of Baton Rouge; that, as deponent was passing opposite the garrison of Point Coupée, his pirogue was taken by a superior force commanded by Lieutenant Wilson, commandant of the garrison at Point Coupée, who took into custody the prisoners and the party by whom they were conducted.

WILLIAM BARKER.

Sworn before me this 5th day of September, 1805,

EBENEZER COOLEY, *Justice of the Peace.*

Affidavit, No. 10.

Mississippi Territory, *ss.*

Be it remembered, that William Flanagan, jun. of Wilkinson county, in said territory, personally appeared before the undersigned, one of the superior judges for said territory, and being of lawful age, upon his oath deposeth and saith, that Lieutenant Glascock and a party of twelve light horse, being a part of Captain Jones's company or squadron of Spanish light horse, on the afternoon of the 21st day of August last, came over the line of demarcation to this deponent's house, which is on the Tiehfau creek, about two miles above the line, and took him and his wife and carried them about five miles below the line, and kept them under guard all night, and next morning dismissed his wife, who was taken home by her brother, who had been sent out after them by her father. That after she was dismissed, they carried this deponent fifteen miles further, and told him he must go to jail or give up his horse. He refused to give up his horse till they cocked their guns and pistols all round him, there being eight of them then present, and said he must pay them their expenses, give up his horse, or go to jail. He replied he had rather lose his horse than go to jail. Whereupon they took his horse, bridle and saddle, and dismissed him, and he returned home on foot. The names of the men who composed said party of eight horse were, John Glascock Lieutenant Benjamin Le Near, also an officer, Abraham Jones, son of the Captain Kennady, William Lee, John Bates, ——— Hale, Obiel Brewer, ——— Conner, and the names of the others he does not recollect; and further says, that most of the party were formerly American refugees, who fled to the Spanish country, and further saith not.

WILLIAM FLANAGAN, his × mark.

Taken this seventh day of September, 1805, at the town of Washington, in the territory aforesaid, before

THOMAS RODNEY.

Note.—The within deponent, Thomas Holden, says, that it was reported that William Flanagan, Sen. had killed a certain John Sharp, as within mentioned, and had fled from the Spanish part of the country, and that his wife, after he had fled, also left the country, and brought their stock and goods above the line, and left them in the care of William Flanagan, Jun. who is nephew to William Flanagan, Sen. and son-in-law to said Thomas Holden, and that this was the only pretext the Spanish light horse had for coming above the line and behaving as they did.

THOMAS RODNEY.

AFFIDAVIT, No. 11.

MISSISSIPPI TERRITORY, *ss.*

Be it remembered that Thomas Holden, Sen. of the county of Wilkinson, in said territory, personally appeared before the undersigned, one of the superior judges of said territory, and being sworn, deposeth and saith, that he lives in said county, on the Tiehfau, about half a mile above the line of demarcation, upon land which he claims by pre-emption, and now cultivates; that on the afternoon of the 21st day of August last, Lieutenant John Glascock, and twelve men of the Spanish light horse, part of Captain Jones's company, or squadron of West Florida, came over the line of demarcation to this deponent's house, and inquired for William Flanagan, Sen. who had lived about seven miles below the line, in the Spanish territory, and, as they said, had killed a certain Joseph Sharp, also a Spanish subject, and said that they were in pursuit of said Flanagan, and inquired of this deponent if he had seen Flanagan, or knew where he was. This deponent replied, that he had not seen him for six months, but heard that Flanagan and his family had gone up to the Bayou Pierre. When said company came up, this deponent was sitting on his fence, about fifty yards from his house, and after what had passed, as before related, an officer among them by the name of Le Near, ordered this deponent to go to his own house, saying that he should put him and his family under guard. To which this deponent replied, that he would not be put under guard by him unless he had authority from the United States or the officers of this territory to do so. Whereupon the officer drew his sword, or dirk, and threatened to run this deponent through in an instant if he did not submit. Then one of the company cocked his pistol, but said nothing. Then Glascock came up with a rifle in his hand, and ordered this deponent to go along instantly, or he would make him. This deponent replied, that he would not go; that they had no business above the line, and ordered them to go below, where they belonged. Le Near replied to this, that his authority was above the line, as well as below. Damn the line, he did not regard it, and other words to that purpose. After this, the party went off, and left this deponent. But before they went off, two of this deponent's sons came up, and he told them what had passed, and ordered them to go to the house and get the guns, and they would kill all the damned Spaniards, for they had no business above the line; and upon saying this the party left him. And he further saith not.

THOMAS HOLDEN, Sen.

Taken this 7th day of September, 1805, at the town of Washington, in said territory, before

THOMAS BROWN.

No. 1.

Governor of the Mississippi territory to his Excellency Charles de Grand Pré.

TOWN OF WASHINGTON, MISSISSIPPI TERRITORY, *September* 6, 1805.

SIR:

I was informed that a number of armed men, subjects of the King of Spain, on the 3d instant entered this territory, in the neighborhood of Pinckneyville, and there with force and violence seized three persons by the name of Kemper, abused them in an inhuman manner, tied and carried them into your territory, and threatened considerable outrages to others in the same neighborhood. This conduct, sir, does not comport with that good understanding and friendly disposition supposed to exist between our Governments. Neither is such conduct to be tolerated by a Government which is influenced in all its relations with others by a regard to justice and national faith, especially one so ample in resources to do justice to itself, and to command respect from others, as the United States.

This letter, sir, is despatched to you by a special messenger, in order that your excellency may be speedily advised of this unaccountable transaction, and provide against similar outrages and their consequences; as also to afford me some explanation of the one which has given rise to this letter.

I am, with great respect, &c.

R. WILLIAMS.

No. 2.

Lieutenant Wilson to Governor Williams.

POINT COUPEE, *September* 5, 1805.

SIR:

I conceive it to be my duty to give you a statement respecting the rescue of the Kempers from a party of Spanish subjects. Information was given to me that Kemper and several Americans were taken by force of arms from their residence at Pinckneyville, by a party of Spanish subjects, and were on their way to Baton Rouge.

I immediately manned the boat, and took the Kempers, Reuben, Nathan, and Samuel, together with the guard, prisoners, who I have in confinement, and shall keep them so until I receive orders from the proper authority for their release. I have had taken the depositions of the Kempers, and two of their guards, which I enclose you. My force is weak, and I expect an attack from the other side of the river. I shall, however, give them as hearty reception as the situation of my force will admit of. As Governor Claiborne is, I presume, with you, I hope you will consult with him, and let me know as speedily as possible what is to be done. I have wrote Captain Sparks, at Fort Adams, to send me a reinforcement, as I think the good of the service really requires it.

I have the honor, &c.

WILLIAM WILSON, *Lieutenant Commandant.*

No. 3.

Captain Sparks to the Governor of the Mississippi territory.

FORT ADAMS, *September* 7, 1805.

SIR:

I have the honor to forward you despatches from Captain Wilson, at Point Coupée. If it should be your wish to have the party therein referred to taken to this place, to be delivered over to the civil authority, the command of one subaltern and twenty-five men I have sent from this post to reinforce Captain Wilson will be instructed to execute it.

I am, &c.

R. SPARKS, *Captain Commandant.*

No. 4.

The Governor of the Mississippi territory to Lieutenant Wilson, commandant at Point Coupée.

WASHINGTON, MISSISSIPPI TERRITORY, *September* 9, 1805.

SIR:

I this moment received your despatch, dated the 5th instant, informing me of your having taken and confined a Spanish party, which had on the night of the 3d instant forcibly taken from this territory the three Kempers, whom the party had in their possession when you took them. Your conduct, sir, on this occasion, merits approbation so far as I am informed of it.

I request that you will, with all possible despatch, have conveyed to this territory the whole of the offending party, to be delivered over to the civil authority; also the Kempers. I request you will deliver them at Fort Adams, where further orders will remain. Captain Sparks has informed me the reinforcement he sent you will act also as a guard for the above purpose.

I enclose for your information the copy of an order which I have this day issued in consequence of these outrages, and others committed on the line eastwardly from Pinckneyville.

I am, &c.

ROBERT WILLIAMS.

No. 5.

The Governor of the Mississippi territory to Captain Sparks, commanding at Fort Adams.

NATCHEZ, *September* 9, 1805, (10 *o'clock at night.*)

SIR:

As I was starting from Washington to this place, I received your letter of the 7th instant, with a despatch from Captain Wilson.

My answer to Captain Wilson I have sent open for your perusal, which I pray you to forward immediately.

I request that you will retain and safely keep under military authority the party that may be sent to you, agreeably to my directions to Captain Wilson, until they are received by the civil authority. Accept my hearty approbation of your and Captain Wilson's attention on this occasion.

I am, &c.

ROBERT WILLIAMS.

No. 6.

The Governor of the Mississippi territory's orders to Colonel Ellis, of the 5th regiment of the militia of said territory.

HEAD QUARTERS, WASHINGTON, MISSISSIPPI TERRITORY, *September* 9, 1805.

SIR:

You will, on the receipt of this order, immediately assemble from your regiment the following detachment for duty, viz. two captains, two lieutenants, two ensigns, eight sergeants, eight corporals, two drummers, or bugle-hornmen, and eighty-two privates, to compose two equal companies. They are to be well armed, and supplied with twelve rounds of ammunition per man. Not having the state of your regiment by actual return, it must rest with yourself from which battalion you are to detach them. This detachment is to act as a patrol near and along the line of dermarcation, to prevent or check irregularities of every kind. They are to rendezvous at Pinckneyville, from whence they will be detached to their different posts. As soon as they are assembled, a return of them will be made, naming the commissioned officers, and reporting the strength and the state of arms, &c. &c. and forward to the inspector at this place, when you will receive further orders. In the mean time, the detachments will be active as patroles, examining all equivocal characters passing the line from below, and especially if by night, stopping and securing any armed parties, improperly passing the line as in some late instances: and, in short, affording all proper protection in their power to the citizens of the United States and their property. The better to effect this, one captain and his command will be detached to the eastern part of the line to be guarded, and take post on or near the Tiehfau, from whence the communication must be kept up to meet the patrol detached from post near the west end of the line.

Every occurrence worthy of note can and must be communicated in this way to the senior captain, whose post will be in or near Pinckneyville; and who will report either direct to head quarters, or to the inspector's office. Should any hostile attempt be made, either on the citizens, their property, or the detachment on duty, force must be repelled with force.

R. WILLIAMS.

Extract of a letter from Robert Williams, Esq. Governor of the Mississippi territory, to the Secretary of State.

MISSISSIPPI TERRITORY, WASHINGTON, *October* 1, 1805.

By my communication of the 14th ultimo, you were informed of some outrages committed within this territory, near the Spanish line, and of the steps I had taken in relation thereto.

I now have the honor to enclose, for your further information, Governor Grand Pré's letter in answer to mine of the 6th ultimo, and my reply to him, marked and numbered 1 and 2, also the documents marked 1, 2, and 3, which will inform you of the further steps taken in this affair.

The military patrol which I ordered out on the line were organized and disbanded on holding themselves in readiness, and places appointed to rendezvous under a standing order to the officers commanding, to check any disorders that might appear.

I have the satisfaction to inform you that things in that quarter have become very quiet and settled, which I believe would not have been the case but for the measures which were pursued.

Some of our citizens were concerned in this business, and are bound over to court for prosecution.

[Enclosures accompanying the above.]

Governor Grand Pré to Governor Williams.

BATON ROUGE, *September* 9, 1805.

MY DEAR SIR:

I have received your letter dated the 6th instant, relative to the extraordinary event that happened at Pinckneyville, on the 3d instant, viz. the assault on the three brothers, Kempers, by persons unknown, and disguised, it is said, in black, who conducted them on that part of the territory which it has pleased His Majesty to commit to my charge. The occurrence is singular, and of which I had no information till the night between the 7th and 8th by one of the commanders of the patroles, who, since the inroads committed by that turbulent banditti, headed by the Kempers, have been stationed near the frontiers and within the interior settlement of Feliciana. The first gave me information under date of the 5th, that by night he met with a party of men disguished and armed, who were conducting three others, whom they immediately abandoned, and retired with percipitation the same way which they appeared to have come, without uttering a single word; his first care was to secure the persons of the three men, whom he found to be the Kempers, and immediately had them conducted to Bayou Tunica, there to be embarked under an escort and delivered at my disposal; he added that, on the way, the escort was stopped by actual force, on the river, very near the eastern shore, by Captain Wilson, military commandant at Point Coupée, where it is said the escort is detained, and also the Kempers. The commander of the patrol also declares that it was impossible for him to know any one of the persons who brought and abandoned the said Kempers, owing to the obscurity of the night, their disguise, and their very prompt departure.

This is all the information I have as yet, but have despatched an express to procure a more ample knowledge respecting this strange and mysterious violation.

It is not necessary, I flatter myself, that I should express what pains our Government has taken, and how unceasingly scrupulous it has been to maintain and constantly to preserve with that of the United States that good understanding and harmony, which it ought to be impossible for a few intriguing perfidious adventurers, thirsting after revenge for private animosities, to interrupt. Of this I hope your excellency is fully convinced, and upon this principle you will approve the efficacious measures I am about to take for the extirpation of this disorder, which has risen to its full height on the territory of this Government—disorder, confusion, violations, outrages, plunder, insult to the magistrate; dragging him by a rope round his neck; attempts on the flag of the King my master, and now the violation committed with the Kempers, (authors of all the above mentioned,) on the Government of your excellency.

After this explicit narrative, I hope your excellency will make the necessary dispositions for the return of the inhabitants who were escorting the three prisoners, as they are absolute strangers to all the circumstances of this business. I claim them from your excellency's justice, considering their detention as illegal, as also that of the prisoners they were conducting, these having been taken within this territory, where a most singular event had brought them, and I cannot imagine what could have been the design of the authors of this plot; saving, however, for a subsequent determination respecting the legality of a capture made under such singular circumstances.

I have the honor to be,

CHARLES DE GRAND PRE.

Most Excellent Robert Williams.

Governor Williams to Governor Grand Pré, in answer.

Washington, *September* 30, 1805.

Sir:

Your letter of the 9th instant, in answer to mine of the 6th, I received some days ago; but the equivocal manner with which you treated the subject of my letter afforded little or no information, and rendered it expedient to delay an answer until I should obtain such information relative thereto as would enable me to treat the subject with that candor which our respective situations require, and the interest and honor of our Governments demand.

Previous to the receipt of your letter, I understood that the three Kempers were retaken by Lieutenant Wilson, near Point Coupée, where they, together with the Spanish guard, were detained. I gave orders for the removal of them and their escort to Fort Adams, within this territory. They have all been delivered over to the civil authority for examination, as to their supposed offences committed within this territory, or that might be cognizable by the civil authority thereof; and I now have the honor to inform you, that the outrages which were the subject of my letter to you of the 6th instant, appear to have been committed by citizens of the United States, in combination with subjects of Spain, residing within the jurisdiction of our respective Governments, all of whom are liable to be punished under the authority and laws of the United States and of this territory. It also appears, that the six persons, subjects of Spain, composing the escort, to wit, William Barker, Charles Stewart, John Morris, John Ratcliff, George Row, and Adam Bingaman, were accessories and confederates with the offending party, and might have been legally treated as such by this Government: but being desirous to keep alive and promote that harmony and good understanding between the Government of the United States and that of His Catholic Majesty, and also, because from the sceptical style of your letter, it is not clear whether the act was authorized, I have caused those six men, composing the escort, to be liberated, and safely conducted to the territory possessed by His Catholic Majesty. The Kempers, of whom your excellency complains as having been the original authors of these outrages, I have caused to be bound to their good behavior, and to keep the peace towards your Government, its subjects, &c.

It is also proper I should inform your excellency, that, in a few days after the date of my letter of the 6th instant to you, I received information, that, some days before, a party of twelve men, armed, commanded by Lieutenant Glascock, part of Captain Jones's company of Spanish light horse, entered this territory in the neighborhood of Tiehfau creek, and there threatened considerable abuse of some of the inhabitants; seized and carried by force, from their house of dwelling, a man by the name of William Flanagan, Jun. and his wife, into the territory possessed by His Catholic Majesty, whom they detained a considerable time, and, on their releasement, took and kept a horse, bridle and saddle, belonging to the said Flanagan, and which I am informed have been since sold under the orders of an officer of your Government. I request your excellency will inquire into this affair, and give me an answer as soon as convenient.

I trust the lenient measures which I have caused to be pursued upon this occasion will be duly appreciated, and attributed to the proper motives; and that your excellency will unite with me in adopting such measures as will prevent similar occurrences in future.

Your excellency demands of me the three Kempers as your prisoners, taken, as you say, "within this jurisdiction, where the most singular event had brought them." Permit me, sir, without criticising on the merits of this demand, (which it is so susceptible of,) to barely suggest, as a reason for my non-compliance, the consequences which would necessarily flow from a compliance with demands made under such circumstances, and founded on transactions of this kind.

I have the honor to be, &c.

ROBERT WILLIAMS.

His Excellency Charles De Grand Pre.

Sir: Washington, *September* 23, 1805.

Finding you had left this when I returned from Natchez, Mr. Shields follows with my orders to Captain Sparks, commanding at the fort. Enclosed is a copy of my letter to him, indicative of the wish of the Executive of this territory on the occasion, which I trust will be compatible with the civil authority.

I am, &c.

ROBERT WILLIAMS.

Judge Rodney.

Sir: Washington, *September* 23, 1805.

I have received your letter of the 20th instant, informing me of the arrival of the prisoners from Point Coupée, at Fort Adams.

I request that they may all be delivered over to Judge Rodney, or some justice of the peace, to be examined as to any offences they may have committed within the limits of this territory, or that may be cognizable by the civil authority thereof.

The Spanish subjects, to the number of six, as I am informed, should they be discharged by the civil authority, I request that you will cause them to be escorted by a sufficient guard, to the line dividing this territory from that possessed by His Catholic Majesty, there liberated, and suffered to pass into his jurisdiction.

As to the Kempers, I presume they will be dealt with as the law will authorize; and my hope is, that they may be bound to their good behavior, and to keep the peace, as well towards the citizens of the United States as the subjects of His Catholic Majesty.

Accept my best respects, &c.

ROBERT WILLIAMS.

Captain Richard Sparks, *Military Commandant at Fort Adams.*

TOWN OF WASHINGTON, *September* 30, 1805.

DEAR SIR:

On the 25th or 26th of this instant, I made examination into the truth of the outrage committed in this territory, at and near Pinckneyville, on the night of the 3d of this instant, on the persons of Reuben, Nathan, and Samuel Kemper. This outrage appears to have been committed by a combination of persons, some residing above, and some below, the line of demarcation. Among them was a Doctor Bonner, a Henry Flower, son of Doctor Flower, and a Mr. M'Dermot, who were active above the line, and are said to reside below. The party, composed of twelve white men and seven negroes, first assaulted and broke the house of Nathan Kemper, and seized and tied him and his brother Reuben; then a part of them went to the house of Samuel Kemper, broke into his room, and took and tied him; and the two parties met again near the line, and went in company on the high road till they got a few feet below the line, where Captain Alston, with a party of twelve men, lay in wait, and marched out of the bushes and took possession of the Kempers; at the instant, all the other party dispersed and run off. Alston and his party then conducted the Kempers down to Bayou Tunica landing, and put them on board of a boat, and ordered six of his men, to wit, William Barker, Charles Stewart, John Morris, John Ratcliff, George Rowe, and Adam Bingaman, to take them down to Baton Rouge. On their way down, when they got opposite the American garrison at Point Coupée, the boat was taken by Captain Wilson, the Kempers released, and the Spanish subjects made prisoners. It appearing, on examination of the Kempers, that the six persons last mentioned had not acted above the line; they were liberated, as will appear by a document I enclose. None of the Spanish subjects that were active in the outrage above the line were taken into custody; but if they had been in custody, they would have been detained for trial. And, indeed, it was so evident that the party below the line were acting confederate with those above, had they not been the subjects of a Government in amity with us, the six persons discharged might have been legally detained until due satisfaction was made. I was careful, however, to avoid any thing that would in the least tend to violate the amity of the two nations, and therefore thought proper to liberate them, though I think our military officers fully justified in detaining them till legally discharged.

I am, respectfully, &c.

THOMAS RODNEY.

P. S. Justice Baker was also directed to require bail of Reuben, Nathan, and Samuel Kemper, respectively, to keep the peace, especially towards the subjects of the King of Spain, and to do no injury to any one below the line of demarcation.

T. R.

Documents relative to the detention of public buildings at New Orleans, &c.

Extracts of letters from General James Wilkinson to the Secretary of War.

NEW ORLEANS, *December* 27, 1803.

Our troops are not yet in quarters, but continue to occupy the redoubts which surround the town, under their tents, which has occasioned great discontent and produced much sickness; nor have we been able to get possession of a single store house or magazine for the reception of our tools, implements, stores, baggage, and provisions. I am now working on a partition of the barracks, to separate our troops from those of Spain, and hope I shall be able to get our men under cover to-morrow; but I am reduced to the painful necessity, after waiting thus long, to hire stores for the reception of our provisions, hospital stores, ammunition, arms, and other articles, which expense should, in my judgment, be charged to the French republic, and, therefore, a separate account will be kept of it, and all other expenses which may accrue in consequence of the incomplete execution of the treaty.

NEW ORLEANS, *March* 2, 1804.

It pains me still to be obliged to write you from this place, but the causes which have prevented my departure still exist. The Prefect of France and the Spanish troops are still in town, and the magazines and store houses still in their possession, while we are obliged to pay rent for our own accommodation. My patience is nearly exhausted, and I shall not be detained many days longer, unless something very unexpected should occur to make it my duty.

We have appearances of the Prefect's intention soon to depart, though they are contradicted by other circumstances. As to the Marquis de Casa Calvo, and the Spanish officers generally, they indicate no intention whatever of moving.

Governor Folch sailed three days since for Pensacola, but he was not accompanied by any troops; it is now said they will follow him in a few days. Yet I suspect the Marquis de Casa Calvo will keep a detachment here for his accommodation.

You have, under cover, a list of guards which the Spaniards mounted in the city yesterday, but you must not believe that this singular spectacle is permitted by my consent.

A return of guards mounted in New Orleans by the troops of Spain, March 24, 1804.

	Sergeants.	Corporals.	Privates.
1. Marquis de Casa Calvo,	1	-	9
2. Governor Salcedo,	1	-	9
3. Intendant Morales,	-	1	6
4. Auditor,	-	1	3
5. Magazine,	-	1	6
6. Hospital,	-	1	3
7. Dragoons of Mexico,	-	1	3
	2	5	39

NEW ORLEANS, *April* 15, 1804.

I have the satisfaction to inform you that about three hundred Spanish troops embarked for Pensacola on the 8th instant, but I am informed that twelve or fifteen officers and between sixty and one hundred men will continue in this city.

They have delivered up the barracks, but occupy the hospital and several detached buildings.

The Prefect made his congé to our commissioners on the 12th instant, but is still in town exercising his prefectorial and commissarial functions, yet I look daily for his embarcation.

The arrival of our ordnance stores from Fort Adams commenced a few days since, but we have as yet neither stores nor magazines for their reception, these being still occupied by the French and Spanish Governments.

NEW ORLEANS, *April* 25, 1804.

The Prefect of France embarked on the 21st instant. Yesterday the commissioners of the United States took leave of the commissioners of Spain, and I numbered twenty-five Spanish officers at the audience.

Extract of a letter from Lieutenant Colonel Constant Freeman to General Wilkinson, dated

NEW ORLEANS, *July* 14, 1804.

On the 9th instant, sir, the powder magazine, opposite to this city, was delivered to me.

Extract of a letter from General Wilkinson to the Secretary of War, dated

NEW ORLEANS, *January* 16, 1804.

We did not until this day receive the orders of the French and Spanish commissioners for the delivery of the posts in upper Louisiana.

Documents relative to the conduct of Spaniards in Louisiana; establishments of new ports; reinforcements; and reports of a repossession of that country.

Extract of a letter from Captain Turner to General James Wilkinson, dated

NATCHITOCHES, *August* 1, 1804.

Since I last wrote nothing of much importance has transpired. Our neighbors still keep up that sort of conduct towards us, which a state of war alone would justify. Every person who goes from here is strictly examined and searched, and all letters found in their possession are broken open and perused with an expectation of finding them big with treason, stratagems, and crimes.

Copy of a letter from the same to the same, dated

NATCHITOCHES, *October* 15, 1804.

The Spaniards are undoubtedly meditating mischief in this quarter; their emissaries have been at work among the Indians and negroes. The night before last, nine of the latter run off for Nacogdoches, who, it has been ascertained have been persuaded so to do by a Spaniard, inhabitant of Nacogdoches, telling them, on their arrival there they would be made free. Upwards of thirty are at this moment known to have been in the plot of elopement; and intelligence of the extent and nature of the plan is momently coming to light. To-day it is discovered that four of the nine have returned, to rouse and stimulate their confederates and others who were not implicated; an Indian boy, who was in one of their cabins, gives the intelligence. He says those who returned were instilling into the others, that, since the plot has been discovered, it should stimulate them to be more determined, &c. &c. The whole district is in the most alarming state, and inevitable ruin to it, and perhaps all Louisiana, must be the consequence, unless prompt measures are taken to stop the infamous proceedings of the infernal Spaniards.

I received a message, the other day, from the Cousadee or Alabama Indians, informing that other Indians, stimulated by the Spaniards, had desired them to move over the line, (they living on this side the Sabine, within the district of Opelousas,) and informed them they wished them to join in a war against the Americans; upon refusing, they threatened to cut them off wherever they should meet with them. Further, that a great council was about to be held, to which all the Indians were invited, and the Spaniards were to have large presents there for them. This intelligence has been corroborated, within a few days, by a white man living near the Sabine, whom the Indians, being friendly towards, desired to quit, as shortly depredations were to commence on the American frontier.

Extract of a letter from Doctor John Sibley to the Secretary of War, dated

NATCHITOCHES, *May* 1, 1805

The Choctaw chief at the same time reported to me, that a party of his people had lately returned from a hunting voyage on the bay of St. Bernard, and that they there fell in with two parties of Spanish troops, who had lately arrived there by water, and had their shipping then lying there; that they were building two forts, and had got them considerably advanced; one of them at the mouth of Trinity river, at the Oekekesaws, the other further to the westward, near the Caraukuas; they did not know by what name they called the place, but I take it to be Matogordo: That the Spanish officer at Oekekesaws had commissioned one of his hunters as a chief, and told him the Americans holding this country was all wind; that, if they were wise, they should abandon us, and attach themselves to them, (the Spaniards,) for their old friends would not forsake them: but that they were advancing against the Americans, and should soon build a fort in Opelousas, and another at Attakapa, and one at or near Natchitoches, and proceed on towards New Orleans; and that the officer told him he was in want of spades to go on faster with the works; and that if the Indians would come in amongst the Americans and buy what they could and bring to him, he would give them a horse for each spade they would bring.

This hunter, on his arrival at Bayou Chero, at the Choctaw village, finding the chief absent, sent off a runner to notify him of it, and to be on his guard against the Americans; for all Louisiana would soon belong again to Spain.

Mr. Fulsome, whom I occasionally employ as an interpreter, was present when the chief received this message, and came in with him to me; who likewise said, there was, at the same time, a Spaniard in the Choctaw camp asleep: and that after the runner had delivered his message, he (Fulsome) awakened the Spaniard, and asked him if he knew any thing of a Spanish force having arrived at the Oekekesaws, and he said he had heard so.

An American gentleman, a Captain Fristo, of Tennessee, was with me a few hours ago: he is lately from Nacogdoches, and informs me he understood the same when he was at that place.

Extract of a letter from Captain Turner to General James Wilkinson, dated

FORT CLAIBORNE, (*Natchitoches,*) *May* 3, 1805.

Within these two days I have received information that the Spaniards have absolutely established themselves, both at Martagada, and the Orcoquisas. They came by sea, and immediately commenced fortifying. The informer is an Indian chief of the Choctaws, who says that a warrior of his nation, who has been hunting with the Caraukuas, on the bay of St. Bernard, has returned loaded with Spanish presents and caresses; and says that the commanding officer told him that he and his people had better abandon the Americans, and come under the protection of the Spaniards, who would never forsake their old friends; and bid him witness their present proceedings, giving to understand that it was only preparatory to their taking possession of the country again, which would not remain

long in the hands of the Americans, as they meant to edge themselves along till they got to Orleans: that the warrior appeared to believe what was told him, and had returned with different ideas respecting the Americans than he possessed before. The informer further says, that the Spanish troops were in want of spades, and told this Indian, and those who were with him, that if they would bring some from this place, or Opelousas, he would give them a horse for every one delivered.

Extract of a letter from Doctor John Sibley to the Secretary of War, dated

NATCHITOCHES, *May* 31, 1805.

I sent Mr. Fulsome to bring in the chief and the party of Choctaws, who had lately returned from the bay of St. Bernard, and had given an account of the posts of Matogordo and the Oekekesaws being lately taken possession of. Mr. Fulsome found them and brought them in. He can give no certain account of any troops being at Matogordo, but he was at the Oekekesaws, and saw them; they were building a fort: but a small number of soldiers. The chief says, the Spanish officer advised him and all his nation to come to them; that their great father over the water had not forgotten them, and gave them not only his hand but his whole arm. He says the party he saw came there by land: but the evening he left the place, he saw a vessel in the bay, that the officer said was coming to them with a reinforcement. He likewise says, he heard they intended to build forts soon at Opelousas, Attakapas, and Natchitoches, but he did not hear the officer say it.

Extract of a letter from Doctor John Sibley to the Secretary of War, dated

NATCHITOCHES, *July* 2, 1805.

A man by the name of St. Prie arrived here yesterday from the Spanish country. He speaks French: I have just had some conversation with him. He says that there are five hundred families arrived at St. Antonio, settlers, with a considerable reinforcement of troops; and that one hundred soldiers were coming to Nacogdoches; fifty of whom were to be there by the 15th instant.

Extract of a letter from the same to the same, dated

NACTHITOCHES, *August* 8, 1805.

Great pains are certainly taken by people living here, and strangers passing through the country to and from towards Mexico, to freshen and keep alive the report and belief, that this part of the country is not long to remain in the hands of the United States.

The day before yesterday the Baron Bastrop, an intimate acquaintance of the Marquis de Casa Calvo, passed through this place from Orleans on his way to Mexico; on that way he took great pains to circulate the report, and to tell all the inhabitants he spoke with, that the country would ere long be again under the government of Spain, &c. He speaks French, English, and Spanish. Assurances of that kind, from a character like the Baron, make a strong impression upon the minds of the uninformed inhabitants.

Extract of a letter from Captain Turner to General James Wilkinson, dated

FORT CLAIBORNE, (*Natchitoches,*) *September* 3, 1805.

About a month ago Mr. Shabus, of this place, received a letter, dated St. Antonio, from Padre Puellet, telling him that the Commandant General, Mr. Grimare, direct from the court of Spain, was expected in August at the Rio Grand, where a great number of people of the province of Texas was to meet him; that he was accompanied by seven companies coming to St. Antonio, which place he was to make his residence, and that Captain Amangual was to be stationed with his *full company at Nacogdoches. Mr. Shabus received a passport from the Governor of St. Antonio, and a letter from the bishop, requesting him to come on immediately to make preparations for the Commandant General. Said Shabus says that he, (the Commandant General) was high in the confidence of the court of Spain, and sent on account of the limits. Six hundred families coming from Spain to settle Matogordo had put into the Canary islands.

Extract of a letter from the same to the same.

NATCHITOCHES, FORT CLAIBORNE, *September* 30, 1805.

The new Governor, Antonio Cordero, has arrived at St. Antonio.

Two men have just arrived from Nacogdoches, one of whom says he saw a letter from Mr. Barr to Davenport, written at St. Antonio, saying that he was waiting to set out with the colonel, who was to take the command at Nacogdoches. He was to have two companies with him, one of which was to reinforce the Orcoquisas, and the other to be divided between Nacogdoches and Adeis.

The white men employed by the Indian agent are now with me, and relate the following:

At about six days' march nearly southwest from here, they came in sight of a sort of stockade, as well as they could judge from the distance they saw it. They were discovered by the garrison, and a number of horsemen (to the amount at least of fifty) immediately sallied from out or near the picket work in line, and gave them chase. As they approached they formed a half circle, in order to enclose them. They, the Americans, escaped to the woods, which were within a league; the Spaniards continued the pursuit about fifteen miles. They imagined the fort or picket work to be about one hundred and twenty miles from this place, and is situated in open ground in the bottom of a prairie, at the confluence of the Trinity and Snow rivers, about twenty miles from the sea. They were further informed that the place where the fort is was called Orcoquisas.

Extract of a letter from a Mr. Johnson, son of a Colonel Johnson, of Kentucky, to Dr. Sibley.

NACOGDOCHES, *October* 3, 1805.

I have chosen this method of informing you of the receipt of a letter from Mr. Barr, but a few minutes since, which mentions, that he will be here the day after to-morrow, accompanied by the new commandant, who had under his charge two companies of one hundred and ten each. The one is to be stationed at the Trinity until further orders, the other is for this place, with orders to make it a place of defence.

* "A full company consists of a captain, lieutenant, commandant, and one hundred and fifteen."

Extract of a letter from Captain Bowyer to Lieutenant Colonel Freeman.

OPELOUSAS, *October* 13, 1805.

Yesterday Judge Collins waited on me and informed me that the minds of the citizens of this district were considerably agitated on a report being in circulation that a number of Spanish troops have taken post on the Kelqueshoes, some distance on this side the Sabine. Report says the number does not fall short of eight hundred. I have no idea the force is as strong as reported; but that there are some Spanish troops in that quarter I have not the smallest doubt.

Some time before Captain Stille left Atakapa, he had certain information that a regular patrol was kept up on the Sabine, and were relieved weekly from the post of Nacogdoches. Since then I have been informed (how truly I cannot say) that two of the inhabitants of this country are prisoners at that post.

Extract of a letter from Governor Claiborne to the Secretary of War.

NEW ORLEANS, *October* 30, 1805.

Six hundred troops have arrived at Pensacola from the Havana; and it is reported that the garrisons of Mobile and Baton Rouge are to receive considerable reinforcements. A Governor General for the province of Texas has arrived at St. Antonio; he is a brigadier general, and said to possess military talents.

A fort is erected on Trinity river, and about two hundred men (the greater part cavalry) are there stationed.

Documents to show that the settlement of Bayou Pierre, on the Red river, at which a principal aggression took place, was originally made by France, while possessing Louisiana, and came to the possession of Spain only by the general delivery of Louisiana to her, and as a part of it.

CAMPTI, IN THE DISTRICT OF NATCHITOCHES, *September* 14, 1805.

Personally appeared before me, John Sibley, one of the magistrates for the county of Natchitoches, Mary Pulogia Grappe Fontineau, aged 46, who, being duly cautioned and sworn, deposeth and saith, that she believes she was born at the ancient Caddo village, where was an establishment of French inhabitants and some soldiers; and that she perfectly recollects descending the river with her father. She was then about six years of age; and that her mother remained behind, to collect some debts, and came down about six weeks after; and that she had always understood her family had lived there for a considerable number of years; and that there were a number of French families who had lived there for many years.

FONTINEAU, *Veuve.*

Sworn to before me, JOHN SIBLEY, *J. P.*

I, John Horn, being duly sworn as interpreter, declare that the above declaration of Mary Pulogia Grappe Fontineau is truly interpreted as above written.

J. HORN.

NATCHITOCHES, *September* 15, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, Julien Besson, an inhabitant of Campti, in said county, aged 57, who, being duly sworn, deposeth and saith, that he well recollects being carried from Natchitoches, by his father, to the ancient Caddo village, commonly called, by the course of the river, about one hundred and seventy leagues above Natchitoches, on Red river; and that, at that time, there were there living several French families and some soldiers: the number of soldiers he does not remember, but only that it was a sergeant's command, (which sergeant was then his father;) and that his father, by order of the then French Governor General of Louisiana, built a small fort at said place, erected a flag-staff, on which the French flag occasionally used to be hoisted: the name of the fort was called *St. Louis de Carloretto;* and that, from the appearance of the place, and every thing he heard and understood about it, the establishment had been made for a considerable number of years before he went there, which is more than fifty years ago; and that he lived there fourteen or fifteen years, during all which time there was continued a detachment of French soldiers there, with a number of French families, who continued to cultivate corn, tobacco, and garden vegetables; and that he recollects two small pieces of cannon being there, and one of them bursting by firing; and he believes the other slipped into the river, by an excavation of its bank, as it lay near the edge of the bank; and that he recollects there being some-mill stones there, but has no remembrance of seeing them in use. And, at the same time he lived at the above mentioned place, some French families were settled at the Yattasse point, so called, being a part of what is now called the Bayou Pierre settlement; and that the same place has continued to be occupied by French families ever since, and which is now under the jurisdiction of the Spanish Government, in the province of Texas; and that said Yattasse point used to be a place of great deposite by Indian traders, before Louisiana was ceded to Spain: and further, that he has knowledge that some French hunters, while Louisiana belonged to France, planted several crops of corn more than fifty leagues above the ancient Caddo village, on Red river, at or near the mouth of Boggy river, (or the Vassures, as it is called;) and that the settlement at the old Caddo village was abandoned about thirty-eight years ago; and he believes the cause of their removal was, having large families of children growing up; and, after the cession of Louisiana to Spain, the settlement did not appear to augment, and the families were desirous their children should have the benefit of a better society: but that the country is exceedingly pleasant and fertile, and capable of becoming a rich and populous settlement. And further the deponent saith not.

JULIEN BESSON.

Sworn before me, at Natchitoches, the 16th of September, 1805,

JOHN SIBLEY, *J. P.*

I, the subscriber, being duly sworn as an interpreter of the French language, do hereby certify that the above or foregoing deposition of Julien Besson, is truly interpreted.

J. HORN.

NATCHITOCHES, *September* 16, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace in said county, Louis Lamalaty, Esquire, of Campti, in said county, who, being duly sworn, deposeth and saith, that he is now sixty-six years of age; and that he was born at the place now called Natchitoches. Although he was never at the place where the ancient Caddo village was, he was in the constant habit of seeing the French inhabitants, and the soldiers who were then living and stationed there, and has no more doubt of the fact than though he had seen it; he saw Mr. Grappe and his family when they returned from there: and further, that he has knowledge of the ancient French establishment at Yattasse point, in the vicinity of Bayou Pierre; and that these French families lived there before Louisiana was ceded to Spain; and that Mr. Verge lived there for a number of years; and that said place was usually

a place of deposite for the Indian traders, &c. And further, that he has knowledge of Mr. Bourne, formerly commandant at Natchitoches, having had a trading house established on the southwest side of the Sabine river, and distant from the river about six leagues, and from Natchitoches about fifty leagues, and about northwest from it; which establishment was antecedent to the Spanish Government taking place in Louisiana; and that the same place was occupied by sundry persons afterwards, as well before as after the change of Governments; and that he has been informed that the mill-stones that were at the old French establishment at the Caddos, had been brought down; and that, according to the best of his recollection, it is now about thirty-eight years since the said settlement was abandoned. And further the deponent saith not.

LOUIS LAMALATY.

Sworn to, the 16th of September, 1805, before me,

J. SIBLEY, *J. P.*

I, the subscriber, being duly sworn as interpreter of the French language, do hereby certify that the foregoing declaration of Louis Lamalaty, Esquire, is truly interpreted and translated.

J. HORN.

NATCHITOCHES, *September* 16, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for said county, Mary Senes Brevell, widow of Antoine Grillette, deceased, who, being duly sworn, deposeth and saith, that, after she married Mr. Grillette, she went with him to the ancient Caddo village, where she remained about eighteen months. At that time, there were a few French inhabitants who settled and lived there, and a French commandant, who was Mr. Grappe, and, as near as she recollects, four soldiers; that the French inhabitants cultivated every thing that was common for the French in other parts of Louisiana; and that she does not recollect the exact number of years that have elapsed since she was there, but believes it was, at least, ten years before the Government of Spain took place in Louisiana; and that she always understood, by her parents, she was there when a child, but she was too young to have remembrance of it. Further the deponent saith not.

MARY SENES BREVELL, her × mark.

Sworn to before me, at Natchitoches aforesaid, the day and year aforesaid,

JOHN SIBLEY, *J. P.*

I, the subscriber, being duly sworn as interpreter of the French language, do hereby certify that the above deposition of Mary Louisa Brevell is truly interpreted.

J. HORN.

NATCHITOCHES, *September* 16, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, John Baptiste Grappe, an inhabitant of Campti, in said county, and likewise one of the Justices of the Peace for the same, aged 42 years, who, being duly sworn, deposeth and saith, that, thirty-five or thirty-six years ago, he went with his father from Natchitoches to the ancient Caddo village, where he remained about four months. At that time, there were no families or soldiers there, but the houses of the French families who had lived there but a few years before, together with the fort, flag-staff, and the barracks or house occupied by the soldiers, were all standing entire; and that his father told him which of the fields and houses his family had occupied for a number of years; and, likewise, he remembers to have seen in the fort the ambusier and platform where the cannon were placed; and that he recollects his father used to call the distance from Natchitoches to said place by water about the same as from Natchitoches to New Orleans, viz. about one hundred and seventy leagues; and further, that he well recollects some French families, particularly a Mr. Verge and Mr. de Coto, living at the Yattasse point, so called, and that he always understood they had lived there for many years before Louisiana was ceded to Spain; and that the same place has always continued to be occupied by some French inhabitants, and is situated on the western division of Red river, about twenty-five leagues above Natchitoches, and is now part of what is called the Bayou Pierre settlement, under the jurisdiction of the Spanish Government, in the province of Texas; and that he has been several times at a place called the Dout, on the east bank of the Sabine river, at a prairie, and towards the head of said river, where there was the appearance of some works having been erected by the French as a trading establishment, and where his father and many Indians had told him the French flag had been hoisted, and the arms of the King of France buried. Further the deponent saith not.

BTE. GRAPPE.

Sworn to before me, at Natchitoches, the 16th day of September, 1805,

JOHN SIBLEY, *J. P.*

I, the subscriber, being duly sworn as an interpreter of the French language, do hereby certify that the foregoing deposition of John Baptiste Grappe is truly interpreted and translated.

J. HORN.

NATCHITOCHES, *September* 22, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, François Grappe, of Campti, in said county, aged 57, who, being duly sworn, deposeth and saith, that, to the best of his knowledge and belief, he was born near the ancient Caddo village, on Red river, which, by the course of the river, he believes to be upwards of five hundred miles above Natchitoches, where his parents then lived, and had lived, he believes, a number of years before he was born, and where they continued to live until he was sixteen or seventeen years of age. As long ago as he can remember, he recollects a Mr. François Harvey, a French gentleman, living there, and who, he understood, was the first white man that settled there; and that his father settled there about two years after. But he always understood there had been a company of French traders settled, for a number of years, about forty miles higher up the river, and that Mr. Harvey was one of them; but they were broken up before he was born; it was always called *the Company*: And that, during the whole time he lived at the ancient Caddo village, there were three settled families, besides a number of single persons, and a detachment of soldiers; and that the number of soldiers assigned by the French Government for that post was always fifteen, but he never knew the number complete; and that his father was commandant of the place for many years, and was succeeded by a Mr. Closo, who continued to be commandant until it was abandoned, after the cession of Louisiana to Spain; and that his father, by order of the then Governor of Louisiana, built a small fort there, in which were two small pieces of cannon, and in which was a flag-staff, on which the French flag was occasionally hoisted; he believes that the whole time that that place was occupied by the French as a military post and a settlement of families was about thirty years; and that the inhabitants pursued the same agriculture that was then common in other parts of the French settlements of Louisiana, viz. corn, tobacco, indigo, cotton, and garden vegetables, with some wheat, which grew well; but, having no way of manufacturing flour, there was but little wheat raised, though there was a pair of excellent European mill-stones and mill-irons there, but were not in use in his time; the stones he himself brought down in the year 1778, and they were carried to Opelousas; he understood they had been carried to the Caddo country by the Company, as it was called: And that he has knowledge of a French trading establishment being at a place called the Dout, on the Sabine river, near where the Nandaco Indians now live; and that it was an ancient establishment, and a place of great trade and resort at the time his father's family lived at the Caddos; and that

he has several times been at the place; the French flag used to be hoisted there, and there are the remains of the buildings and works now to be seen; and that the Dout is about one hundred and fifty miles northwest from Natchitoches: And that there was, at the same time, a similar trading establishment and a number of settled French families at the Yattasse point, on the southwest division of Red river, about twenty-five leagues above Natchitoches, in what is now called the Bayou Pierre settlement, which is now under the jurisdiction of Spain, and which place is now, and ever has continued to be, occupied by French inhabitants, and some of whom have ancient French grants or titles for their lands; and that Mr. Verge, who lived there for a number of years before Louisiana was ceded to Spain, had the exclusive Indian trade granted him, by the French Governor General of Louisiana, of Troiscannes or Tauacanos, the Reychies, Yattasses, and several other tribes that then lived on the river Sabine, and southward and westward of it, in what is now called the province of Texas.

FRANCOIS GRAPPE.

Sworn to before me, the 30th of September, 1805.

JOHN SIBLEY, *J. P.*

The subscriber, being duly sworn interpreter of the French language, does hereby certify that the foregoing declaration of Francois Grappe is truly interpreted and translated.

J. HORN.

Document relative to robberies committed by the Spaniards in Louisiana.

NATCHITOCHES, *October* 2, 1805.

Personally appeared before me, John Sibley, one of the Justices of the Peace for the county of Natchitoches, Gaspard Bodin, Lewis Bodin, and Andrew Chamar, all of Natchitoches aforesaid, who, being duly sworn, deposed and said, that, on the 8th day of September last, they, the deponents, were all travelling in company from Natchitoches to Opelousas, on the usual road; and that, when within fourteen or fifteen miles of Opelousas church, they were met by five armed Spanish soldiers on horseback; who drew their arms upon them, and ordered them to stop. One of the deponents, (Madam Bodin,) who speaks Spanish well, asked the one who appeared to be the commander of the party, what business he had to order them to stop, that they were all of them Americans, and that was American ground. The commander of the Spanish party replied, that he had a right to command there, and would do as he pleased, and that he must have such a horse for the use of the King, (pointing to Mr. Chamar's best horse) which he immediately took possession of, and took away with them, proceeding on the Nacogdoche road, and the deponent Chamer has never seen or heard of his horse since.

GASPARD BODIN,
LEWIS BODIN,
ANDREW CHAMER.

Sworn before me the day above written,

JOHN SIBLEY, *J. P.*

NATCHITOCHES, *October* 3, 1805.

Personally appeared before me, John Sibley, a Justice of the Peace for the county of Natchitoches, Francis Roban, of said Natchitoches, aged 21 years, who, being duly sworn, deposeth and saith, that, about the 10th of September last, himself, being in the employ of Messrs. Oliver and Case, of Natchitoches, was, with Joseph Lucas, conducting from the Caddo nation to Natchitoches eighteen horses, packed with about eleven hundred deer skins; and in the Bayou Pierre settlement they stopped for the night, at the plantation of a Mr. Poisot. Next morning, the deponent had occasion to go to the house of Mr. de Soto, about half a league distant, who is a syndic, and at whose house the detachment of Spanish soldiers on guard is stationed; soon after his arrival at de Soto's house, a corporal of the guard called him, the deponent, into a small apartment, in de Soto's house, under the pretence of speaking to him; as soon as he entered the room, the corporal told him he was a prisoner, and placed a sentinel at the door; then told him they wanted to take Oliver and Case, or either of them, and that, if they did not find Oliver and Case, that he, the deponent, should pay for it. They kept him then confined in the room, from about eight in the morning till one afternoon; they then removed the deponent on his own horse, with one armed soldier before him and another behind, and ordered him to show Oliver and Case. He conducted them in this manner about eight miles, where he understood Mr. Case had been to Mr. Doley's. Arriving there, and not finding him, the deponent was left at Mr. Doley's under a guard, and the corporal went to some houses near by in the neighborhood, to search for him, but could not find him; after which, they sat off in the same order in which they came, to return back to de Soto's. On their way they discovered a fresh trail of horses crossing the road, and leading from Mr. Poisot's plantation towards the plantation of Mr. Robleau, which they concluded to be the trail of Lucas, with the packs, &c. The deponent then attempted to escape from them, but was overtaken, and tied with his hands behind him, with a coarse hair rope; they then put him on his horse, one of the Spaniards leading his horse by a rope and another following behind, and holding the other end of the hair rope, with which the deponent's hands were tied. It was, at this time, towards eight o'clock in the evening; the moon shone bright, they followed the trail leading towards Robleau's plantation, about two and a half miles, and found all the packhorses grazing. The Spaniards went immediately to gathering them up, and took possession of them all, drove them into a pen belonging to the plantation, and placed a guard over them; after which they untied the deponent, and drove him into the pen with the horses, where they kept him under guard amongst the horses the remainder of the night. After the horses and the deponent were thus penned up together, the corporal armed himself with a pair of pistols, and, with a rope under his coat, sat off for Lucas's camp, the light of which was in sight, saying he would go and tie Lucas. He was gone about a quarter of an hour, when he came running back much out of breath, and exclaimed: "Blast the Indian, he wanted to shoot me with his arrow." Soon after, the Indian came up; the corporal took his gun and presented it at the Indian, who replied, "You had best be easy, for I am not a child; you may thank me that you are here now." The corporal then spoke to the Indian, told him he was sorry for what he had done, it was in a passion, shook hands with him, &c. The Indian, who was a Yattasse, then told the deponent to tell the corporal that he, the Spaniard, had wanted to take Lucas, but, if he had have taken him, he should not have tied him or taken him off. The Indian afterwards related to him, the deponent, how the corporal came to the fire, where Lucas and himself were encamped; Lucas saw him coming and rose up; the corporal called to him and told him he wanted to speak to him; Lucas saw him armed and saw the rope he had, and retreated a few steps from the fire; the corporal told him to stop, or he would shoot him; Lucas told him, he would not stop, and ran off. The Indian, at the same moment, drew his bow to shoot the corporal, who likewise ran and hid himself in the cornfield. The deponent further saith, that, while he was imprisoned in the horse-pen with the horses, the Indian came into the pen to him, and remained with him the remainder of the night. Some time in the night he proposed to the deponent, to assist him, and they would tie the two Spaniards, and take off the horses, but if he was afraid to attempt that, he, the Indian, would kill them both, if the deponent would consent to it. The deponent further saith, that, the next morning, the Spaniards sat off with him and all the horses for de Soto's house; and as they were going by Mr. Poisot's house, on their way he requested leave to go in to get a drink of water, and made his escape out of a back door, hid himself in a cotton field, from thence into a thicket, where he remained hid till night, leaving his horse, saddle, and bridle at Mr. Poisot's gate, which the Spaniards took possession of. In the evening, he came into Mr. Poisot's house, Mr. Poisot gave him some victuals, and advised him to make the best of his way to Natchitoches, for the Spaniards were determined to catch him, and had given him positive instructions to take him if he could, and bind him, and bring him to the guard; and, that all the horses

they had started off for Nacogdoche. The deponent sat off immediately, and travelled all night, avoiding as much as he could the main road, understanding that there were Spaniards posted on the road to waylay him. About an hour before daylight he arrived at Mr. Doley's, and found the Spaniards had arrived there, with all the horses, before him, and a sentinel guarding them; his own horse among the rest. And further the deponent saith not.

FRANCIS ROBAN, his × mark.

Sworn to before me,

JOHN SIBLEY, *J. P.*

[The following report was made to the House of Representatives by the committee to whom the foregoing papers were referred.]

HOUSE OF REPRESENTATIVES, JANUARY 3, 1806.

Mr. JOHN RANDOLPH, from the committee to whom were referred the message and communication from the President of the United States, of the 6th December last, together with the documents accompanying the same, made a report thereupon, as followeth:

The committee have beheld, with just indignation, the hostile spirit manifested by the Court of Madrid towards the Government of the United States, in withholding the ratification of its convention with us, although signed by its own minister, under the eye of his sovereign, unless with alterations of its terms, affecting claims of the United States, which, by the express conditions of the instrument itself, were reserved for future discussion; in piratical depredations upon our fair commerce; in obstructing the navigation of the Mobile; in refusing to come to any fair and amicable adjustment of the boundaries of Louisiana; and in a daring violation, by persons acting under the authority of Spain, and, no doubt, apprized of her sentiments and views, of our undisputed limits, which she had solemnly recognized by treaty.

To a Government having interests distinct from those of its people, and disregarding its welfare, here is ample cause for a formal declaration of war, on the part of the United states, and such, did they obey the impulse of their feelings alone, is the course which the committee would not hesitate to recommend; but to a Government identified with its citizens, too far removed from the powerful nations of the earth for its safety to be endangered by their hostility, peace must always be desirable, so long as it is compatible with the honour and interest of the community.

Whilst the United States continue burdened with a debt which annually absorbs two-thirds of their revenue, and duties upon imports constitute the only source from which that revenue can be raised, without resorting to systems of taxation not more ruinous and oppressive than they are uncertain and precarious, the best interests of the Union cry aloud for peace. When that debt shall have been discharged, and the resources of the nation thereby liberated, then may we rationally expect to raise, even in time of war, the supplies which our frugal institutions require, without recurring to the hateful and destructive expedient of loans; then, *and not till then*, may we bid defiance to the world. The present moment is peculiarly auspicious for this great and desirable work. Now, *if ever*, the national debt is to be paid by such financial arrangements as will accelerate its extinction, by reaping the rich harvest of neutrality, and thus providing for that diminution of revenue which experience teaches us to expect on the general pacification of Europe. And the committee indulge a hope, that in the changed aspect of affairs in that quarter, Spain will find motives for a just fulfilment of her stipulations with us, and an amicable settlement of limits upon terms not more beneficial to the United States than advantageous to herself; securing to her an ample barrier on the side of Mexico, and to us the countries watered by the Mississippi, and to the eastward of it. But whilst the committee perceive, in the general uproar of Europe, a state of things peculiarly favorable to the peaceable pursuit of our best interests, they are neither insensible to the indignity which has been offered on the part of Spain, nor unwilling to repel similar outrage. On the subject of self-defence, when the territory of the United States is insulted, there can be but one opinion, whatever differences may exist on the question whether that protection, which a vessel finds in our harbors, shall be extended to her by the nation, in the Indian or Chinese seas?

No. 192.

TRIPOLI.

COMMUNICATED TO THE SENATE, DECEMBER 11, 1805; JANUARY 13, AND FEBRUARY 4, 1806; AND NOVEMBER 11, 1807.

DECEMBER 11, 1805.

To the Senate of the United States:

I now lay before the Senate the several treaties which have been entered into on the part of the United States, since their last session.

1. A treaty of peace and amity between the United States of America and the Bashaw Bey and subjects of Tripoli, in Barbary, &c.

TH: JEFFERSON.

JANUARY 13, 1806.

To the Senate of the United States:

According to the request of the Senate of December 30, I now lay before them the correspondence of the naval commanders Barron and Rodgers, and of Mr. Eaton, late consul at Tunis, respecting the progress of the war with Tripoli, antecedent to the treaty with the Bey and regency of Tripoli, and respecting the negotiations for the same; and the commission and instructions of Mr. Eaton, with such other correspondence, in possession of the offices, as, I suppose, may be useful to the Senate in their deliberations upon the said treaty.

The instructions which were given to Mr. Lear, the consul-general at Algiers, respecting the negotiations for the said treaty, accompanied the treaty and the message concerning the same, and are now with them in possession of the Senate.

So much of these papers has been extracted and communicated to the House of Representatives, as relates to the principles of the co-operation between the United States and Hamet Caramalli, which is the subject of a joint message to both Houses of Congress, bearing equal date with the present; and, as those now communicated to the Senate comprehend the whole of that matter, I request that they may be considered as comprising the documents stated in that message as accompanying it. Being mostly originals or sole copies, a return of them is requested at the convenience of the Senate.

We have no letter from Mr. Lear respecting Tripoline affairs of later date than that of July 5, which was transmitted to the Senate with the treaty, nor, consequently, any later information of what steps have been taken to carry into effect the stipulation for the delivery of the wife and children of the brother of the reigning Bashaw of Tripoli.

TH: JEFFERSON.

JANUARY 13, 1806.

To the Senate and House of Representatives of the United States:

I lay before Congress the application of Hamet Caramalli, elder brother of the reigning Bashaw of Tripoli, soliciting from the United States attention to his services and sufferings in the late war against that State; and, in order to possess them of the ground on which that application stands, the facts shall be stated according to the views and information of the Executive.

During the war with Tripoli, it was suggested that Hamet Caramalli, elder brother of the reigning Bashaw, and driven by him from his throne, meditated the recovery of his inheritance, and that a concert in action with us was desirable to him. We considered that concerted operations by those who have a common enemy were entirely justifiable, and might produce effects favorable to both, without binding either to guaranty the objects of the other. But the distance of the scene, the difficulties of communication, and the uncertainty of our information inducing the less confidence in the measure, it was committed to our agents as one which might be resorted to, if it promised to promote our success.

Mr. Eaton, however, our late consul, on his return from the Mediterranean, possessing personal knowledge of the scene, and having confidence in the effect of a joint operation, we authorized Commodore Barron, then proceeding with his squadron, to enter into an understanding with Hamet, if he should deem it useful; and, as it was represented that he would need some aid of arms and ammunition, and even of money, he was authorized to furnish them to a moderate extent, according to the prospect of utility to be expected from it. In order to avail him of the advantages of Mr. Eaton's knowledge of circumstances, an occasional employment was provided for the latter as an agent for the navy in that sea. Our expectation was that an intercourse should be kept up between the ex-Bashaw and the Commodore; that, while the former moved on by land, our squadron should proceed with equal pace, so as to arrive at their destination together, and to attack the common enemy by land and sea at the same time. The instructions of June 6 to Commodore Barron show that a co-operation only was intended, and by no means an union of our object with the fortune of the ex-Bashaw; and the commodore's letters, of March 22 and May 19, prove that he had the most correct idea of our intentions. His verbal instructions, indeed, to Mr. Eaton and Captain Hull, if the expressions are accurately committed to writing by those gentlemen, do not limit the extent of his co-operation as rigorously as he probably intended, but it is certain, from the ex-Bashaw's letter of January 3, written when he was proceeding to join Mr. Eaton, and in which he says, "your operations should be carried on by sea, mine by land," that he left the position in which he was, with a proper idea of the nature of the co-operation. If Mr. Eaton's subsequent convention should appear to bring forward other objects, his letter of April 29 and May 1 views this convention but as provisional, the second article, as he expressly states, guarding it against any ill effect, and his letter of June 30 confirms this construction. In the event it was found, that, after placing the ex-Bashaw in possession of Derne, one of the most important cities and provinces of the country, where he had resided himself as Governor, he was totally unable to command any resources, or to bear any part in co-operation with us. This hope was then at an end, and we certainly had never contemplated, nor were we prepared to land an army of our own, or to raise, pay, or subsist an army of Arabs, to march from Derne to Tripoli, and to carry on a land war at such a distance from our resources. Our means and our authority were merely naval; and, that such were the expectations of Hamet, his letter of June 29 is an unequivocal acknowledgment. Whilst, therefore, an impression from the capture of Derne might still operate at Tripoli, and an attack on that place from our squadron was daily expected, Colonel Lear thought it the best moment to listen to overtures of peace, then made by the Bashaw; he did so; and, while urging provisions for the United States, he paid attention also to the interests of Hamet, but was able to effect nothing more than to engage the restitution of his family; and even the persevering in this demand suspended for some time the conclusion of the treaty.

In operations at such a distance, it becomes necessary to leave much to the discretion of the agents employed; but events may still turn up beyond the limits of that discretion. Unable in such a case to consult his Government, a zealous citizen will act as he believes that would direct him, were it apprised of the circumstances, and will take on himself the responsibility. In all these cases, the purity and patriotism of the motives should shield the agent from blame, and even secure a sanction, where the error is not too injurious. Should it be thought by any that the verbal instructions, said to have been given by Commodore Barron to Mr. Eaton, amount to a stipulation that the United States should place Hamet Caramalli on the throne of Tripoli, a stipulation so entirely unauthorized, so far beyond our views, and so onerous, could not be sanctioned by our Government; or should Hamet Caramalli, contrary to the evidence of his letters of January 3, and June 29, be thought to have left the position, which he now seems to regret, under a mistaken expectation that we were, at all events, to place him on his throne, on an appeal to the liberality of the nation something equivalent to the replacing him in his former situation might be worthy its consideration. A nation, by establishing a character of liberality and magnanimity, gains, in the friendship and respect of others, more than the worth of mere money. This appeal is now made by Hamet Caramalli to the United States. The ground he has taken being different, not only from our views, but from those expressed by himself on former occasions, Mr. Eaton was desired to state whether any verbal communications passed from him to Hamet, which had varied what we saw in writing. His answer of December 5 is herewith transmitted, and has rendered it still more necessary that, in presenting to the Legislature the application of Hamet, I should present them, at the same time, an exact statement of the views and proceedings of the Executive through this whole business, that they may clearly understand the ground on which we are placed. It is accompanied by all the papers which bear any relation to the principles of the co-operation, and which can inform their judgment in deciding on the application of Hamet Caramalli.

TH: JEFFERSON.

FEBRUARY 4, 1806.

To the Senate of the United States:

I now transmit the letters desired by the resolution of the Senate of January 20, so far as they exist in the offices, to wit:

Extract of a letter from the Department of State to Mr. Eaton of May 20, 1801.

The letter from Mr. Cathcart to Mr. Eaton, dated Leghorn, June 15, 1801, is not in the offices, but the substance of it is supposed to be recited in those of Mr. Cathcart to the Secretary of State, of August 15, 1802, and July 2, 1801, extracts of both of which are transmitted.

The letter of Mr. Eaton of September 5, 1801, supposed to be that intended by the Senate, as it answers their description: there is no letter of his of September 15.

Extract of a letter from William Eaton to the Secretary of State, December 13, 1801.

Extract from Captain Murray's letter of August 18, 1802.

Extract of a letter from Mr. Cathcart to the Secretary of State of August 25, 1802.

Extract of a letter from Mr. Morris to the Secretary of the Navy, March 30, 1803.

The letter from the Swedish admiral to Hamet Bashaw, designated in the resolution of the Senate, is not in the possession of the Executive.

The extracts abovementioned give the whole matter contained in the respective letters relating to Hamet Caramalli. The parts omitted are on subjects entirely foreign to what concerns him.

TH: JEFFERSON.

[CONFIDENTIAL.]

NOVEMBER 11, 1807.

To the Senate of the United States:

Some time had elapsed, after the receipt of the late treaty between the United States and Tripoli, before the circumstance drew particular attention, that, although by the third article the wife and children of the ex-Bashaw

were to be restored to him, this did not appear either to have been done or demanded. Still it was constantly expected that explanations on the subject would be received. None, however, having arrived when Mr. Davis went as consul to Tripoli, he was instructed to demand the execution of the article. He did so; but was answered by the exhibition of a declaration, signed by our negotiator the day after the signature of the treaty, allowing four years for the restoration of the family. This declaration, and the letter of Mr. Davis stating what had passed on the occasion, are now communicated to the Senate. On the receipt of this letter, I caused the correspondence of Mr. Lear to be diligently re-examined, in order to ascertain whether there might have been a communication of this paper made, and overlooked or forgotten. None such, however, is found. There appears only, in a journalized account of the transaction by Mr. Lear, under date of June 3, a passage intimating that he should be disposed to give time, rather than suffer the business to be broken off, and our countrymen left in slavery: and again, that on the return of the person who passed between himself and the Bashaw, and information that the Bashaw would require time for the delivery of the family, he consented, and went ashore to consummate the treaty. This was done by the next day; and being forwarded to us as ultimately signed, and found to contain no allowance of time, nor any intimation that there was any stipulation but what was in the public treaty, it was supposed that the Bashaw had, in fine, abandoned the proposition; and the instructions, before mentioned, were consequently given to Mr. Davis. An extract of so much of Mr. Lear's communication as relates to this circumstance is now transmitted to the Senate;* the whole of the papers having been laid before them on a former occasion. How it has happened that the declaration of June 5 has never before come to our knowledge, cannot with certainty be said; but, whether there has been a miscarriage of it, or a failure of the ordinary attention and correctness of that officer in making his communications, I have thought it due to the Senate, as well as to myself, to explain to them the circumstances which have withheld from their knowledge, as they did from my own, a modification, which, had it been placed in the public treaty, would have been relieved from objections which candor and good faith cannot but feel in its present form.

As the restoration of the family has probably been effected, a just regard to the character of the United States will require that I make to the Bashaw a candid statement of facts; and that the sacrifices of his right to the peace and friendship of the two countries, by yielding finally to the demand of Mr. Davis, be met by proper acknowledgments and reparation on our part.

TH: JEFFERSON.

Treaty of peace and amity between the United States of America and the Bashaw Bey and subjects of Tripoli, in Barbary.

ARTICLE 1. There shall be, from the conclusion of the treaty, a firm, inviolable, and universal peace, and a sincere friendship between the President and citizens of the United States of America, on the one part, and the Bashaw Bey and subjects of the regency of Tripoli, in Barbary, on the other, made by the free consent of both parties, and on the terms of the most favored nation. And if either party shall hereafter grant to any other nation any particular favor or privilege in navigation or commerce, it shall immediately become common to the other party, freely where it is freely granted to such other nation; but where the grant is conditional, it shall be at the option of the contracting parties to accept, alter, or reject such conditions, in such manner as shall be most conducive to their respective interests.

ART. 2. The Bashaw of Tripoli shall deliver up to the American squadron, now off Tripoli, all the Americans in his possession; and all the subjects of the Bashaw of Tripoli, now in the power of the United States of America, shall be delivered up to him; and as the number of Americans in possession of the Bashaw of Tripoli amounts to three hundred persons, more or less, and the number of Tripoline subjects in the power of Americans is about one hundred, more or less, the Bashaw of Tripoli shall receive from the United States of America the sum of sixty thousand dollars, as a payment for the difference between the prisoners herein mentioned.

ART. 3. All the forces of the United States which have been, or may be in hostility against the Bashaw of Tripoli, in the province of Derne, or elsewhere within the dominions of the said Bashaw, shall be withdrawn therefrom, and no supplies shall be given by, or in behalf of, the said United States, during the continuance of this peace, to any of the subjects of the said Bashaw, who may be in hostility against him, in any part of his dominions: And the Americans will use all means in their power, to persuade the brother of the said Bashaw, who has co-operated with them at Derne, &c. to withdraw from the territory of the said Bashaw of Tripoli; but they will not use any force or improper means to effect that object; and in case he should withdraw himself as aforesaid, the Bashaw engages to deliver up to him his wife and children, now in his power.

ART. 4. If any goods belonging to any nation, with which either of the parties are at war, should be loaded on board vessels belonging to the other party, they shall pass free and unmolested, and no attempt shall be made to take or detain them.

ART. 5. If any citizens, subjects, or their effects, belonging to either party, shall be found on board a prize vessel, taken from an enemy by the other party, such citizens or subjects shall be liberated immediately, and their effects so captured shall be restored to their lawful owners, or their agents.

ART. 6. Proper passports shall immediately be given to the vessels of both the contracting parties, on condition that the vessels of war, belonging to the regency of Tripoli, in meeting with merchant vessels, belonging to citizens of the United States of America, shall not be permitted to visit them with more than two persons besides the rowers: these two only shall be permitted to go on board said vessel, without first obtaining leave from the commander of said vessel, who shall compare the passport, and immediately permit said vessel to proceed on her voyage; and should any of the said subjects of Tripoli insult or molest the commander, or any other person on board a vessel so visited, or plunder any of the property contained in her; on complaint being made by the consul of the United States of America, resident at Tripoli, and on his producing sufficient proof to substantiate the fact, the commander or rais of said Tripoline ship or vessel of war, as well as the offenders, shall be punished in the most exemplary manner.

All vessels of war belonging to the United States of America, on meeting with a cruiser belonging to the regency of Tripoli, and having seen her passport and certificate from the consul of the United States of America residing in the regency, shall permit her to proceed on her cruise unmolested, and without detention. No passport shall be granted by either party to any vessel, but such as are absolutely the property of citizens or subjects of said contracting parties, on any pretence whatever.

ART. 7. A citizen or subject of either of the contracting parties, having bought a prize vessel condemned by the other party, or by any other nation, the certificate of condemnation and bill of sale shall be a sufficient passport for such vessel for two years, which, considering the distance between the two countries, is no more than a reasonable time for her to procure other passports.

ART. 8. Vessels of either party, putting into the ports of the other, and having need of provisions or other supplies, they shall be furnished at the market price; and if any such vessel should so put in from a disaster at sea, and have occasion to repair, she shall be at liberty to land and re-embark her cargo without paying any duties; but in no case shall she be compelled to land her cargo.

ART. 9. Should a vessel of either party be cast on the shore of the other, all proper assistance shall be given to her and her crew. No pillage shall be allowed; the property shall remain at the disposition of the owners, and the crew protected and succored until they can be sent to their country.

ART. 10. If a vessel of either party shall be attacked by an enemy within gunshot of the forts of the other, she shall be defended as much as possible. If she be in port, she shall not be seized or attacked when it is in the

* See the letter of July 5, 1805.

power of the other party to protect her; and, when she proceeds to sea, no enemy shall be allowed to pursue her from the same port, within twenty-four hours after her departure.

ART. 11. The commerce between the United States of America and the regency of Tripoli, the protections to be given to merchants, masters of vessels, and seamen; the reciprocal right of establishing consuls in each country, and the privileges, immunities, and jurisdictions to be enjoyed by such consuls, are declared to be on the same footing with those of the most favored nations respectively.

ART. 12. The consul of the United States of America shall not be answerable for debts contracted by citizens of his own nation, unless he previously gives a written obligation so to do.

ART. 13. On a vessel of war belonging to the United States of America, anchoring before the city of Tripoli, the consul is to inform the Bashaw of her arrival; and she shall be saluted with twenty-one guns, which she is to return in the same quantity or number.

ART. 14. As the Government of the United States of America has, in itself, no character of enmity against the laws, religion, or tranquillity of musselmen, and as the said States never have entered into any voluntary war or act of hostility against any mahometan nation, except in the defence of their just rights to freely navigate the high seas, it is declared by the contracting parties, that no pretext, arising from religious opinions, shall ever produce an interruption of the harmony existing between the two nations; and the consuls and agents of both nations, respectively, shall have liberty to exercise his religion in his own house; all slaves of the same religion shall not be impeded in going to said consul's house at hours of prayer. The consuls shall have liberty and personal security given them to travel within the territories of each other, both by land and sea, and shall not be prevented from going on board any vessel that they may think proper to visit; they shall have, likewise, the liberty to appoint their own drogoman and brokers.

ART. 15. In case of any dispute arising from the violation of any of the articles of this treaty, no appeal shall be made to arms, nor shall war be declared on any pretext whatever; but, if the consul residing at the place where the dispute shall happen, shall not be able to settle the same, the Government of that country shall state their grievances in writing, and transmit it to the Government of the other; and the period of twelve calendar months shall be allowed for answers to be returned; during which time, no act of hostility shall be permitted by either party; and in case the grievances are not redressed, and war should be the event, the consuls, and citizens or subjects of both parties, reciprocally, shall be permitted to embark with their effects unmolested, on board of whatever vessel or vessels they shall think proper.

ART. 16. If, in the fluctuation of human events, a war should break out between the two nations, the prisoners captured by either party shall not be made slaves, but shall be exchanged rank for rank; and, if there should be a deficiency on either side, it shall be made up by the payment of five hundred Spanish dollars for each captain, three hundred dollars for each mate and supercargo, and one hundred Spanish dollars for each seaman so wanting; and, it is agreed, that prisoners shall be exchanged in twelve months from the time of their capture; and that this exchange may be effected by any private individual, legally authorized by either of the parties.

ART. 17. If any of the Barbary States or other Powers at war with the United States of America, shall capture any American vessel, and send her into any of the ports of the regency of Tripoli, they shall not be permitted to sell her, but shall be obliged to depart the port on procuring the requisite supplies of provisions; and no duties shall be exacted on the sale of prizes captured by vessels sailing under the flag of the United States of America, when brought into any port in the regency of Tripoli.

ART. 18. If any of the citizens of the United States, or any persons under their protection shall have any dispute with each other, the consul shall decide between the parties; and whenever the consul shall require any aid or assistance from the Government of Tripoli, to enforce his decisions, it shall immediately be granted to him. And, if any dispute shall arise between any citizen of the United States and the citizens or subjects of any other nation, having a consul or agent in Tripoli, such dispute shall be settled by the consuls or agents of the respective nations.

ART. 19. If a citizen of the United States should kill or wound a Tripoline, or, on the contrary, if a Tripoline shall kill or wound a citizen of the United States, the law of the country shall take place, and equal justice shall be rendered, the consul assisting at the trial; and, if any delinquent shall make his escape, the consul shall not be answerable for him in any manner whatever.

ART. 20. Should any citizen of the United States of America die, within the limits of the regency of Tripoli, the Bashaw and his subjects shall not interfere with the property of the deceased; but it shall be under the immediate direction of the consul, unless otherwise disposed of by will. Should there be no consul, the effects shall be deposited in the hands of some person, worthy of trust, until the party shall appear who has a right to demand them, when they shall render an account of the property. Neither shall the Bashaw nor his subjects give hinderance in the execution of any will that may appear.

Whereas, the undersigned Tobias Lear, Consul General of the United States of America for the regency of Algiers, being duly appointed commissioner, by letters patent under the signature of the President and seal of the United States of America, bearing date at the city of Washington, the 18th day of November, 1803, for negotiating and concluding a treaty of peace between the United States of America and the Bashaw Bey and subjects of the regency of Tripoli, in Barbary.

Now know ye, that I, Tobias Lear, commissioner as aforesaid, do conclude the foregoing treaty, and every article and clause therein contained; reserving the same, nevertheless, for the final ratification of the President of the United States of America, by and with the advice and consent of the Senate of the said United States.

Done at Tripoli, in Barbary, the 4th day of June, in the year 1805, corresponding with the 6th day of the 1st month of Rabbia, 1220.

TOBIAS LEAR. [L. S.]

Having appeared in our presence, Colonel Tobias Lear, Consul General of the United States of America in the regency of Algiers, and commissioner for negotiating and concluding a treaty of peace and friendship between us and the United States of America, bringing with him the present treaty of peace with the within articles: they were by us minutely examined, and we do hereby accept, confirm, and ratify them, ordering all our subjects to fulfil entirely their contents, without any violation and under no pretext.

In witness whereof, we, with the heads of our regency, subscribe it.

Given at Tripoli, in Barbary, the 6th day of the 1st month of Rabbia, 1220, corresponding with the 4th day of June, 1805.

We hereby acknowledge to have received from the hands of Colonel Tobias Lear, the full sum of sixty thousand dollars, mentioned as ransom for two hundred Americans in the treaty of peace, concluded between us and the United States of America, on the 6th day of the 1st month of Rabbia, 1220; and of all demands against the said United States.

Done this 21st day of the 1st month of Rabbia, 1220.

JOSEPH CARAMANLY, *Bashaw.* [L. S.]

Extract of a letter from the Secretary of State to William Eaton, Esquire, dated

WASHINGTON, *May* 20, 1801.

Your letter of the 2d and 18th September, 6th October, 1st, 9th, 10th, 15th, 16th, 13th, 25th, 19th, and 26th November, and 8th December, have been received since the date of Mr. Lincoln's letter by the Grand Turk, which sailed from New York in March last, with the third cargo of Regalia for Tunis. The proofs which have been given by the Bashaw of Tripoli of hostile designs against the United States have, as you will learn from Commo-

dore Dale, determined the President to send into the Mediterranean a squadron of three frigates and a sloop of war, under the command of that officer. Should war have been declared, or hostilities commenced, this force will be immediately employed in the defence and protection of our commerce against the piracies of that regency. It is hoped that the contagion will not have spread either to Tunis or Algiers; but should one or both of them have followed the perfidious example, their corsairs will be equally repelled and punished.

The policy of exhibiting a naval force on the coast of Barbary has long been urged by yourself and the other consuls. The present moment is peculiarly favorable for the experiment, not only as it is a provision against an immediate danger, but as we are now at peace and amity with all the rest of the world, and as the force employed would, if at home, be at nearly the same expense, with less advantage to our mariners. The President has, therefore, every reason to expect the utmost exertions of your prudence and address, in giving the measure an impression most advantageous to the character and interests of the United States. In effecting this object, the means must be left, in a great degree, to your knowledge of the local and other circumstances which cannot be understood at this distance. You will, of course, take due pains to satisfy the Bey that the United States are desirous of maintaining peace with all nations who are willing to live in peace; that they have given abundant evidence of their disposition to cultivate the friendship of the Barbary regencies, and of himself in particular, and that, if the flag of the United States should be engaged in a war with either of them, it will be a war of defence and necessity, not of choice or provocation. You will also give every friendly explanation and assurance, on this occasion, which may be requisite for the consuls and agents of other Powers residing at Tunis.

You are authorized to inform the Bey of Tunis that a vessel is now preparing to take in the cargo, which will complete the Regalia due to him, and that no time will be lost in getting her on her voyage. The jewels, to the amount of forty thousand dollars, have, as you know, been ordered to be prepared in London. On the 28th December last Mr. King wrote: "I have concluded to take immediate measures to provide the jewels, enumerated in the list furnished by Mr. Eaton. Some of the articles can be soon prepared and sent; others, including the arms and almost all the jewelry, will require a long time to be prepared." If they are essential to the preservation of peace, and the benefits of the treaty with the Bey, they must be yielded to him.

It will be agreeable, both to the humanity of the President and the policy of your situation, to render kind offices to the British, and all others within your consulate; but you cannot be permitted to accept an appointment from any other Government than the United States.

The ship purchased by you, being foreign built, is excluded, by a construction of our laws, from having a Mediterranean pass.

The President has taken into consideration your request of leave of absence, and thinks it might be too injurious to the affairs of the United States, especially during the present critical state of the Mediterranean.

I conclude with enjoining on you the most cordial and respectful communications with Commodore Dale, and the ready assistance of him with all such useful information, and other good offices, as it may be in your power to render, and with offering you my sincere wishes for your success in all your measures for advancing the welfare of our country.

Extract of a letter from James L. Cathcart, Esq. to the Secretary of State, dated

LEGHORN, *July* 2, 1801.

Should we break with the whole of the Barbary States at once, we must have considerably greater force in the Mediterranean. I propose chastising them, one at a time, and pursuing such measures at the Ottoman court as will effectually prevent any coalition taking place injurious to our interest. I not only contemplate the obtaining a permanent and honorable peace, but likewise the dethroning the present Bashaw, and effecting a revolution in favor of his brother Hamet, who is at Tunis, and thereby insure the United States the gratitude of him and his successors: for so long as Joseph the Bashaw lives, our commerce will not be secure. For even allowing that we conclude a peace upon our own terms, the first time our frigates are off their guard, or employed upon other service, his cruisers will capture Americans, in retaliation, for having imposed upon him terms which he may consider humiliating, not reverting to the cause; and that the concessions, which we will certainly force him to make, are merely inflicted as a just punishment for his temerity and breach of faith, and to oblige him to observe his engagements inviolably sacred in future.

I have requested Mr. Eaton to endeavor to ascertain how far said Hamet would be willing to engage in an expedition of that nature, and even should we not succeed in dethroning Joseph, nevertheless his presence on board of Commodore Truxton would strike his brother and adherents with such a panic as could not fail to promote our interests.

Extract of a letter from William Eaton, Esq. to the Secretary of State, dated

ROAD OF TUNIS, *September* 5, 1801.

The enclosures, which I have the honor herewith to forward, will inform Government, as accurately as I have the means, of our actual position and future prospects in regard to Tripoli, one circumstance only omitted, which is a project in concert between the rightful Bashaw of Tripoli, now in exile in Tunis, and myself, to attack the usurper by land while our operations are going on by sea. These two men are brothers; the younger is on the throne, having expelled the elder about eight or nine years ago. The subjects, in general, of the reigning Bashaw, are very discontented, and ripe for revolt: they want nothing but confidence in the prospect of success; this confidence may be inspired by assurances of our determination to chastise this Bashaw for his outrage against the United States. The Bey of Tunis, though prudence will keep him behind the curtain, I have strong reasons to believe will cheerfully prompt the same. He is in favor of the elder brother. The idea of dethroning our enemy, and placing a rightful sovereign in his seat, makes a deeper impression on account of the lasting peace it will produce with that regency, and the lesson of caution it will teach the other Barbary States. These are objects which, to me, seem so clearly within our power that they ought to command exertions. Having begun to coerce Tripoli, it would operate an injury of perpetual duration to relax in these measures.

Extract of a letter from William Eaton to the Secretary of State.

SIR: TUNIS, *December* 13, 1801.

On the 28th October arrived the Danish Commodore Koefoed, and a Consul Holch, five days from Leghorn. The evening of the 2d ultimo they passed at the American house. As the commodore had lately been at Tripoli on a negotiation, it was very natural to inquire of him what seemed to be the general sentiment of the Tripolines respecting the American war. He said it was very unpopular, and that the subjects of the Bashaw, chiefly on this account, were ripe for a revolt; they waited for nothing but succor. They clamor against the madness and oppression of their chief, say he makes war on his friends to the destruction of their little commerce, takes all the plunder to himself, and, in the issue, reduces them to starvation and the loss of friends, without allowing them the wretched consolation to mourn for those friends when slain. They almost unanimously desire the restoration of their rightful sovereign, who is a mild man, of peaceable dispositions; and if he were offered them, with the appearance of determination, they would rise *en masse* to receive him. The commodore gave it as his opinion that the most effectual way of

reducing Tripoli would be to land troops south of the town, on a commanding untenanted position, and raising a cross fire with the bomb-ketches stationed on the north of it; gunboats or floating batteries to be stationed at the same time within the mole, to keep up a direct fire on the town and rear of the castle. He thinks three thousand men an ample force to effect the object contemplated by land; but two heavy pieces of ordnance for battering, and some light artillery to repel the assault of cavalry, would be requisite. Thus it appears that the opinions of the Danish and American commodores correspond very exactly on the subject of necessary operations for reducing Tripoli.

On the position proper for landing stands a considerable forest of date-trees, the fruit of which forms a great article of subsistence to the Moors of the vicinity; apprehension of the destruction of which would bring these people to almost any terms. Their peaceable behavior may be made a condition of its preservation; at the same time, it may serve for cover against cavalry, in case of being hard pushed.

On the morning of the 3d November I received a message from Sidi Mahomet Bashaw, the exile from Tripoli, informing me that his brother, the usurper, had addressed the Dey of Algiers, and begged his mediation to bring about a reconciliation with the American Government, and expressed great solicitude to know whether, in my opinion, the Americans would admit such an intervention. I did not hesitate to give it as my opinion, that my Government, having once been deceived by that Dey, would now seek to establish their peace on a surer base. He then desired to be advised whether he might place any reliance on the operations of the Americans in his behalf. I recommended to him patience and silence; at the same time, gave him leave to entertain the hope (may it not be illusive!) that the next summer's operations would favor his views.

Extract of a letter from A. Murray, Esq. on board the frigate Constellation, at Malta, to William Eaton, Esq. dated

AUGUST 18, 1802.

I have this day had a communication with the legal Bashaw of Tripoli, and offered to take him to Derne, and to aid him in any measures he chose to pursue; but he thinks it will be more to our advantage, as well as his, to go there in an English brig that he hath chartered, and to try what force he can raise there, in as private a manner as possible; after which, in conjunction with the Swedish force, we can further co-operate with him by private signals agreed upon. I am pleased with his candor, and am persuaded, if he get reinstated in his dominions, he will be friendly to us.

Extract of a letter from James L. Cathcart, Esq. to the Secretary of State, dated

LEGHORN, *August* 25, 1802.

During my residence at Tripoli, I had the honor to transmit to the Department of State the history of the reign of Ali Pacha, father of the reigning sovereign of Tripoli, including the different revolutions in that state, an account of the murder of Mohammed Bey, and the dethroning of the rightful sovereign of Tripoli, Hamet Pacha, who, at that period, was under the protection of the Bey of Tunis, but is now at Malta; and, in a supplement, I forwarded some account of the accession to the throne and reign of the present usurper, Jouseph Pacha Caramanli.

From the day of my arrival I conceived it my duty to be particular in forwarding details of the most prominent transactions of that Government, for the information of the President, and spared no pains or expense to procure the best intelligence obtainable. Whether eventually I succeeded or not, I must leave to your candor to determine, which may be ascertained by comparing my communications with the transactions which have since transpired. As the abovementioned papers, as well as my own observation, convinced me that the inhabitants of Tripoli held the present Pacha in the greatest degree of horror imaginable, and of their great desire that Hamet, who was then at Tunis, should again assume the reins of Government, I was left no reason to doubt that, should he ever be able to appear before Tripoli with any considerable force to espouse his cause, the chief inhabitants of that regency would declare in his favor. Indeed, so sensible is Jouseph that his conduct neither merits nor will ever receive their support when any force is opposed to him, that, whenever he goes out of the city, he carries all his treasure and jewels with him, in chests mounted on mules, which are confided to the care of his favorite slaves, who have orders to keep as close to him as possible: nor is he ever accompanied by less than from three to five hundred of his partisans, who are composed of negroes and men of desperate fortune, who would espouse his cause no longer than until his treasure was exhausted, and would then file into the ranks of the best paymaster. For this reason he carries his cash with him, as likewise to enable him to raise a party among the Arabs, should ever his brother's party assume courage sufficient to shut the gates of the city against him, as he did against Hamet, when he treacherously usurped the pachalic.

In my details of the relative situation of Tripoli with other nations, you will observe the many causes the Grand Seignior has had to complain of the arrogance of Jouseph Pacha, and no doubt will join with me in opinion that the war in which he was engaged was the only reason which prevented him from chastising him as he deserved; and that he only waits for a proper opportunity I believe is evident. No act could be more just than the reinstating Hamet Pacha on the throne of his forefathers; and no act could ensure the Grand Seignior a revenge so prompt and efficacious, and attended with so little expense both of blood and treasure; nor so effectually ensure the gratitude and future obedience of Hamet and his family, as well as set a precedent to the other states of Barbary, whose incorrigible insolence has become insupportable at the Sublime Porte, and render an example not only expedient, but absolutely necessary.

Jouseph Pacha, perfectly acquainted with these circumstances, spared no pains to entice his brother Hamet to come to Tripoli, under the specious pretext of giving him the government of the provinces of Derne and Bengasi, but without effect. Hamet would not listen to his proposal, and demanded of his brother to give him up his wife and children, whom he holds as hostages, and to settle a small annuity on him, sufficient to maintain his family, promising that he would then live and die at Tunis.

In the above train were affairs at Tripoli when I left it: and under those impressions, I was induced, in my letter to Mr. Eaton of the 15th of June, 1801, to make the following observations: "I conceive it peculiarly fortunate that Tripoli has broken with us first, as we have it in our power, with a small force, to reduce them to our own terms, and, consequently, to influence the other regencies in our favor, as they would find, by demonstration, that we brook not insults with impunity. Nay, sir, if the Pacha of Tripoli's brother Hamet, who is at Tunis, was a man of understanding and enterprise, I would stake my soul that, with the assistance of four of our frigates, I would effect a revolution in his favor, and place him on the throne of Tripoli, in spite of every obstacle; and thereby ensure the United States the gratitude of him and his successors, besides concluding an advantageous peace." But I must sincerely declare, that, actuated as I was by no other motive than an honest zeal for what I supposed, and continue to suppose, to be the best interest of my country, I at that period thought it a moral impossibility that it would take fifteen months to draw out the energies of an injured nation, or that motives of humanity would so far preponderate in our councils, as to induce us to postpone our vengeance until the barbarity of those miscreants to our unfortunate fellow-citizens would give a latitude, and prescribe the rules of a rigorous retaliation.

In a letter of the 29th of June, I forwarded to Mr. Eaton the outlines of my despatch (No. 8,) dated at Leghorn, July 2d, 1801, wherein I requested him to ascertain how far said Hamet would be willing to engage in an expedition of that nature; to which I received no answer for many months. For particulars, I refer you to the despatch; and you will please to observe the paragraph which commences, "I propose chastising them one at a time, and pursuing such measures at the Ottoman court as will effectually prevent any coalition taking place injurious to our interests."

The measures in contemplation were, to embark the said Hamet on board our commodore's ship, to proceed with

him to Constantinople, to present him to the Grand Vizier, and let him then make use of his own arguments to procure the caftan, or robe of honor; and while he was negotiating for force, which the Grand Seignior undoubtedly means to send against Tripoli, we would have profited by the opportunity to have concluded a commercial treaty with the Sublime Porte, and to have made such arrangements, both there and with Hamet Pacha, as could not fail to inspire those nations with sentiments favorable to our dignity and interests. By procuring the Grand Seignior's sanction to this expedition, it would effectually prevent any coalition taking place unfavorable to our interests; and that the Grand Seignior still intends to revenge the insults he has received, you will be informed by Mr. Nissen's communications, dated Tripoli, April 22d, 1802, forwarded in my despatch (No. 7) of this year.

No material alteration took place until March last, when the usurper, Jouseph Pacha, having succeeded in persuading the Bey of Tunis to deny his protection to his brother Hamet, he was obliged, from mere necessity, to accede to Jouseph's proposal, and actually accepted the offer of the Government of Derne, and embarked on board a Russian ship bound to Malta, (but supposed to have been bound to Derne,) where he arrived the 11th of April.

This change of position by Hamet Pacha induced Mr. Eaton to take the measures which he no doubt has detailed to Government in the amplest manner, and which, had not this event taken place so suddenly, he would not have done until he received the President's instructions; and, so far as those measures have been made known to me, I must do Mr. Eaton the justice to say that they seem to have been judicious, dictated by imperious necessity, and an honest zeal for the success of an enterprise which promised such vast advantages to our country.

Extract of a letter from Commodore Morris to the Secretary of the Navy, dated

ON BOARD THE CHESAPEAKE, GIBRALTAR BAY, *March* 30, 1803.

I have been solicited by agents, or pretended agents, to co-operate with the brother to dethrone the Bey. Their demands have been from fifty thousand to one hundred thousand dollars, ten thousand stand of arms, powder, and some light field-pieces. This I absolutely refused, but consented to bring the ships before Tripoli in June, and to furnish twenty barrels of powder, on condition that I could be satisfied they had authority to admit the United States an equivalent for their aid in the event of success. Their answers were, that we would be permitted to make a favorable treaty. I was by no means satisfied with merely the pledge of these agents; their word was not a sufficient guarantee: and, in the event of our rendering them assistance, I shall take care to have the advantages clearly defined, and as binding as the nature of the case will allow.

Extract of a letter from the Secretary of State to Mr. Cathcart, dated

AUGUST 22, 1802.

According to information given by Mr. Eaton, he has prevailed on the brother of the Bashaw of Tripoli to repair to Malta, with a view to be with our squadron before Tripoli, and to be made use of against the Bashaw. At this distance, it is difficult to judge accurately of the project, or to give particular instructions for the management of it. Although it does not accord with the general sentiments or views of the United States to intermeddle with the domestic controversies of other countries, it cannot be unfair, in the prosecution of a just war, or the accomplishment of a reasonable peace, to take advantage of the hostile co-operation of others. As far, therefore, as the views of the brother may contribute to our success, the aid of them may be used for the purpose. Should this aid be found inapplicable, or his own personal object unattainable, it will be due to the honor of the United States, and to the expectations he will have naturally formed, to treat his disappointment with much tenderness; and to restore him, as nearly as may be, to the situation from which he was drawn, or to make some other convenient arrangement that may be more eligible to him. In case of a treaty of peace with the ruling Bashaw of Tripoli, perhaps it may be possible to make some stipulation, formal or informal, in favor of the brother, which may be a desirable alleviation of his misfortune.

Extract of a letter from the Secretary of State to James L. Cathcart, Esquire, who was first appointed to negotiate a peace with Tripoli, dated

DEPARTMENT OF STATE, *April* 9, 1803.

My last to you was of August 22, 1802. It was then hoped that you would have been successfully engaged in making peace with Tripoli; for which the crisis was peculiarly favorable. The course of circumstances having deprived us of the advantages of this crisis, to which the tenor of your original instructions was adapted, the President has thought proper to review them with an eye to the change in the state of things under which, if peace be still unmade, the negotiations for it must now be carried on; and, considering that the Bashaw is no longer under the domestic distresses which at one time humbled his pretensions, that all the other nations at war with him have yielded to the customary terms of peace; and that the new terms which the concurrent policy of all civilized nations ought to force on those barbarians, would now be pursued by the United States, at very great expense, not only without the co-operation of a single other Power, but in opposition to the example of all, and at a period in different respects critical to their affairs, it is thought best that you should not be tied down to a refusal of presents, whether to be included in the peace, or to be made, from time to time, during its continuance; especially, as in the latter case, the title to the presents will be a motive to its continuance. You are accordingly authorized by the President to admit that the Bashaw shall receive, in the first instance, including the consular presents, the sum of twenty thousand dollars, and at the rate afterwards of eight or ten thousand dollars a year. If these sums can be reduced, you will, of course, avail yourself of the opportunity. But no enlargement of them towards the example of other nations will be admissible; especially if, at the date of the negotiation, none of our citizens should be in captivity. The presents, whatever the amount or the purpose of them, (except the consular present, which, as usual, may consist of jewellery, cloth, &c.) and also the periodical payments, must be made in money, and not in stores. The periodical payments are to be biennial, rather than annual. And the arrangement of the presents is to form no part of the public treaty, if a private promise and understanding can be substituted.

Extract of a letter from the same to Tobias Lear, Esquire, who was afterwards charged with the same negotiation, dated

DEPARTMENT OF STATE, *June* 6, 1804.

Commodore Barron has orders to provide, at a suitable time, for your joining him in order to the negotiating of a peace with Tripoli. *This we hope may now be effected* under the operations and auspices of the force in the hands of that officer, without any price or pecuniary compensation whatever. Should adverse events or circumstances, of which you can best judge, and which are not foreseen here, render the campaign abortive, and a pecuniary sacrifice preferable to a protraction of the war, you are authorized to agree, in the last instance, and in that only, to the terms of peace specified in my letter to Mr. Cathcart of the 9th April, 1803, with such modifications as may be convenient. Of the twenty thousand dollars permitted to be given as the first purchase and consular present, five thousand are

to be retained until a consul for Tripoli, to be commissioned by the President, shall arrive. Should you be able to reduce the terms, as may be expected, you will retain a proportionate sum for this object. On peace being made, you have authority to place at Tripoli a temporary agent to attend to our affairs. For the ransom of the prisoners, if a ransom be unavoidable, you may stipulate a sum not exceeding five hundred dollars for each prisoner, including officers, but deducting from the number in the hands of the Bashaw those promised to Captain Dale, to be released in return for the release of some of the Bashaw's subjects who had been captured by him, and also as many as may be considered an equivalent for the captures of Captain Preble.

A desirable shape to give the ransom money would be an annuity payable in four or five instalments. This rate of ransom must not be yielded, however, without such a change in our affairs, by accident to the squadron, or by other Powers joining against us in the war, as is very unlikely to happen: and you will bear in mind, that the sum of five hundred dollars per man, connected with terms which were otherwise favorable, was the voluntary offer of the Bashaw to Captain Preble in the month of January, prior to the reverse which he has since experienced, and to his knowledge of the force now sent against him.

Of the co-operation of the elder brother of the Bashaw of Tripoli, we are still willing to avail ourselves, if the Commodore should judge that it may be useful; and to engage which, as well as to render it the more effectual, he has discretionary authority to grant him pecuniary or other subsidies, not exceeding twenty thousand dollars; but the less reliance is placed upon his aid, as the force under the orders of the Commodore is deemed sufficient for any exercise of coercion which the obstinacy of the Bashaw may demand. The power of negotiation is confided to you in the first instance, but, in case of accident, it is to devolve on the acting commodore of the squadron.

Extract of a letter from the same to the same, dated

DEPARTMENT OF STATE, *April* 20, 1805.

Upon reviewing the instructions transmitted to you dated 6th June last, nothing in the state and prospect of things which dictated them appears to be changed by subsequent events; unless, indeed, the possibility of any considerable sacrifices being necessary, should be considered as diminished by the spirited attacks made on the enemy by Commodore Preble, and the comparison which will naturally be made of their effect, with what may be expected from a repetition of them when the season opens, with equal animation on a much larger scale. Besides the force we have in the Mediterranean, the President has directed the following reinforcements, which will appear at the rendezvous, at or not long after your receipt of this communication, viz:

The frigate John Adams, with 32 guns, (all on board, but not mounted,) 600 men, will sail early in May.

Gunboats Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10.

No. 2 will have one long 32 pound cannon; No. 3, two long 24 do.; No. 4, two 32 do.; No. 5, two 32 do.; No. 6, two 32 do.; No. 7, two 32 do.; No. 8, two 32 do.; No. 9, two 32 do.; No. 10, two 32 do.

Each gunboat will have about 20 men on board, and will sail by the 1st of May.

Two bomb vessels, to be fitted out at Boston, with 13 inch mortars, and will probably sail about the 1st of June.

The Ceres, a provision ship, has lately sailed from Baltimore, with provisions and military stores for the squadron. The Ann, another provision ship, is now on the eve of sailing from Baltimore. She also has provisions and military stores on board for the squadron. A vessel from Washington will sail in all May, with spars, beef, bread, powder, &c. for the squadron.

Copy of a letter from the Secretary of the Navy to William Eaton, Esquire.

MAY 30, 1804.

SIR:

Herewith you will receive an appointment as navy agent for the several Barbary regencies.

You will receive instructions from, and obey the orders of, Commodore Barron; and will render to our squadron in the Mediterranean every assistance in your power.

As a compensation for your services, you will be allowed at the rate of twelve hundred dollars per annum, and the rations of a lieutenant in the navy of the United States.

I am respectfully, &c.

R. SMITH.

To all who shall see these presents—greeting:

Know ye, that reposing special trust and confidence in the zeal, fidelity, and abilities of William Eaton, I do hereby appoint him agent of the Navy Department of the United States of America, for the several Barbary regencies.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the Navy Department of the United States of America, at the city of Washington, this 26th day of May, 1804.

R. SMITH, *Secretary of the Navy.*

Registered—CH. W. GOLDSBOROUGH, *Chief clerk of the Navy Department.*

Extract of a letter from the Secretary of the Navy to Commodore Samuel Barron.

JUNE 6, 1804.

With respect to the ex-Bashaw of Tripoli, we have no objection to your availing yourself of his co-operation with you against Tripoli, if you shall, upon a full view of the subject, after your arrival upon the station, consider his co-operation expedient. The subject is committed entirely to your discretion. In such an event you will, it is believed, find Mr. Eaton extremely useful to you.

Col. Tobias Lear, our Consul General at Algiers, is invested by the President with full power and authority to negotiate a treaty of peace with the Bashaw of Tripoli, and also to adjust such terms of conciliation as may be found necessary with any of the other Barbary Powers. He is, therefore, to be conveyed by you to any of these regencies, as he may request of you, and you will cordially co-operate with him in all such measures as may be deemed the best calculated to effectuate a termination of the war with Tripoli, and to ensure a continuance of the friendship and respect of the other Barbary Powers.

Commodore Barron to Captain Hull.

SEPTEMBER 13, 1804.

SIR:

The state and condition of the Argus, under your command, requiring that she should go into port for the purpose of refitting, &c. I request you to proceed with all practicable expedition to Malta, or Syracuse, and there refit your vessel, which being completed, you will take on board two months' provisions and water, and proceed for the port of Alexandria, and if at that port or Smyrna you find any American vessels, you will give them convoy as far as Malta, and immediately after join the squadron off this place.

You will take under your care the ship St. Michael, intercepted by the squadron, in the attempt to enter the blockaded port of Tripoli. You will find Commodore Preble at Malta or Syracuse, with two other ships, captured in making the same attempt. You will receive his orders with respect to the disposition of the St. Michael, cause all her papers to be delivered to him, and furnish him with all the information you may be able to gain from her crew, &c. on your passage. You will inform the commanders of vessels you may find at Syracuse that I shall be off Tripoli."

Verbal orders of Commodore Barron to Captain Hull of the United States brig Argus, in presence of the undersigned, on board the President.

SEPTEMBER 15, 1804.

SIR:

The *written orders* I here hand you, to proceed to the port of Alexandria or Smyrna, for convoying to Malta any vessels you may find there, are intended to disguise the real object of your expedition, which is to proceed with Mr. Eaton to Alexandria, in search of Hamet Bashaw, the rival brother, and legitimate sovereign of the reigning Bashaw of Tripoli; and to convey him and his suite to Derne, or such other place on the coast as may be determined the most proper for co-operating, with the naval force under my command, against the common enemy; or, if more agreeable to him, to bring him to me before Tripoli.

Should Hamet Bashaw not be found at Alexandria, you have the discretion to proceed to any other place for him, where the safety of your ship can be, in your opinion, relied upon.

The Bashaw may be assured of the support of my squadron at Bengazi or Derne, where you are at liberty to put in, if required, and if it can be done without too great risk. And you may assure him also, that I will take the most effectual measures with the forces under my command, for co-operating with him against the usurper, his brother, and for re-establishing him in the regency of Tripoli. Arrangements to this effect are confided to the discretion with which Mr. Eaton is vested by the Government.

Attest: ISAAC HULL.
WILLIAM EATON.

Extract:—Mr. Eaton to Captain Hull.

GRAND CAIRO, *January* 8, 1805.—3 P. M.

Scarcely had my letter of this morning gone off by your courier express, when a letter from Hamet Bashaw came to hand, of which the following is a copy, by translation:

"Thanks be to him to whom gratitude is due. To our friend, and the very good friend of our highness, the American agent, Mr. Eaton.

"We have received your letter, and after having understood the contents, we gave thanks to God for having preserved your health. Know that I am ever the same as you knew me at Tunis; my friendship is constant and uniform: but you have been tardy. We must, however, make this delay subserve a good purpose.

"From the date of the present, I shall leave this for Behera, and shall there take quarters at the house of the Arab chief Abdelgiver el be Kourchi, where I propose to you to meet me. I have written to my subjects, and to my minister Mahmoud Kogea, and also the governor of police, Muhammed, son of Abdulrahmen, that they may treat with you; and whatever you conclude with them will be ratified by me. Your operations should be carried on by sea, and mine by land. And may God assist us to re-establish peace and harmony. The 28th Namadan, 1219.

"HAMET BASHAW, *son of Ali Bashaw Caramalli.*"

The date of the Bashaw's letter corresponds with the 3d inst. The place of meeting about eight hours' march from Alexandria, so that he will probably arrive thither before we can with you.

Captain Bainbridge to George Davis, Esq. at Tunis.

TRIPOLI, *January* 27, 1805.

SIR:

I have been anxiously expecting to hear from you, and to receive some information on the determination of our Government. Not one word on that subject have I yet heard. I am anxiously expecting letters from Commodore Barron. I believe the Bashaw is very desirous of peace, and has great apprehensions of the intended attack; and was a negotiation to be attempted, I think it very probable that it would succeed, for the apprehension of the attack might have as great an effect as the attack itself; and should the attack prove unsuccessful, he will no doubt continue in demanding a considerable sum. As I am quite ignorant of the force that will be brought against this place, I cannot give any opinion of the probable effect it may have. We offer our most fervent prayers that the greatest success may attend it. I cannot say what the Bashaw's demand will be, but I believe he would take at this moment much less than what he demanded of Commodore Preble last August. Our funds are all exhausted, and bills on Tunis are at a great exchange against the drawer. Pray, have you heard of Eaton? In your next, which I anxiously expect soon, I shall receive a great deal of news, I hope. I assure you, was it not for our friend, Mr. Nissen, we should suffer considerably for necessaries in our close confinement; but he is a friend in need, of course, a friend indeed.

P. S. By the Danish consul. The Bashaw is now very attentive upon your transactions with his brother in Alexandria. A camp is going against Derne. Give me leave to tell you that I have found your plan with the Bashaw's brother very vast, and that you sacrifice your prisoners' lives here in case of success.

Extract:—William Eaton, Esq. to the Secretary of the Navy.

ALEXANDRIA, *February* 13, 1805.

The letters which have passed between Captain Hull and myself, copies of which are herewith annexed to a duplicate of that I had the honor to address you on the 13th December, convey a detail of our transactions since that date. The apprehensions then entertained of impediments on the part of the Mameluke Beys were just. The

Bashaw separated himself from them with his suite, immediately on receiving my first letter from Cairo, and repaired to Fiaum, neutral province: but the evening of his departure thirty Arab chiefs were put in chains by the Mameluke Bey Osman Bey Berdici, to prevent their following him with their tribes. Of four copies of the viceroy's letter of amnesty, which I despatched by different conveyances, not one reached him. Three mattees, in disguise of Arabs, charged with one of them, entered the Mameluke camp, were arrested, the packet taken from them, and they sentenced to death. They intoxicated the sentinel, who was an European renegado, and escaped to Fiaum, by whom the Bashaw obtained the first information of that act of grace, and it was not till he joined me at Demanhour that he first saw the letter. This has delayed our measures and given us embarrassments. My three enterprising mattees are with me, but we have no returns from any of the other three couriers.

The Bashaw had already determined to take the desert of Liby to Derne, giving for his reason, which I think a sound one, that, by taking shipping and separating himself from the Arabs, they would lose all patience if not confidence also, and abandon his cause. He has consequently moved round the lake and will to-morrow take his station at Arabs Ton, thirty miles westward of the old port of Alexandria, where I am to join him with a detachment from the city, next Sunday, and proceed with him to Bomba, at the head of five hundred men, and there take post. Meantime Captain Hull repairs to the rendezvous for suitable reinforcements and supplies to secure an establishment at Derne and Bengazi. Those provinces in our possession will cut off from the enemy and turn into our own channel a source of provisions, and will open a free intercourse with the interior of the country. I have requested of the commodore, for this purpose, a hundred stand of arms with cartridges, and two brass field-pieces with trains and ammunition, and also a detachment of one hundred marines, if necessary, to lead a *coup de main*.

I calculate the whole expenditure of cash in this expedition, including expenses in Egypt, will amount to twenty thousand dollars. Further disbursements and supplies will be necessary to carry this plan into final effect. But to indemnify the United States, I have entered into a convention with Hamet Bashaw to pledge the tribute of Sweden, Denmark, and the Batavian republic; which convention I shall reduce to writing and forward by Captain Hull, if time permit; otherwise by the earliest occasion.

Day before yesterday, an envoy arrived in a ketch from Jussuf, Bashaw of Tripoli, to the Governor and admiral of this place, for the express purpose of prevailing on them to stop Hamet Bashaw from going out of the country. Intelligence of our having left Syracuse for this place, with a view of taking him away, was conveyed to the enemy by a resident at Malta, known by the name of Soluquet H. Conte Gallini. I do not know his real name. The agent made great promises, in the name of his master, to those Turkish commanders: but perceiving they seemed not to have full faith in his assurances he resorted to the sensibility of their compassion; said, "if Hamet Bashaw was permitted to return, Jussuf must fly the kingdom or lose his head. The subjects of Tripoli were getting weary of the war with these new infidels; they could not learn from their movements their intentions, and were attacked unaware: the Bashaw believed he could resist them upon his batteries; but if they made a descent with his brother, his people would all leave him." This statement comes from the private secretary of the Governor, who is secured in our interest, who heard the cause of Jussuf Bashaw argued before the Governor and admiral. I do not learn what effect it has taken, but if the client has not the means of touching a more sensible nerve than a Turk's pity, his case is forlorn. At any rate we are secure against his influence by the secure position we have taken. Except, therefore, some unforeseen accident thwart us, my next will be dated at Bengazi. The Arabs and Moors are universally with us, and, if we had the means of subsistence, we might march twenty or thirty thousand from the borders of Egypt, who from time to time have taken refuge here since the usurpation of Jussuf Bashaw.

Extract:—Mr. Eaton to Commodore Barron.

ALEXANDRIA, *February* 14, 1805.

I calculated to leave this on Sunday, and in two days after to proceed on our march with Hamet Bashaw to Bomba, by the desert, where it is hoped we shall meet reinforcements, and supplies sufficient to secure positions at Derne and Bengazi. This, we are of opinion, will require two additional small vessels and a bomb ketch. A gunboat also would be useful, if the navigation at this season should not be thought too hazardous. Two brass field-pieces, four pounders, with their trains and ammunition, and one hundred stand of arms, with carriages, will be requisite. And, to place the success of the expedition beyond the caprice of incident, one hundred marines, with bayonets, should be at hand to lead a *coup de main*, in case of necessity. By the time we shall have arrived at Bomba, I shall have disbursed about ten thousand dollars, which we have taken up on credit of Messrs. Briggs and Brothers, four thousand dollars of which sum Captain Hull has drawn bills on Malta and London: the balance we have promised shall be sent up in one of the small vessels. Ten thousand dollars more at least will be necessary to accomplish our views on Derne and Bengazi. The Bashaw assures me he will be able immediately to refund these sums when established in those provinces. And to indemnify the United States for all expenses, arising out of a co-operation with him, he pledges the tribute of Denmark, Sweden, and the Batavian republic, in case of recovering his throne, which may be calculated upon as a certain event, if measures to that effect are supported by suitable energy and address. He engages also to release to you, without ransom, Captain Bainbridge, his officers, and all American prisoners who may be in captivity at Tripoli; to stipulate with the United States a permanent peace, without tribute, and on the footing of the most favored nation. He engages that, in case of future war, captives shall be treated as prisoners, and not as slaves, and subject to reciprocal exchange. He will surrender the enemy and his family and chief admiral into our hands, in case he does not escape by flight, to be held as hostages. And he agrees to deliver up to you, if required, all vessels of war, which shall have been employed against the United States by Jussuf Bashaw.

In consideration of the friendly offices of His Majesty the King of the two Sicilies towards the squadron of the United States, Hamet Bashaw invites His Majesty to renew with him their ancient friendship, and proffers to him a peace on the same footing as that to be stipulated in his convention with the United States. If time and circumstances admit, we shall reduce this convention to writing, and forward copies by Captain Hull; otherwise it will be done at Bomba. At the invitation of the Bashaw and divan, and in conformity to the sentiments expressed to me by the Secretary of the Navy, I have taken on myself the command in chief of the Bashaw's army, and the direction of all operations by land, and I cannot but flatter myself we may realize success of our expectations on this coalition, and that you will have the glory of carrying the usurper a prisoner in your squadron to the United States, and of relieving our fellow citizens from the chains of slavery without the degrading condition of a ransom.

Captain William Bainbridge to Commodore Samuel Barron.

DEAR SIR: BARBARY, TRIPOLI, *March* 16, 1805.

I am acquainted that Sidi Muhammed Dghies, Minister of Foreign Affairs to his excellency the Bashaw of Tripoli, has written to you on a certain subject. The minister has been much indisposed for several months past with an inflammation in his eyes, and Dr. Ridgely, our surgeon, has done every thing for him in his power, without its having the desired effect. For the many obligations which myself and officers are under to the minister, I wish it may be agreeable to you to render him some aid through one of the surgeons of your squadron. Permit me to observe, that whatever Sidi Muhammed Dghies, or my worthy friend Nicholas C. Nissen, Esq. his Danish Majesty's consul in this place, writes to you on the subject, will, in my opinion, merit your attention; for from my knowledge of the friendly disposition of the minister, I have reason to believe that his assertions are founded on candor. It is unnecessary for me to say more, as you no doubt will fully comprehend me.

I have the honor to be, &c.

SIR: This day Sidi Muhammed Dghies sent for me, and informed me in confidence that he had written to you recommending a person to come here to negotiate, and he requested me to write a letter nearly in the obscure manner that I have done, that, in case of discovery, it would not be intelligible, or would be foreign to the subject. I really believe that the minister is sincerely desirous for peace; for, exclusive of his pacific disposition, it is greatly his interest to have it; and was a person to come here and remain a few days, I have no doubt but that peace would be effected on the terms that Commodore Preble offered. At all events, it would have the happy effect of making the Bashaw's subjects clamorous, as they would then see that America had the disposition to make peace, and that the Bashaw was the cause of their not having it. The houses here are of stone and mud, and badly furnished; of course the damage in bombarding will not be as great as if it was otherwise. Permit me, my dear Barron, to make one observation, that is, to reduce the Bashaw to moderate terms I suppose is the object of our Government; and your expectation to release us from captivity without paying is, in my opinion, impossible without land forces, and I hope that our country will not think that it is the subject of peace they pay for, but for the liberty of their unfortunate citizens, fell captives in its service; and it may be assured that whatever is paid, no Tripolitan, from what they have experienced from the Americans, will consider one farthing of it as purchasing the friendship of Tripoli. In my letters of yesterday, I gave you some information about Mr. Beaussier. I candidly believe that any person might come here with the greatest safety, and you may be assured that an American will answer much better than any Frenchman or any other countryman. The minister has great influence with the Bashaw, and is doing all that he can to bring him to peace on moderate terms. I know that you will do me the justice to believe that all my representations are for the good of our cause.

Yours truly.

The Danish Consul to Commodore Barron.

TRIPOLI, *March* 18, 1805.

SIR:

The Bashaw's Minister Sidi Mahomet Dghies, personally desirous of a re-establishment of peace with the United States of America, and wishing to contribute whatever may be in his power to the conclusion of it, has requested me, sir, in his name to address you this letter.

Sidi Mahomet Dghies is convinced that you are informed of his endeavors in 1801 to prevent the declaration of war; he alone opposed the general opinion of the divan in this respect. The letters of Mr. Cathcart, late Consul for the United States, at Tripoli, to his Government, at that time will bear testimony of this fact.

The war having nevertheless been declared, nothing has since been omitted by Sidi Mahomet Dghies that could contribute to the conclusion of peace.

Sidi M. Dghies has personally too much interest in the undisturbed tranquillity and security of the trade of Tripoli, not to avail himself of every means that could be conducive to what has been his interest and constant desire. In this moment, he wishes to prevent further hostilities; the state of his health, his family, and his private concerns, are so many reasons for him to endeavor to persuade both parties to come to an agreement; he is certain that these are likewise your wishes, sir, and the intention of your Government. The situation, besides, of your unfortunate countrymen here, which Sidi M. Dghies has endeavored to alleviate as much as it has been in his power, is nevertheless such that they and their relations in America cannot but look upon it as an act of humanity to accelerate the conclusion of a peace that again can restore them to their country. Sidi M. Dghies is desirous of a peace, and he wishes that a negotiation should be renewed before the commencement of any direct hostilities against this place. His health, and particularly the state of his eyes, will oblige him to retire with his family in a short time to the country, and will not permit him again to return to town at any future overture, or negotiation of peace, and he is afraid that, being absent, he shall not be able so easily to suscitate in the mind of the Bashaw equal peaceful sentiments with his own. A negotiation entirely by letters is tedious and difficult; to negotiate by a person sent on shore from a ship of war, (and who returns again on board after a short stay, and maybe after a momentary interview with the Bashaw,) has many difficulties; and proves often more detrimental to a negotiation than productive of a peace. Sidi M. Dghies don't think it necessary to enlarge upon the difficulties that attend this way of negotiating and their cause; you cannot, sir, but be aware of them yourself; he proposes, therefore, as the most effectual manner of conducting a negotiation of peace, to send to Tripoli a person properly authorized and furnished with instructions. Whoever shall be sent can be assured of the most perfect inviolability. Should his and Sidi M. Dghies' earnest endeavors to re-establish peace prove successful, the business is thereby naturally brought to a happy conclusion; should it, however, unfortunately prove otherwise, the negotiator will have liberty to return free from molestation of any kind, and in what manner he may judge convenient.

You will please, sir, yourself to fix upon the securities you may require for the faithful observance of these conditions, in case you shall think proper to agree to these proposals, and whenever you in answer to this letter may request the admission of a negotiator.

After having, in this manner candidly and confidentially stated to you, sir, his mind, Sidi M. Dghies hopes to have precluded every suspicion of his peaceful intentions, and convinced you that every facility will be shown for a mutual satisfactory conclusion of peace; he don't believe it necessary to observe, that a sincere and lasting peace is at any time preferable even to a successful war; that war has many chances, and that often unforeseen accidents occasion losses, however prudent the measures were taken to assure success.

That Sidi Mahomet Dghies has requested me to write you, sir, in his name, this letter, and that the contents have been faithfully translated, I have no doubt but that you will readily give credit, but give me likewise leave to assure you, sir, that I, in case I did not myself believe the sentiments contained in this letter sincere, would have excused myself from putting them to paper, and in this persuasion I shall consider it as a very favorable circumstance for me, if I have been found any way instrumental to the means of bringing about a peace between the United States of America and the Bashaw of Tripoli, and of procuring the liberty of your unfortunate countrymen here; having the honor to be, with the greatest respect, sir, your obedient humble servant,

N. C. NISSEN,
His Danish Majesty's Consul for Tripoli in Barbary.

Captain Bainbridge to Commodore Barron.

BARBARY, TRIPOLI, *March* 22, 1805.

DEAR SIR:

I wrote you on the 16th instant respecting a certain subject; since then I have seen the letter alluded to in mine of that date, and I believe the sentiments contained in it merits the credit of veracity, and if experimented, I trust will be found satisfactory to you. If Commodore Preble did receive a letter last summer from a certain person here, he no doubt gave it to you, from which you can form some opinion of the present subject. I have not had the pleasure to hear from you since October last; am in daily expectation of it. The crew here are in great want of clothing.

Believe me to be, sir, with sincere esteem, &c.

Captain Bainbridge to Commodore Barron.

DEAR BARRON: MARCH 22.

In one of my letters of this month I have mentioned that I had heard that Sidi Muhammed Dghies, Minister of Foreign Affairs to the Bashaw, had requested Mr. Beaussier the French consul in this place, to inform Commodore Preble, that if a person would come here and remain a few days on shore, that peace would be effected for one

hundred and fifty thousand dollars. This day the said minister in confidence told me that he did thus request Mr. Beaussier, but does not know if Commodore Preble received the information. I have not the least doubt, that was a person to come here to negotiate before an attack is made, that peace would be effected for one hundred and twenty thousand dollars, and if the attack should not prove very successful, it is very probable that such a sum would not release us from captivity, at least for some time. Apprehension is often worse than realization. I sincerely hope that a person will come, because I think it the most favorable moment, and I candidly believe that any person might come with the greatest safety. It will be best, in my opinion, to ask for the guaranty of the Danish or French consul, and in that case I think it probable that they would give the Danish, which I should much prefer, as I know him to be a man of unquestionable intregrity; the other I have not the highest opinion of. The Danish consul has already gone very great lengths to serve us, and you may be assured that he can be trusted as a man of the strictest honor. His compliance with the minister's request to write to you is purely actuated by the desire to serve us.

Your sincere friend, &c.

Convention between the United States of America and His Highness Hamet Caramanly, Bashaw of Tripoli.

GOD IS INFINITE.

ARTICLE 1. There shall be a firm and perpetual peace and free intercourse between the Government of the United States of America and His Highness Hamet Caramanly Bashaw, the legitimate sovereign of the kingdom of Tripoli, and between the citizens of the one and the subjects of the other.

ART. 2. The Government of the United States shall use their utmost exertions, so far as comports with their own honor and interest, their subsisting treaties, and the acknowledged laws of nations, to re-establish the said Hamet Bashaw in the possession of his sovereignty of Tripoli, against the pretensions of Joseph Bashaw, who obtained said sovereignty by treason, and who now holds it by usurpation, and who is engaged in actual war against the United States.

ART. 3. The United States shall, as circumstances may require, in addition to the operations they are carrying on by sea, furnish the said Hamet Bashaw, on loan, supplies of cash, ammunition, and provisions, and if necessity require, debarkations of troops; also to aid and give effect to the operations of the said Hamet Bashaw, by land, against the common enemy.

ART. 4. In consideration of which friendly offices, once rendered effectual, His Highness Hamet Caramanly Bashaw engages, on his part, to release to the commander-in-chief of the forces of the United States, in the Mediterranean, without ransom, all American prisoners who are, or may hereafter be, in the hands of the usurper, said Joseph Bashaw.

ART. 5. In order to indemnify the United States against all expense they have or shall incur, in carrying into execution their engagements, expressed in the second and third articles of this convention, the said Hamet Bashaw transfers and consigns to the United States the tribute stipulated by the last treaties of His Majesty the King of Denmark, His Majesty the King of Sweden, and the Batavian republic, as the condition of peace with the regency of Tripoli, until such time as said expense shall be reimbursed.

ART. 6. In order to carry into full effect the stipulation expressed in the preceding article, said Hamet Bashaw pledges his faith and honor faithfully to observe and fulfil the treaties now subsisting between the regency of Tripoli and their Majesties the Kings of Denmark and Sweden, and with the Batavian republic.

ART. 7. In consideration of the friendly disposition of His Majesty the King of the Two Sicilies towards the American squadron, His Highness Hamet Bashaw invites His said Sicilian Majesty to renew their ancient friendship, and proffers him a peace on the footing of that to be definitively concluded with the United States of America, in the fullest extent of its privileges, according to the tenor of this convention.

ART. 8. The better to give effect to the operations to be carried on by land in the prosecution of the plan, and the attainment of the object pointed out by this convention, William Eaton, a citizen of the United States, now in Egypt, shall be recognised as general and commander-in-chief of the land forces which are or may be called into service against the common enemy; and His said Highness Hamet Bashaw engages that his own subjects shall respect and obey him as such.

ART. 9. His Highness, said Hamet Bashaw, grants full amnesty and perpetual oblivion towards the conduct of all such of his subjects as may have been seduced by the usurper to abandon his cause, and who are disposed to return to their proper allegiance.

ART. 10. In case of future war between the contracting parties, captives on each side shall be treated as prisoners of war, and not as slaves, and shall be entitled to reciprocal and equal exchange, man for man, and grade for grade; and in no case shall a ransom be demanded for prisoners of war, nor a tribute required, as the condition of peace, neither on the one part nor on the other. All prisoners on both sides shall be given up at the conclusion of peace.

ART. 11. The American consular flag in Tripoli shall for ever be a sacred asylum to all persons who shall desire to take refuge under it, except for the crimes of treason and murder.

ART. 12. In case of the faithful observance and fulfilment on the part of His Highness, said Hamet Bashaw, of the agreements and obligations herein stipulated, the said commander-in-chief of the American forces in the Mediterranean engages to leave said Hamet Bashaw in the peaceable possession of the city and regency of Tripoli, without dismantling its batteries.

ART. 13. Any article suitable to be introduced in a definitive treaty of peace between the contracting parties, which may not be comprised in this convention, shall be reciprocally on the footing of the treaties subsisting with the most favored nations.

ART. 14. This convention shall be submitted to the President of the United States for his ratification. In the mean time there shall be no suspense in its operations.

Done at Alexandria, in Egypt, February 23, 1805, and signed by said Hamet Bashaw, for himself and successors, and by William Eaton, on the part of the United States.

Additional article, secret.

His Highness Hamet Bashaw will use his utmost exertions to cause to surrender to the commander-in-chief of the American forces in the Mediterranean the usurper Joseph Bashaw, together with his family, and chief admiral called Maurad Rais, alias Peter Lisle, to be held by the Government of the United States as hostages, and as a guaranty of the faithful observance of the stipulations entered into by convention of the 23d February, 1805, with the United States, provided they do not escape by flight.

[TRANSLATION.]

Hamet, Ex-Bashaw of Tripoli, to Commodore Samuel Barron.

DEAR AND ESTEEMED:

I have to inform your excellency of my perfect health, and to express my sincere wishes for yours. I beg you to be assured of the high regard and consideration which I entertain for your excellency, and I hope that by the assistance of the Divine Being I shall shortly be at Tripoli, my city, to drive from thence my perfidious enemies.

I make known to you the arrival of Mr. William Eaton, my general di campo, and that we have agreed upon a plan of co-operations, which I have no doubt will lead to that success which we both desire. Said Mr. Eaton begged me to come to Syracuse, in order to confer with your excellency, and to form a personal acquaintance with you. I must inform you, my worthy and esteemed friend, that time does not allow me to cross the sea, and that I am too much occupied with my camp, consisting of infantry and cavalry, and would not leave them for the acquisition of the world. With the present, I send you my secretary of state, named Mahumed, as my proper representative, to treat in my stead, whom I beg you will receive, and I trust your ideas will be similar with regard to the object we have in view.

My dear friend, you must know that I am already on my march, with my camp, and I earnestly solicit you to send me as speedily as possible the following succors, of which I stand greatly in need, viz: powder, field artillery, muskets, money, and a few soldiers. These once arrived, we are agreed with Mr. Eaton on the plan explained in his letter; and further, as provisions of all kinds are very scarce in Barbary, I beg you will send some likewise. I hope that, in the course of about fifty days, we shall form a sytem of co-operation at Misurat. My dear friend, consider me in all things as your son, and that my kingdom shall be always as your own.

I salute you with cordial regard, and remain, &c.

[Seal of Hamet Bashaw.]

The Commander-in-chief of the squadron of the United States of America in the Mediterranean to the Illustrious Hamet Bashaw, &c.

EXCELLENCY: MALTA, *March* 22, 1805.

By the hands of your secretary Mahumed who arrived in safety at this place on board the brig Argus, I received your excellency's letter, which has been interpreted to me. I thank you, with sincerity, for your expressions of kindness and regard towards me, and am happy that your excellency remains in good health. With great satisfaction I have received from Mr. Eaton the intelligence of your junction with him, and of the measures you had adopted to commence your march towards Bomba. No sooner did I receive this intelligence, than I made every exertion to collect the succors required in your letter; and I now send you my faithful and worthy Captain Hull, with the Argus brig and a sloop under her convoy, loaded with provisions and stores. I have not been able to procure the field artillery you ask, at this place, but I despatched a frigate to Sicily, where I hope to obtain it. As soon as it arrives, no time will be lost in sending it on the coast. I hope Captain Hull will find your excellency and your army in safety and health, and that your measures so far may have been propitious to our cause.

I have written very fully to Mr. Eaton, to whom, and to Captain Hull, I refer your excellency for further information, and with my most ardent wishes for your individual prosperity, as well as the success of the enterprise in which you are engaged,

I have the honor to remain, &c.

SAMUEL BARRON.

Commodore Barron to William Eaton, Esq.

MALTA, *March* 22, 1805.

SIR:

By Captain Hull, who arrived in this harbor with the United States' brig Argus under his command, on the 10th instant, I received your favors addressed to me, together with communications for the Secretary of the Navy, and copies of the correspondence betwixt yourself and Captain Hull, relative to your proceedings from your arrival in Egypt until his departure from thence; also, by the hands of Mahumed, secretary, a letter from his excellency Hamet Bashaw, announcing his junction with you; all which I have perused with an attention and deliberation which the important and interesting nature of their contents demands. I cannot but applaud the energy and perseverance that has characterized your progress through a series of perplexing and discouraging difficulties, to the attainment of the object of your research, an attainment which I am disposed to consider as a fair presage of future success.

On receipt of these communications, by Captain Hull, I did not lose a moment in making the necessary arrangements for sending you succors, and I now despatch the Argus brig, with the Hornet sloop under her convoy, carrying a variety of stores and provisions, according to the accompanying list. Captain Hull will shape his course for Bomba direct, where he calculates on finding you, with the Bashaw and his army, and where he supposes you will make a stand. I have directed him to deliver these stores to you, to be applied as your discretion may direct. He has also under his charge a sum in specie, amounting to seven thousand dollars, which is likewise to be placed at your disposal. By the time these vessels establish a communication with you, you will have been enabled to form a correct opinion as to the prospect of ultimate success, and thence to estimate the advantages likely to result to our affairs from this co-operation, and by this opinion you must be guided in the application of the succors. Should you have encountered unexpected difficulties and obstacles, which places the chances of success upon more than precarious ground, your own prudence will suggest the propriety of not committing these supplies, and the money, uncontrolledly to the power of the Bashaw: indeed, in the point of view in which I regard the measures already pursued, as well as the subject of co-operation generally, I conceive we ought to tread with the utmost caution. It is far from my wish, sir, to damp your ardor, or that of your companions in arms, by laying too great a stress upon the cold maxims of prudence, whereby the tide of success is often lost; something, I am aware, should always be left to fortune in enterprises of this nature; but I must own there are certain things expressed in your despatches, which, when brought to the test of my instructions from home, give birth to feelings of doubt and uneasiness: these I deem it incumbent on me to point out to you with candor and explicitness, in order that we may be fully understood. You must be sensible, that, in giving their sanction to a co-operation with the exiled Bashaw, Government did not contemplate the measure as leading, necessarily and absolutely, to a reinstatement of that prince in his rights on the regency of Tripoli. They appear to have viewed the co-operation in question as a means which, if there existed energy and enterprise in the exile, and attachment to his person on the part of his former subjects, might be employed to the common furtherance and advantage of his claims and our cause, but without meaning to fetter themselves by any specific and definite attainment as an end, which the tenor of my instructions, and the limited sum appropriated for that special purpose, clearly demonstrate. I fear, by the convention you were about to enter into with Hamet, and by the complexion of other measures, that a wider range may have been taken than is consistent with the powers vested in me for that particular object. These apprehensions may, perhaps, prove groundless on further representations from you; but, under my present impressions, I feel it my duty to state explicitly, that I must withhold my sanction to any convention or agreement committing the United States, or tending to impress upon Hamet Bashaw a conviction that we have bound ourselves to place him upon the throne. The consequences involved in such an engagement cannot but strike you forcibly, and a general view of our situation, in relation to the reigning Bashaw and our unfortunate countrymen in Tripoli, will be sufficient to mark its inexpediency. I shall consider it my duty, as it is certainly my inclination, to afford you every aid compatible with the authority vested in me, and commensurate with the means which have been placed at my disposal, and you may rely on the most active and vigorous support from the squadron, as soon as the season and our arrangements will permit us to appear in force before the enemy's walls; but I wish you to understand that no guarantee or engagement to the exiled prince, whose cause, I must repeat, we are only favoring as an instrument to our advantage, and not as an end in itself, must be held to stand in the way of our acquiescence to any honorable and advantageous terms of accommodation which the reigning Bashaw may be induced to propose: such terms being once offered and accepted by the representative of Government appointed to treat of peace, our support to the ex-Bashaw must necessarily cease.

You will not, however, conceive that these considerations, important and necessary as they are, ought to induce us at once to abandon the benefits which the measures you have adopted seem to promise. I conceive a perseverance in these by no means incompatible with a total freedom from any trammels with respect to a definite object; which freedom I deem it all important to preserve, especially when I view the peculiar situation in which Captain Bainbridge and his fellow sufferers may be placed by this co-operation. If, by your energy and exertions, added to the supplies now sent forward, you succeed in getting possession of Derne and Bengazi, we may calculate, that, having received this impulse from our strength, the Bashaw will himself possess sufficient energy, courage, and talents, and, if accounts are correct, sufficient interest among the people, to move on with firm steps, and to conduct his friends and followers to the gates of Tripoli. Every support will, of course, be given to him by a systematic union of operations with the squadron, so as to enable him to get in the rear of the town; but should he be found deficient in those qualities, or that it appears we have been deceived in regard to the disposition of the inhabitants, he must be held as an unfit subject for further support or co-operation. I beg leave to mention to you, that, as we are short of officers, the services of all will be wanted on board the respective ships, as soon as we enter upon offensive measures. Should you conceive, however, that any serious disadvantage may result from withdrawing those with you, I have no objection to their remaining as volunteers; but it is impossible for me to comply with your requisition for one hundred marines to be sent to the coast. Such a step, in the present posture of affairs, far exceeds my powers; and, besides, as we are rather short of hands, I could not feel myself justifiable in detaching so considerable a force from the squadron. I have not been unmindful of your requisition for field artillery, which, I think with you, is essential, but here it was impossible to procure it; I therefore despatched, some days since, the Congress frigate to Messina, where I hope to obtain four field-pieces complete for service, and as soon as they arrive they will be sent to the coast, with the necessary ammunition. As I am still too unwell to write you with my own hand, I must refer you to Captain Hull, in whose judgment and discretion I have the fullest confidence, for information on several collateral points, and for my sentiments on others. In this letter I have endeavored to explain, as clearly as possible, what are my ideas with respect to the wishes and intentions of our Government, and what I feel to be the extent of my authority, relative to the co-operation with Hamet Bashaw. I reiterate my fixed resolution to afford you every support and assistance which are consistent with the powers and resources vested in me; adding, at the same time, my dissent from any guarantee, covenant, or engagement, by which the United States may stand committed, to place the exiled prince on the throne, or any condition which militates against the most perfect and uncontrolled power of choice and action, in concluding a pacification with Jussuf Bashaw, should he offer terms honorable and advantageous to our country.

I should be wanting in justice to you, sir, as well as to the officers who have shared thus far your toils and dangers, were I not to express my full reliance upon your courage, energy, and perseverance, as well as my ardent desire that your most sanguine expectations may be realized. The observations which I here convey to you are far from being intended to cool your zeal or discourage your expectations; but they are what I conceive it necessary to make, and drawn from me by the purest feeling of duty; and, as such, permit me to recommend them to your calm and candid consideration, and I request that you will make them the subject of conversation with Captain Hull, who is fully possessed of my sentiments.

Commodore Barron to Captain Hull.

MALTA, *March* 23, 1805.

SIR:

By the accompanying communications to Mr. Eaton and to His Excellency Hamet Bashaw, which are left open for your perusal, and the personal knowledge you possess of my sentiments and wishes, you will be enabled to form a correct, and to yourself satisfactory idea of the service on which you are destined, with the United States brig Argus, and sloop Hornet, (Lieutenant Evans,) under your command. Its execution must necessarily depend so much on a variety of events and circumstances which may happen, and it is probable have happened to Mr. Eaton and his coadjutors, and which we are totally unable to foresee or to estimate, that I feel the impracticability as well as the unsuitableness of tying you down with precise and positive instructions. Hence, you will perceive, sir, that your own judgment and discretion, in which allow me to assure you I entertain the highest confidence, will frequently be your sole directors. Agreeably to what we have agreed upon, you are directed to shape your course for Bomba or its vicinity, and endeavor to establish an immediate communication with the Bashaw's army. If they have succeeded in penetrating beyond Bomba, you will there obtain correct information of their movements, which, in all probability, will be towards Derne and Bengazi, whither you will of course follow with your vessels, unless you find contrary instructions from Mr. Eaton. Having opened an intercourse with that gentleman, you will ascertain correctly from him the posture of affairs and the prospect of success, and you will, if he require it, land and deliver to him the stores and cash under your charge, taking the necessary receipts and vouchers. As you will perceive, by my letter to Mr. Eaton, I have left the application of these succors, and consequently the responsibility wholly to him, which I conceive proper, as well on account of his having the chief direction of the land operations, as that by the time you arrive on the coast he will have it in his power to form a just estimate of the chances of success, and thence, how far it is safe and expedient to pursue the object. Should it be determined to persevere, you are authorized to afford him every support and assistance consistent with your means and situation. You will confer together, and obtain the most minute and circumstantial information as to his future plan, and his ideas and wishes with regard to naval co-operations. On the subject of your return, it is impossible for me to furnish you with precise orders, as it will depend altogether on the situation in which you may find matters on the coast, and the nature of the arrangements to be made with Mr. Eaton. You will be aware of my anxiety to hear from you. You will, therefore, despatch the sloop to this place or Syracuse, or return with the brig, as circumstances may direct.

In case of any unfortunate event having happened to Mr. Eaton and his companions, and you can obtain no satisfactory intelligence of them, it is left to you to act as you may think most advisable.

I remain, with sentiments of regard, sir, your very humble and obedient servant,

SAMUEL BARRON, *Commander-in-chief, &c.*

Capt. ISAAC HULL, *United States brig Argus.*

From Commodore Barron to the Secretary of the Navy.

MALTA, *April* 6, 1805.

SIR:

Having, in my respects of yesterday, given a full account of the present disposal of the squadron under my command, and whatever had occurred of notice since my preceding despatches, I have now the honor to lay before you a sketch of Mr. Eaton's transactions in Egypt, and the measures which have been, in consequence thereof, adopted. The accompanying communications from that gentleman to the Navy Department, joined with copies of those addressed to me, and the collateral correspondence betwixt Captain Hull and him, to all which I beg leave to refer you minutely, will afford you a wide view of the subject, whilst it precludes the necessity of lengthy comments from me. You will there perceive the many and unforeseen difficulties which Mr. Eaton met with in finding the ex-Bashaw, who had joined the fortunes of the Mamelukes. You will be apprized of the situation in which matters stood at the departure of the Argus from Alexandria on the 19th of February, and the plan which he had chalked out to pursue the intended co-operation with Hamet. On receipt of these advices I made immediate arrangements to send such part of the succors, requested by the Bashaw and Mr. Eaton, as could be procured here, and as I considered myself authorized by my instructions to afford; and Captain Hull sailed again on the 26th ultimo, in the Argus, with the Hornet sloop, (the same which I mentioned having purchased,) under convoy, carrying

a supply of money, provisions, &c. He directed his course for Bomba, (a place about sixty miles to the eastward of Derne) where, as you will collect from the papers enclosed, he confidently expected to open a communication with the Bashaw and his followers. Such, sir, is the present situation of the business.

I am well aware that you will feel an anxiety to know my opinion with regard to the probable success of this co-operation; but, until I have further intelligence and more data to go by, it were improper even to hazard a conjecture. In perusing the letters from Mr. Eaton, and weighing the nature and consequences of certain measures in his contemplation, I must own that I have felt some uneasiness, arising out of a fear that he has taken a wider scope in his engagements to the Bashaw than is compatible with the ideas and intentions of Government, or with the authority vested in me, as relates to the subject of co-operation. I have stated this apprehension in a communication to Mr. Eaton, in which I have also explained, in precise terms, my own ideas, and how far I conceived he might proceed without committing himself or the country. A copy of my letter will be found annexed. I feel confident that the sentiments there expressed, and the principles laid down, with respect to the plan in question, will meet your approbation.

From the concurring information, principally from persons well acquainted with the Bashaw, which I have recently received of his character and conduct, I confess that my hopes from a co-operation with him are less sanguine than they were. Perhaps, however, I may shortly have reason to raise my expectations to their former standard; but till something occurs to justify the belief that he possesses more courage, energy, and talent, than those who appear to know him well give him credit for, it would be reprehensible to flatter myself or the Government with prospects, which the result may disappoint. I am equally at a loss to calculate the effects of this co-operation upon the mind of the reigning Bashaw; a short time will throw light upon this interesting point. In the mean while I cannot conceal from you my candid opinion that, from the obstinacy hitherto evinced by Jussuf Bashaw, and the pertinacity of his character, not unmixed with bravery and other qualities belonging to a soldier, added to the natural advantages of his situation, the contest promises to be more arduous than was at first anticipated. Our co-operation with Hamet may, and in all probability will, induce him either to offer us terms at once; or, finding his dominions menaced and his life endangered, to put every thing to the hazard of war. In the latter case we may naturally conclude that his resistance will not only be obstinate, but desperate. I look with anxiety for the return of the vessel, which sailed a few days since for Tripoli, with supplies for the prisoners; she will, undoubtedly, bring important intelligence.

The ex-Bashaw's Secretary of State, whom you will find mentioned in Mr. Eaton's correspondence, returned in the Argus to join his master. He appeared to be a sensible, discreet old man; he brought me a letter from the Bashaw, a translation of which, with a copy of my answer, is attached to the accompanying papers.

Commodore Barron to William Eaton, Esq.

MALTA, *April* 15, 1805.

SIR:

I had the honor of addressing you very fully on the 22d ult. by Captain Hull; since when I have received no advices from the Barbary coast. It was not till the 12th instant that the Congress arrived here from Messina, with the field artillery, which Captain Decatur experienced considerable delay and difficulty in procuring. It was my intention to have sent that frigate to the coast; but, on making particular inquiry of a pilot well acquainted in that quarter, I find that the impracticability of approaching the shore with heavy vessels renders the communication extremely uncertain and difficult. I have, therefore, thought it prudent to waive my original intention, and to despatch the Nautilus schooner, whose light draught of water will enable her to approach the coast with greater safety and advantage. Captain Dent shapes his course for Bomba, where I calculate he will find you with the Bashaw and army, and where I hope he will have little difficulty in establishing an intercourse. He has on board his schooner two brass field-pieces, with trains, powder, shot, &c. complete, which he is directed to deliver to your possession. I hope they will reach you safe, and have no doubt but they will be found extremely serviceable in the progress of your operations. Nothing material has occurred since Captain Hull's departure. The harbor of Tripoli remains closely blockaded. The President frigate sailed this day to reinforce the vessels already on that station. Captain Dent is instructed, after delivering the artillery and stores, to return immediately to this port with despatches from you. You will readily imagine my anxiety to hear of your proceedings and prospects.

I am respectfully, &c.

S. BARRON.

Extract of a letter from William Eaton to Commodore Barron.

DERNE, *April* 29, 1806.

The information I have the honor to forward of this date, stating, in abstract, occurrences since my last, will not disappoint the expectations my calculations there may have formed. Certain periods of your letter of the 22d ult. require a distinct and separate answer. This I shall do with candor.

It was understood when Government came to a determination to try the effect of a co-operation with Hamet Bashaw against the enemy, that provision would be made adequate to the experiment; six field-pieces, a thousand stand of arms, with suitable ammunition, and eighty thousand dollars, were asked for by Hamet Bashaw, while yet in possession of this province, and gaining ground against the usurper. The Secretary of the Navy informed me that the arms, ammunition, and fifty thousand dollars, would be furnished, and they were to have been put on board at Hampton Roads, while the squadron were getting ready for sea. Information arrived of the Bashaw having been driven from his post, and retired to Egypt. In consequence of which it is to be presumed the supplies getting in readiness were withheld, as the success of the experiment then appeared very doubtful. The twenty thousand dollars, deposited with the Consul General at Algiers, to be applied to this service, cannot be supposed adequate to the purpose of bringing the Bashaw from his exile in Egypt, placing him in a situation to act against a rival, possessed of all the resources of his kingdom, and carrying his plan of operations into effect, whatever may have been the dispositions of the people towards him. The twenty thousand dollars, therefore, could have been meant only to assist the research of the Bashaw, and the revival of his affairs, in case our plan should be thought feasible. Hence, I think it is not presuming too far to conclude that the unlimited discretion vested in the Commander-in-chief, in regard to all the exigencies of the war, and particularly as it relates to the object in view, extends to every matter necessary to its accomplishment. The instructions to the Secretary of the Navy certainly cannot mean to tie him down to any limited applications.

The advantages calculated to result from the success of this measure have heretofore been stated, and thus far the experiment has not disappointed these calculations. We are in possession of the most valuable province of Tripoli; the high estimation the enemy places on this department of the kingdom is evidenced by the extraordinary efforts he has used to defend it, and by the menaces to which he has resorted to deter us from the operations here; his camp was only fourteen hours' march from the place, when we seized it by assault. I am this evening informed they are retrograding, and only regret we have not the means of pursuing them. The expenses already incurred in this expedition will amount to nearly thirty thousand dollars; for thirteen thousand of which we are indebted to Messrs. Briggs and Brothers of Alexandria; eleven thousand have been received through the hands of Captain Hull, including his advance and drafts in Egypt. I have disbursed nearly two thousand, and for the residue shall be indebted to individuals. This expense will not appear extravagant when it is considered that it covers all our expenditures in Egypt, where many sacrifices were necessary, to pass the barriers of Turkish jealousy and avidity, in getting the Bashaw through that country; of furnishing horses, tents, arms, and ammunition, preparatory to our

entering the desert; of provisioning a thousand two hundred souls, and about two hundred horses, in that barren desert, upwards of forty days, a distance of nearly five hundred miles, and of caravans for transporting these provisions the whole distance from Alexandria, and also the unavoidable expenditures in presents to chiefs, and payments to troops, in order to gain the one and avail ourselves of the services of the other.

MAY 1.

The situation in which it is known Hamet Bashaw was found in Upper Egypt, must of itself suggest the idea that he must be destitute of all means of moving a military expedition, except the attachment of his subjects. The possession of this province does not materially alter that situation. The general failure of the harvest, which the whole coast of Barbary experienced last season, together with the extraordinary tributes which Jussuf Bashaw has exacted to support the war, has rendered not only this, but every other part of Tripoli poor and oppressed, wholly destitute of contributing any thing very considerable to either of the rival brothers. This is a circumstance favorable to our measures, if we will go to the expense of profiting of it. No chief, whatever may be the attachment of his followers, can long support military operations without the means of subsisting and paying his troops. The observation is peculiarly applicable to the temper and circumstances of the Arabs of this country, who, in fact, form its real strength; who are poor, yet avaricious, and who, being accustomed to despotism, are generally indifferent about the name or person of their despot, provided he imposes no new burdens. Stronger proof of this cannot be brought than the difficulty Jussuf Bashaw's camp has found in recruiting in its progress from Tripoli. It left there long since with about two hundred men.

I have this morning intercepted six letters from that camp, dated only four days since, signed by the commander-in-chief, the Governor of Bengazi, and aid-de camp, addressed to the Governor of Derne, and to several chiefs or shieks, encouraging them to hope and perseverance, and stating that their delay has only been accasioned by expectations of receiving reinforcements from the Arab tribes. They have increased their number only three hundred, though they have passed through that part of the country nearest, and most nearly attached, to the enemy. Hamet Bashaw brought two thousand Arabs into the field on the 27th. This serves to show the weight of money with these people, and as a pretty good criterion of the balance of influence between the two Bashaws. With the aids contemplated by Government to have been furnished Hamet Bashaw when in the position he now holds, I have no doubt but he may proceed to the walls of Tripoli. But while I offer this opinion, I cannot conceal my apprehensions, grounded on experience, that when arrived there he could effect little, without more military talents and firmness than exists either in himself or the hordes of Arabs who attach themselves to him. They are exactly what Volney describes of the camps of the Egyptian Beys, rather a rabble than an army; and in our affair they have held safe positions to catch fugitives, until the doors of the enemy were opened for plunder, when they became at once brave and impetuous. If, therefore, the co-operation is to be pursued with him, and its direction is to be confided to me, it must be on conviction that detachments of regulars may be occasionally debarked from the squadron, or procured elsewhere, to aid and give effect to such operations as require energy. With the supplies asked for, provisions for our Christians, and with the firm front of one regular regiment, I believe it would not be presuming too far to engage, in conjunction with the squadron, to force the enemy to take refuge in a sanctuary. But I confess, sir, there is one discouraging circumstance resulting from the declared views in affording auxiliaries to Hamet Bashaw. These aids are to be withdrawn at any period when the enemy shall propose terms of peace, which may be accepted by the agent of Government on the spot. If Hamet Bashaw is to be used *solely* as an instrument to the attainment of an object exclusively to the advantage of the United States, without any consideration to his future existence, or well being, I cannot persuade myself that any bond of patriotism dictates to me the duty of having a chief agency, nor indeed any, in so extraordinary a sacrifice. Certainly the enemy will propose terms of peace with us the moment he entertains serious apprehensions from his brother. This may happen at any stage of the war most likely to rid him of so dangerous a rival, and not only Hamet Bashaw, but every one acting with him, must inevitably fall victims to our economy. If we proceed no further, it would seem incumbent on the honor of our Government, in the event of peace, at least to place Hamet Bashaw in a situation as eligible as that from which he has been drawn, out of the power of an incensed and vindictive enemy. Probably Jussuf Bashaw would agree to establish him in the Government of this province and Bengazi, and to restore to him his family. He may perhaps be made satisfied with such an accommodation, and the United States experience from it many of the advantages calculated to result from carrying the original plan into execution, and consistently with both our honor and interest. At all events, I am deeply impressed with the opinion, that the post we have secured here should not be abandoned, nor terms of peace precipitately embraced; indeed it were to be wished that the effect of the success of a co-operation might be tried. It would very probably be a death-blow to the Barbary system. Any accommodation savoring of relaxness would as probably be death to the navy, and a wound to the national honor. If it is determined either to proceed or hold a position here, further supplies of cash and provisions must immediately be sent to the coast.

From reasons which will suggest themselves from preceding observations, it would not be good policy in Hamet Bashaw to levy contributions during the contest with his brother, lest he should alienate his friends. On the contrary, he ought to be enabled to move with a liberal hand. Cash will do much with the inhabitants of this country: even those whom it will not engage to fight will by it be engaged not to fight; with it we can pass generally. But if here and there we find a walled town or a garrison impervious to its influence, cannon balls and bayonets come in as irresistible agents. The convention I have entered into with Hamet Bashaw may be useful in case he succeeds in getting repossession of his Government, otherwise it can do no mischief, even if ratified, as will appear by the precaution in the second article.

Extract of a letter from Commodore Samuel Barron to Tobias Lear, Esq.

MALTA, *May* 18, 1805.

The recent despatches from Mr. Eaton have been communicated to you. From their tenor, and the knowledge I have within a short time obtained of certain features in the character of Sidi Hamet Bashaw, I must candidly own that I have no longer the same expectations which I once entertained of the success of the co-operation with him. His want of energy and military talents, his total deprivation of means and resources, the great expense already incurred, and the large sum which would be required, according to Mr. Eaton's statement, for pursuing the object, a sum far exceeding both the resources placed at my disposal, and the powers vested in me by my instructions, compel me to relinquish the plan. Indeed, on mature reflection, I am of opinion that if the ex-Bashaw, having received this impulse from our strength, and being put into possession of Derne, the province where his interest is supposed to be the strongest, has not in himself sufficient energy, address, and courage, and cannot command sufficient means to move on with firm steps towards the usurper's residence, whilst we second his operations by sea, he must be considered no longer a fit subject for our support or co-operation. I am preparing to send provisions to the coast for the subsistence of the crews of the Argus brig and Nautilus schooner, which remain there at Mr. Eaton's request, and by the sloop Hornet, which conveys them, I shall send such instructions to that gentleman, and the officers with him, as further reflection and the nature of your determination on this letter may dictate. Whatever may be the final result of this co-operation, I cannot reject the belief, that it has had a powerful effect upon the reigning Bashaw; and it may be fairly presumed that the gallant conduct of our friends in the affair at Derne, and the capture of that place, will have their influence, and dispose him to moderate his pretensions, and to think seriously of peace. The complaining condition of some of the ships of our squadron is not among the least important considerations of the present moment; three of the frigates are in such a state as, in my opinion, and in that of the commanders, renders them unfit to encounter the severity of another winter's blockade without undergoing considerable repairs.

These facts and considerations, for the due appreciation of which you, sir, are fitted by your talents, and the length and particular line of your experience, seem to point out the present as auspicious beyond any former occasion, and

indeed as the very moment for attempting a negotiation; especially when we combine with these reflections the certainty that our force, respectable as it is, is yet greatly exaggerated at Tripoli, and consider the effect which such a view of the enemy, added to the movements of his brother, must have on the mind of Jussuf Bashaw. Strongly persuaded that your conclusions upon these points have anticipated my own, I am induced to state to you my earnest wish that you may deem it expedient to meet the overture lately made through the Spanish consul, by his excellency, so far as to found on it the commencement of a negotiation. I cannot entirely suppress another motive, which I confess weighs painfully on my mind. I trust I feel as becomes an American, and that I know what an American ought to suffer, when the interest and honor of his country call on his fortitude. Were I deficient in these respects, or misled by unreflecting compassion, I am well assured that Captain Bainbridge and his unfortunate comrades would be first in deprecating this deficiency. But I know the value of such a man as Captain Bainbridge and his officers, and I am persuaded that I speak the language of our country, when I declare that, as they lost their liberty in her defence and her service, no reasonable and honorable occasion should be neglected which affords a prospect of releasing them from the bondage of a bigoted and unfeeling tyrant.

In communicating these sentiments, you, sir, will do me the justice to believe that I discard every idea of any real point of national honor or advantage being sacrificed to the attainment of their emancipation, weighing that honor and advantage by the practice of powerful nations; but I must contend that the liberty, and perhaps the lives, of so many valuable and estimable Americans ought not to be sacrificed to points of honor taken in the abstract. Should the event justify my hopes and expectations of your coincidence with me on this interesting subject, and you determine on going to Tripoli, Captain Barron, commanding the Essex frigate, who is under sailing orders for the blockade, will be instructed to wait your arrangements, and convey you thither.

I beg leave to add my assurances, that, in case you determine on this step, sanguine as my expectations will be of the issue, I shall not relax in the smallest degree from hostile preparations, well aware that the best assistant which an able negotiation can have is an energetic display of force and means at the very moment, as if peace were despaired of.

Tobias Lear to Commodore Samuel Barron.

MALTA, *May* 19, 1805.

I had the honor last evening to receive your letter of yesterday, on the subject of opening a negotiation with the Bashaw of Tripoli. Most sincerely do I lament the long and severe illness you have suffered, and under the effects of which you still labor; and I am fully persuaded that no consideration would lead you to relinquish the command vested in you by the Government of our country, but a thorough conviction that your retaining it, when unable to perform the duties inseparable from the station, would be injurious to the cause in which we are engaged; and I am also persuaded that when such conviction arises, all personal considerations will yield to your patriotism. I have maturely considered the several points mentioned in your letter, relative to a negotiation with the Bashaw of Tripoli; and, upon a view of my instructions from the Government of the United States on that subject, I conceive it my duty to endeavor to open and bring to a happy issue a negotiation for peace, consistent with the tenor of these instructions, whenever the commander of our naval force in this sea shall judge that the occasion is proper and favorable. As it is presumed that the Bashaw will be impressed by the aspect or operations of that force, and as this is in your opinion a proper occasion, I shall hold myself in readiness to proceed in a few days on that business, with Captain Barron, in the United States' frigate Essex, which you are so good as to say will wait my arrangements.

I presume, as Captain Rodgers, who is your second in command, and who will, of course, take the command of the squadron, if your health, as you apprehend, should compel you to relinquish it, is now off Tripoli, and may be possessed of some information relative to our affairs with that regency, which has not reached you, that he will be fully advised of the motives which have induced this measure, and instructed to give it all the facility which his judgment may suggest.

Although I cannot, sir, agree with you in opinion, that any impression favorable to us has been made on the mind of the Bashaw, from our co-operation with his brother, thus far, excepting what may arise from the undaunted bravery and perseverance of the force of our countrymen at Derne, which will be to him a further proof of what we can do alone against him; yet I am of opinion, that, as he has discovered a disposition to open a negotiation, we should embrace it, to see if such terms can be made as are admissible on our part, and to release our unfortunate countrymen out of his power, whose fate ought not to depend on small punctilios.

Commodore Barron to Captain Hull, of the Argus.

MALTA, *May* 19, 1805.

Your several communications were received by the Hornet, which did not arrive here until the 16th, having met with head winds and heavy gales.

Your various information is under my particular attention. The state of my health, and my anxiety to despatch the sloop without loss of time, does not allow me to enter into lengthy observations. Nor is it, indeed, necessary. The letter I have written to Mr. Eaton, by this conveyance, and which he will communicate to you, will, no doubt, determine him and the officers to leave the coast, as a measure rendered necessary by existing circumstances, and especially by the intention of the Consul General to open a negotiation with Jussuf, reigning Bashaw of Tripoli. You will, therefore, as soon as the requisite arrangements are made, return with the vessels under your command to Syracuse, to which place it is contemplated to transfer head-quarters in the course of a few days. Lieutenant Evans is instructed to deliver the stores, which have been laden in the sloop, to you, to be distributed according to your discretion. You will understand those stores are intended for the use of the crews of the United States' vessels, and the christians under the command of Mr. Eaton.

Nothing material has occurred in our affairs since your departure. Mr. Evans will be able to inform you of every thing worthy of notice. I have, likewise, sent with Mr. Evans two thousand dollars (Spanish) in specie, which will serve to extinguish any individual engagements that you or Mr. Eaton may have contracted at Derne.

I look anxiously for further intelligence from Derne.

Commodore Barron to William Eaton, Esquire.

MALTA, *May* 19, 1805.

SIR:

By the Hornet sloop, which arrived in this harbor on the 16th instant, (having had a tedious passage,) I had the honor of receiving your despatches of 29th ultimo and 1st instant, announcing the capture of Derne, after a contest, in which, permit me to observe, that your conduct, and that of your companions in arms, will not discredit the character which our countrymen have established among the nations of Barbary. I have perused, with deserved attention, the arguments and reasons adduced in your letter of the 1st, on the subject of pursuing the co-operation with Sidi Hamet Bashaw. Being myself too weak for the exertion of letter writing, and my secretary writing with difficulty, owing to an inflammation in his eyes, it is impossible for me to enter into a lengthy reply; nor does it, indeed, appear necessary. The business is now arrived at that point, where, if the ex-Bashaw, after being put in possession of Derne, his former Government, and the district in which his interest is most powerful, has not in himself energy and talent, and is so destitute of means and resources, as not to be able to move on with successful pro-

gress, seconded by our naval force acting on the coast, he must be held as unworthy of further support, and the co-operation as a measure too expensive and burdensome, and too little pregnant with hope or advantage, to justify its further prosecution; for whatever, sir, may have been once the intentions of Government on this subject, and whatever your ideas touching those intentions, I feel that I have already gone to the full extent of my authority. The instructions from the Navy Department on this particular point, with which you are not unacquainted, fall short of that unlimited discretion and power of application as relates to funds, insisted on in your letter, and are totally silent in regard to the quantity and description of supplies and stores which you mention to have been in the contemplation of Government to furnish to the Bashaw; hence you will be sensible, that, without taking a latitude that would involve me in a sum of responsibility, which it were the extreme of folly and rashness to encounter, I cannot proceed further. Independent of this consideration, it may not be improper to state, that I have not at my disposal funds sufficient to meet the large sums which, according to your calculation, would be required to pursue the plan with effect. With respect to any engagements to Sidi Hamet, I cannot consider them as binding or definite. We have, by our resources, and your valor and enterprise, placed him at the post from which he was driven, when first he solicited the aid and support of our arms, and in the "most valuable province of Tripoli:" in performing which we have, I conceive, fulfilled every pledge, and that he can neither charge us with bad faith in our engagements, or with injustice to himself. His want of those qualities so essential in the character of a commander, and especially to a prince contending for his throne, is a serious obstacle to the advancement of his cause, not to be surmounted even by the existence, and manly exertion, of them, in those about his person. But it is what we had no reason to anticipate, and still less to suppose, that, when master of the finest province in his kingdom, where his influence is greatest, and his adherents most numerous, his situation would not be materially altered, and himself as destitute of means to carry on the contest as when he was brought from his exile in Egypt. In short, sir, the matter reduces itself to this: we are willing and ready to support the Bashaw, by a union of operations on the coast, so long as the war with Tripoli continues; but you will state explicitly to his excellency, that our supplies of money, arms, and provisions, are at an end, and that he must now depend on his own resources and exertions. This determination will suggest to you and your comrades that line of conduct most prudent to be adopted in the present posture of affairs. I have lost no time in despatching the Hornet with a supply of provisions for the crews of the Argus and Nautilus, and the Christians under your command; and I hope she will arrive in time to prevent your suffering from want.

I have now to acquaint you with an occurrence in our affairs, interesting in itself, and momentous as relates to your situation. In consequence of recent advices from Tripoli, I have thought it my duty to state to the Consul General, Colonel Lear, (now at this place,) my candid opinion that the present is a moment highly favorable to treat for peace; and a communication has, this moment, been handed me from that gentleman, expressing his determination to meet the overture lately made by the reigning Bashaw, so far as to found on it the commencement of a negotiation, and to proceed to Tripoli, in the Essex frigate, in the course of this week. From a variety of concurring circumstances, the present appears to be a period propitious to such a step, and I cannot help indulging sanguine hopes that a very short time will restore Captain Bainbridge and his unfortunate companions to freedom and their country. It would be useless in me to say any thing on the effect which this measure must needs have on your situation and determinations; it is a measure which was anticipated in my letter to you by Captain Hull; and, as such, the intelligence of it will not, I presume, reach you unprepared. The interests of Sidi Hamet will not be overlooked. It is with Colonel Lear's express sanction that I state to you his intention to endeavor at stipulating some conditions for the unfortunate exile, provided this can be done without any considerable sacrifice of national advantage on our part, and without giving up points that are essential.

I have sent, by Lieutenant Evans, two thousand Spanish dollars, which he is directed to deliver to you or Captain Hull. This sum will serve to extinguish any little engagements you may have contracted at Derne.

I am extremely anxious for further intelligence from you, and remain, with much respect, &c.

S. BARRON.

Commodore Samuel Barron to Colonel Tobias Lear, Consul General, &c. &c.

MALTA, *May* 22, 1805.

SIR:

I have received the letter which you did me the honor of addressing to me on the 19th instant, stating your intention of going to Tripoli in the Essex frigate, for the purpose of opening a negotiation with the Bashaw.

I have now to acquaint you, that, for the reasons mentioned in my communication of the 18th, which every day's experience fatally strengthens, I have conceived it a duty owing to our country, as well as an act of justice to the squadron, to relinquish a station, which the languor of sickness, and consequent mental as well as bodily inactivity, prevent me from filling any longer with approbation to myself or with advantage to the service. I have accordingly written by the Essex to Captain John Rodgers, the officer next in seniority, (now off Tripoli, in the Constitution,) officially resigning to him the command of the naval forces of the United States in this sea; and I have at the same time, expressed my ardent desire that he should give every facility to the important measure which has been agreed upon, and support the negotiation with all his zeal and activity. I beg leave to mention that the Essex is completely ready for sea. Captain Rodgers has now been fifty days on the station, and I feel the importance of his being made acquainted with my determination without delay.

I have sent orders to Captain Campbell to despatch the Vixen to the station off Tripoli, with intelligence of the situation of affairs with Tunis, and have every reason to believe, that they will reach him before the brig leaves the bay.

I have the honor to be, &c.

SAMUEL BARRON.

Commodore Samuel Barron to Captain John Rodgers.

MALTA, *May* 22, 1805.

SIR:

Since I had the pleasure of writing to you by the President frigate, I have not received any intelligence from the Barbary coast. Captain James Barron, commanding the Essex, has received orders to proceed off Tripoli, for the purpose of conveying the Consul General, who will communicate to you his intentions, which will be further explained by the accompanying copies of my late correspondence with him.

Although I have never disguised from myself that my powers of attention have been weakened by the effects of my long and distressful indisposition, almost equally with my strength and bodily activity, I have nevertheless been drawn on from week to week by the hopes of a speedy recovery, hopes which the unsteady character of the disorder itself rendered plausible, and which I was even authorized to cherish by the corresponding opinions of my medical attendants, gentlemen of high and merited rank in their profession, connected with me no further than as my situation requires their assistance, and only so long as my residence in Malta gives them the opportunity of affording it, and who, therefore, could have no interest in inspiring groundless expectations, with no other possible effect than that of exasperating the final disappointment. But, sir, though I feel myself perfectly justified in forming these hopes of recovery, I am sensible that the moment is arrived when I can no longer persevere justifiably in acting upon them; the season for decisive measures has overtaken me, and I am at length forced to perceive, that my unceasing and anxious impatience for a return of health, from the deep wish of discharging the important functions entrusted to me, has continually retarded that return, and that this inevitable solicitude which, whilst I retain

the command, it is impossible that any state of health should obliterate or even suspend, must not only defeat its own immediate object, but greatly diminish and perhaps preclude the probability of my serving my country at any future time. To relinquish my command, therefore, is, I conceive, a duty which I owe to our country and to the service in general, but more particularly to the present squadron; an act of justice which the skill, courage, and general merit of the officers, and the order and discipline of the crews, at once enforce and imbitter; for you, sir, need not be informed that this decision could not be made without a long and painful struggle, as well as deep deliberation; but it is made, and accordingly I do hereby resign the command of the naval forces of the United States in these seas, and by this letter communicate my resignation officially to you, on whom the command devolves by the law of seniority, reserving to myself, however, the right of resuming it in case the war should be protracted beyond my hopes and expectations, and my health be fully restored. I have only to add on this point, that the pain inseparable from this act of duty is greatly alleviated by two reflections: first, that in having you, sir, as my senior captain, I am enabled to resign my station to an officer who already in a high degree enjoys the confidence of our Government; and secondly, that, previous to my resignation, the Consul General has expressed his coincidence with the opinion which I officially communicated to him, respecting the propriety and policy of meeting the recent overtures of the Bashaw of Tripoli, so far as to open a negotiation, for which I am persuaded that the present moment is eminently favorable, and of the success of which I entertain sanguine expectations, conducted, as it will be by a gentleman of such ability, experience, and moderation, as Colonel Lear, with the ready assistance and co-operation which I doubt not he will find in your activity and zeal. I cannot suppress the feeling, that, if any thing could restore me to health, as by a charm, it would be the sight of Captain Bainbridge and his fellow sufferers restored at length to freedom, on terms of peace at once honorable and advantageous to our common country; such terms, on which, I am convinced, notwithstanding all their privations and sufferings, they would alone desire their emancipation, or look back with pleasure on its attainment. Should, however, these hopes be baffled by the extravagance and infatuation of the enemy, I can only express my earnest wish, that the valor and exertions of the squadron may soon create another opportunity, and that to their honor they may succeed in inspiring additional respect for the American name, and a pacific policy in the whole of the Barbary Government; thus realizing an object which must be deep in the hearts of our countrymen, and for the accomplishment of which I should have considered no personal sacrifice too important.

I beg leave to refer you to Captain Barron for full particulars of occurrences since your departure, and for the present distribution of the squadron, and I beg leave also to assure you that my anticipation of the success of Colonel Lear's visit to Tripoli will not diminish, in the smallest degree, the preparations for offensive measures, and that, as far as my strength will permit, I shall proceed with every necessary arrangement till we meet. It is not in my power, at this moment, to transmit you all the papers and documents, the transfers of which become requisite by my resignation. I have, however, directed my secretary to prepare them, and they will be delivered to you on your arrival here.

With my sincere wishes for your health and prosperity, I have the honor to subscribe myself, sir, your very faithful and obedient servant,

SAMUEL BARRON.

Extract of a letter from Robert Dennison, Secretary to the Commander of the Mediterranean squadron, to the Secretary of the Navy.

MALTA, *May* 22, 1805.

It appears, by a variety of letters which have been received, that the Bashaw is seriously disposed and earnestly desirous for peace with the United States; and what confirms this idea, beyond all doubt, is the receipt, by Colonel Lear, of a letter, written at the express solicitation of the Bey, by the Spanish consul, with overtures for opening a negotiation, and accompanying a teschera, or passport, under the Bey's seal, guarantying the inviolability of any person or persons sent to Tripoli to treat of peace. These direct evidences of a pacific disposition in the Bashaw were a few days ago prefaced by a communication to Commodore Barron from Mr. Nissen, the Danish consul, written at the desire of the minister Sidi Mahomet Dghies, expressing the minister's sincere and earnest wish for the re-establishment of peace, and recommending that a person should be sent over immediately to commence a negotiation. In consequence of these repeated and unequivocal manifestations of a disposition, on the part of the enemy, to accommodate differences, the commander-in-chief thought it his duty officially to communicate to the Consul General his opinion, that the present moment is favorable for opening a negotiation; and the latter having expressed his coincidence therewith, the measure has been agreed upon, and Colonel Lear is making arrangements to proceed on board the Essex frigate to the coast of Tripoli in the course of two or three days. Commodore Barron entertains the most sanguine hopes of the happy issue of this measure, and anticipates, with not less confidence than pleasure, the speedy emancipation of Captain Bainbridge and his suffering companions. I think it is not hazarding too much to say, there is scarcely a doubt but the business will be honorably and satisfactorily terminated in less than a fortnight.

Third article of the preliminary articles of a treaty of peace to be entered into between the President and citizens of the United States of America on one part, and the Bashaw Bey and subjects of Tripoli, in Barbary, on the other part.

Upon the conclusion of a peace, as aforesaid, between the United States and the regency of Tripoli, all the forces of the United States which have been, and may be, in hostility against the Bashaw of Tripoli, in the province of Derne, or elsewhere, within the dominions of the said Bashaw, shall be withdrawn therefrom, and no supplies shall be given by, or in behalf of, the said United States, during the continuance of the peace aforesaid, to any of the subjects of the said Bashaw who may be in hostility against him in any part of his dominions; and the Americans will use all means in their power to persuade the brother of the said Bashaw, who is co-operated with them at Derne, &c. to withdraw from the territory of the said Bashaw of Tripoli, but they will not use any force or improper means to effect that object; and in case he should withdraw himself, as aforesaid, the Bashaw engages to deliver up to him his wife and children, now in his power.

TOBIAS LEAR,

Commissioner in behalf of the United States for negotiating a peace with His Excellency the Bashaw of Tripoli.

Mr. Lear to Mr. Ridgely.

TRIPOLI IN BARBARY, *June* 6, 1805.

SIR:

In conformity with the power vested in me by the Government of the United States to appoint an agent on their behalf, to take charge of their affairs in Tripoli, provided a peace should be concluded between the United States and the Bashaw of Tripoli, until the pleasure of the President of the United States should be known; and as peace is now happily concluded between the two nations, I find it incumbent upon me to carry into effect the authority vested in me, and as you have expressed your willingness to act as the agent of the United States in this regency, I have the honor herewith to transmit you a power for that purpose, and, at the same time, to express my satisfaction in your readiness to receive it; because, besides the qualifications which I believe you to possess to

execute the duties of said agency with honor to yourself and country, I am persuaded that your residence here for nineteen months past, although mostly in a state of confinement, has offered an opportunity of acquiring a knowledge of the Government, customs, and manners of those people, which will be found essentially useful; and your profession will secure you an influence which cannot always be gained by a person brought up to other pursuits.

Although the salary to be paid to an agent is not specifically mentioned to me by my Government, I shall feel myself justified in saying it will be the same as that allowed to a consul, viz: two thousand dollars per year as salary; wages of the drogoman, stationary, and some other expenses of a public nature, as are necessarily attached to the office, and usually paid by other consuls in this place on account of their Governments.

You will receive herewith the treaty of peace and amity between the United States of America and the Bashaw of Tripoli, in English and Arabic, and executed in due form on the fourth day of the present month. This treaty is considered as highly favorable to our country, and you will take care that it be duly observed. The circumstances under which it has been made gives us the least grounded reasons to believe that there will be no attempt on the part of the Bashaw or his subjects to violate it. Should this, however, unfortunately be the case, your firmness and good judgment will be a security against any evils arising from a sudden or violent departure from it.

In order that you may see the relation which the Consul of the United States residing here bears to the Consul General residing in Algiers, I take the liberty of quoting a part of the instructions given to me by the Secretary of State of the United States, under date of the 14th July, 1803:

"The regency of Algiers being of the most importance to the United States, considering its influence with those of Tunis and Tripoli, and our stipulations with that regency requiring the largest expenditures, are the reasons why the Consul General is established there. The relation of the consuls for those other regencies is, therefore, a subordinate one, and they will, consequently, be instructed to correspond regularly with you, as well as directly with the Department of State. In all cases of difficulty and urgency they are to ask and follow your opinion; especially when the state of our affairs may require immediate decision, and where the sacrifice to be made is either of an occasional and not a permanent nature, or of no very high value. They are to keep regular journals of their proceedings, including their pecuniary transactions, and transmit transcripts as often as may be to you. Of so strict a necessity is this latter duty, that they will be given to understand that no allowances for disbursements will be made them unless registered in their journals at the time, and transmitted both to you and this Department, with the very first despatches they may write to either after the expense is incurred."

Our Government had thought it expedient to change the Mediterranean passport heretofore given to our merchant vessels, and arrangements for this purpose have been made with the Emperor of Morocco, and the regencies of Algiers and Tunis. Until the first day of July next ensuing, either the new or old passport will be considered as valid for our merchant vessels, but after that period the new passport will be alone available. I have, therefore, furnished you with twenty tops or testa of both the old and new passports, one of each you will give to every cruiser sailing from Tripoli, before the first of July aforesaid; after which you will withdraw from them the tops of the old passports, and issue the new only. I leave with you also twenty-four forms of consular passports, which were put into my hands by Mr. Cathcart, our late consul here, to be given to the Tripolitan cruisers. These passports must be renewed at least once a year, and an endorsement made upon them by you every cruise which the Corsair may make within the year, noting any change which may take place in the captain's number of guns, &c.

Mr. Nissen, His Danish Majesty's consul here, will have the goodness to give you any information you may wish respecting the usual forms of consular business in this regency, and I am persuaded that his best advice would always be given on any points of business which might arise here relative to our affairs out of the usual routine of consular duties. But whenever such may occur, you will not fail to advise me thereof, by the first and most direct conveyance; and if any thing should happen which may threaten to involve the peace of our country with this regency, you will be pleased to despatch information thereof by a speedy cruiser, either by sea or land, as may be most likely to reach me soonest. To the Department of State you will also make full communications agreeable to the instructions which I have quoted for you in this letter, and in these communications you will be pleased to detail all the information you can obtain respecting the political relations and military forces of this regency, as well as particulars respecting the productions and commerce of the country.

I shall leave in your hands one thousand dollars on account of your salary, to be applied to any necessary expenses on account of the United States of America, and shall place a credit for you for one thousand dollars more on William Higgins, Esq. the navy agent of the United States in Malta.

Wishing you health and happiness, I am, sir, with great respect, your most obedient servant,

TOBIAS LEAR.

JOHN RIDGELY, Esq.

Appointment of Mr. Ridgely, by Mr. Lear, as United States' Agent at Tripoli.

Whereas the undersigned, Tobias Lear, Consul General of the United States of America for the Regency of Algiers, being duly appointed commissioner by letters patent under the signature of the President, and seal of the United States of America, bearing date at the City of Washington, the 18th day of November, 1803, for negotiating and concluding a treaty of peace with the Bashaw of Tripoli; and whereas, the said undersigned was authorized by instructions from the Secretary of State of the said United States, bearing date the 6th of June, 1804, to appoint an agent to reside in Tripoli in behalf of the United States of America, until the pleasure of the President of the United States should be known thereon, whenever peace should be concluded as aforesaid.

Now know ye, that I, the undersigned, having concluded a peace between the United States of America and the Bashaw Bey and subjects of the Regency of Tripoli, have appointed, and do by these presents appoint, John Ridgely, of the State of Maryland, to reside in Tripoli as the agent of the United States of America, until the pleasure of the President of the United States shall be known as aforesaid; and do authorize and empower him to have and to hold the said agency, and to exercise and enjoy all the rights, privileges, and authorities to the same of right appertaining during the time aforesaid.

And I do hereby request all captains, masters, and commanders of ships, and other vessels, armed or unarmed, sailing under the flag of the said United States, as well as all other of their citizens, to acknowledge and consider him accordingly.

And I do hereby pray and request His Excellency the Bashaw of Tripoli to permit the said John Ridgely fully and peaceably to enjoy and exercise the said office, without giving or suffering to be given to him, any molestation or trouble; but, on the contrary, to afford him all proper countenance and assistance.

In testimony whereof, I have hereunto subscribed my name, and affixed my seal at Tripoli, in Barbary, this sixth day of June, one thousand eight hundred and five.

TOBIAS LEAR.

Extract:—Colonel Lear to William Eaton, Esq.

TRIPOLI, *June* 6, 1805.

In consequence of a representation made to me by Commodore Barron, that the present was a favorable moment for us to enter into a negotiation with the Bashaw of Tripoli, and my instructions leaving it to the commander of our forces in this sea to determine the proper time for such an attempt, I repaired off this place on the 26th ultimo, in the United States' frigate Essex, and immediately opened a communication with the Bashaw. His demands were two hundred thousand dollars for peace and ransom, and the delivery on our part of all the Tripolines in our possession, and a restoration of all their property. These terms were at once rejected *in toto;* and, after some discussion, I proposed, as the ultimatum, that a mutual delivery of prisoners should take place, and, as he had a bal-

ance of more than two hundred in his favor, I would give him sixty thousand dollars for them; but not a cent fo peace, which should be made on terms of the most favored nation with whom he has a treaty, and a regulation respecting prisoners, if a future war should take place between our nations; and in order to prevent any fruitless altercation, I declared I would not go on there to complete the business, unless these terms were formally acceded to. The weather proving bad for the season, obliged our vessels to keep off, and prevented a regular communication with the shore, which prevented the completion of the preliminaries until the 3d instant, when they were sent off to me with the Bashaw's seal. I immediately went on shore, and in twenty-four hours all the officers and crew of the late frigate Philadelphia were sent on board the ships.

I found that the heroic bravery of our few countrymen at Derne, and the idea that we had a large force and immense supplies at that place, had made a deep impression on the Bashaw. I kept up that idea, and endeavored from thence to make an arrangement favorable to his brother, who, although not found to be the man whom many had supposed, was yet entitled to some consideration from us. But I found that this was impracticable; and that if persisted in would drive him to measures which might prove fatal to our countrymen in his power. I, therefore, engaged, of course, that, on the conclusion of peace, we should withdraw all our forces and supplies from Derne, and other parts of his dominions; and the Bashaw engages, that if his brother withdraws himself quietly from his dominions, his wife and family should be restored to him. This is all that could be done; and, I have no doubt, the United States will, if deserving, place him in a situation as eligible as that in which he was found.

Commodore Rodgers to the Secretary of the Navy.

UNITED STATES' SHIP CONSTITUTION, MALTA, *June* 8, 1805.

SIR:

I have the honor to inform you, that the preliminaries of peace were signed on the 3d instant, between Joseph, Bashaw of Tripoli, on behalf of himself and his subjects, and Tobias Lear, Esq. on behalf of the United States and Captain Bainbridge, officers, and crew, of the late frigate Philadelphia, liberated on the same day. The Bashaw feeling too sensible that, by a continuance of obstinacy, his town would fall a sacrifice to our forces this summer, proposed and acceded to peace on terms which left us no interest in a refusal of his wishes; as he acknowledged, that he felt sensible our efforts would be sufficient to reduce his town, and oblige him to retire to the mountains; this acknowledgment at once precluded the possibility of acquiring any honor by our arms, but, indeed, the reverse, as it would have been persecuting an enemy who, in anticipation of our vengeance, in this summer's expedition, by his own acknowledgments, felt himself more than half vanquished; and who, perhaps, in his savage perturbation, might have carried his resentment to the sacrifice of three hundred of our unfortunate countrymen, which chance had placed in his power. For your further information on this subject, I enclose you a copy of the preliminary articles.

I am only thirty-eight hours from Tripoli, where I left Colonel Lear, making the necessary arrangements for establishing Doctor Ridgely, late surgeon of the frigate Philadelphia, in charge of our affairs in that regency. The purport of my returning without Colonel Lear, is to carry the Tripoline prisoners, in our possession, back to Tripoli, and to make arrangements for going with the squadron to Tunis, to convince the Bey of that regency, (who, owing to our having detained and sent into Malta some of his vessels that were going to Tripoli, in open violation of the blockade, has shown a refractory disposition, and threatened us with war,) that his menaces are more the production of his ignorance and piratical inclinations, than any interest he can derive by a rupture with the United States. This will be a favorable moment to oblige this gentleman to relinquish his imprudent and unwarrantable demands against the United States; and, at the same time, to convince him, that it is as demonstratively his interest to cultivate our friendship, as it is ours to avoid a war. However, I feel sensible that he knows his own vulnerability too well ever willingly to give us *decided* cause to make him feel our resentment, by the exercise of such a force as we at present have in the Mediterranean.

The Ceres store ship from Baltimore arrived here thirteen days ago, but I did not receive your advices of the 9th and 27th of March, until the 3d instant, off Tripoli. Neither the John Adams, either of the gunboats, or the other store ship from Baltimore, has arrived yet.

Commodore Barron having resigned the command of the squadron no longer ago than the 22d ultimo, my being off Tripoli ever since, and the multiplicity of business I have at present on hand, prevents my writing you so fully as I could wish, particularly as I am at this moment getting under way for Syracuse, to take on board the prisoners to carry them to Tripoli.

I never thought, myself, that the lives of the American prisoners were in any danger.

I have the honor, &c.

JOHN RODGERS.

To the Hon. ROBERT SMITH, *Secretary of the Navy of the U. S., Washington.*

William Eaton to Commodore Rodgers.

ON BOARD THE U. S. FRIGATE CONSTITUTION, OFF DERNE, *June* 13, 1805.

SIR:

At six o'clock, P. M. of the 11th instant, Captain Campbell anchored in this road; at eight, sent Lieutenant Wederstrandt with your letter of the 6th, and Colonel Lear's of the 5th, announcing the conclusion of peace with Joseph, Bashaw of Tripoli, and, consequently, requiring me to evacuate this post; and the next morning, a letter from his own hand, advising me that his ship would receive my garrison. About 9 o'clock the captain came on shore, attended by a few of his officers, whom I accompanied into town. I now communicated to the Bashaw the news of peace on our part with his brother, and the convention that his family should be restored to him on condition of his quietly withdrawing himself from the kingdom. He said, he had no safety but in leaving the country with us; and even this would be impossible with him, and hazardous to us, if the project should transpire before carried into effect; despair would drive his adherents to revenge, and we must fall victims to it. I consequently kept up the idea of an attack on the enemy, an idea which had been excited by a report that reinforcements had come out in the frigate for this purpose; and, accordingly, sent ammunition and extra rations to be distributed among our Moorish and Arab troops, and despatched spies to ascertain the enemy's position. With the same apparent view, I inspected the garrison; ordered them to be divested of all heavy baggage, and to be held at their posts in readiness to advance at the word. At eight in the evening, I placed patroles of marines to stop intercourse between the town and our post: this was a usual precaution at this hour, with the only difference that, on ordinary occasions, this duty was done by routine. In the mean time, all the Constellation's boats were laid along side our wharf; I ordered the captain of cannoniers to embark his company with the field-pieces, and a ten inch howitzer, which fell into our hands on the 27th April; and after them the Greek company. This was executed with silence and alacrity, but with astonishment; the marines remained at their posts. When the boats were seen returning, I sent a messenger to the Bashaw, requesting an interview; understanding the purport of this message, he immediately repaired to the fort with his retinue, dismounted, and embarked in the boats. The marines followed with the American officers; when all were securely off, I stepped into a small boat I had retained for the purpose, and had just time to save my distance, when the shore, our camp, and the battery, were crowded with distracted soldiery and populace; some calling on the Bashaw, some on me, some uttering shrieks, some execrations. Finding we were out of reach, they fell upon our tents and horses, which were left standing; carried them off, and prepared

themselves for flight. My garrison, together with the Bashaw and suite, were all on board the Constellation about two in the morning. Before break of day our Arabs were all off to the mountains, and with them such of the inabitants of the town as had means to fly, taking away with them every living animal fit for subsistence or burden, which belonged to the place. This morning a choux from Tripoli, who came out in the frigate, went on shore under a flag of truce, and carried letters of amnesty from Joseph Bashaw to the people of Derne, on condition of their returning to allegiance. He stated, on his return, that nothing but despair depicted itself in the visages of the few wretched inhabitants who remained; that they rejected Joseph Bashaw's terms of pardon, declaring they knew his perfidy too well to suffer themselves to be ensnared by it; and that they were resolved to defend themselves to the last moment, from their terraces, and walls of their houses, against his troops. It is to be hoped, the position they have taken may terminate in an accommodation, and save the tragedy that menaces them. It is now twelve o'clock, and we see no symptoms of the enemy's troops advancing towards the town. This, however, may be accounted for, on other principles than those of humanity or arrangement. On the arrival of the Constellation, the idea impressed itself on them also, that she brought troops and supplies; in consequence of which, they decamped disorderly, and retired with precipitation, to a post fifteen miles in the rear towards the desert; it is possible, they may not yet have heard of our evacuation. In a few minutes more we shall lose sight of the devoted city, which has experienced as strange a reverse in as short a time as ever was recorded in the disasters of war; thrown from proud success and elevated prospects into an abyss of hopeless wretchedness. Six hours ago, the enemy were seeking safety from them by flight; this moment, we drop them from ours into the hands of this enemy, for no other crime but too much confidence in us! The man whose fortunes we have accompanied thus far, experiences a reverse as striking; he falls from the most flattering prospects of a kingdom to beggary.

Our peace with Tripoli is certainly more favorable; and, considered separately, more honorable than any peace obtained by any Christian nation with a Barbary regency, at any period within a hundred years; but it might have been more favorable and more honorable. It now remains, however, to dispose of the instrument we have used in obtaining this peace in such a manner as to acquit our conscience and honor. This will require some *diplomatic skill*.

My despatches to Commodore Barron of the 15th ultimo, and continued to the 11th instant, accompanying this to your address, is a matter rendered proper by the transfer of the squadron to your command; under actual circumstances they can be of little import, but may, nevertheless, gratify a curiosity.

The duties understood to be annexed to my appointment in the Navy Department having ceased with the war, I have no reasons for remaining any longer in this sea; I request, therefore, you will have the goodness to allow me a passage in the first ship of war, of your squadron, which you may despatch to the United States.

I flatter myself with the gratification of waiting on you at Syracuse in a few days.

In the mean time, I have the honor, &c.

WILLIAM EATON.

JOHN RODGERS, Esq. &c. &c.

[TRANSLATION.]

Copy of a letter from Hamet Bashaw Caramalli to his friend and brother William Eaton, late General and Commander-in-chief of our allied forces in our Kingdom of Tripoli.

"Without placing in view the misfortunes which so long pursued me, I cannot forbear expressing to you, at this moment of our final separation, the deep sense of gratitude I feel for your generous and manly exertions in my behalf. Be assured, that in whatever situation the will of God shall place me, I shall always bear this impression of gratitude on my heart.

On returning to your happy country, to which I wish you a safe passage, I request you will express to your sovereign my cordial thanks for his manifestations of friendship towards me. Had it been ordained, that measures might have been carried forward to the attainment of my wishes, the restoration of my rightful dominions to me, it would certainly have been cause of eternal gratitude. But it is true my own means were small. I know, indeed, they did not answer your reasonable expectations. And this, I am ready to admit, is a good reason why you should not choose to persevere in an enterprize hazardous in itself, and perhaps doubtful in its issue. I ought, therefore, to say, that I am satisfied with all your nation has done concerning me. I submit to the will of God; and thank the King of America, and all his servants, for their kind dispositions towards me. Situated as I am, you must still allow me to ask another expression of your friendship. You tell me that in your treaty with Jussuff Bashaw, my perfidious brother, he has promised to restore to me my family. I pray you will use your influence with your admiral, to permit one of your vessels to go and ask for them, and that he will give me the means of repairing, with some small assistance to enable me to subsist myself and suite, into some country where I may hope to spend the residue of my days in peace.

Again I repeat to you my love and esteem, and I send honor and long life to your sovereign, which may the merciful God confirm to him.

Done at Syracuse, the 29th day of June, 1805. [*Hamet's seal.*]

William Eaton to Commodore Rodgers.

SYRACUSE, *June* 30, 1805.

I have been yesterday and to-day occupied with the proceedings and records of the court of inquiry on Captain Bainbridge, which is the reason I did not wait on you on board yesterday morning.

Enclosed is a copy, by translation, of a letter Hamet Bashaw has written me, dated 29th. This I think is enough to do away any insinuations concerning our intercourse with this prince injurious to the honor of the United States. He tells me he shall write to the same effect to the President.

To-morrow morning I will do myself the honor to wait on you with a statement of the pay due the troops, who served with me through the desert of Derne.

Mr. Lear to the Secretary of State.

ON BOARD THE UNITED STATES' FRIGATE CONSTITUTION,

SYRACUSE HARBOR, *July* 5, 1805.

SIR:

Since I had the honor of addressing you under date of the third of November, I have thought it my duty to remain in the vicinity of Tripoli, that I might be at hand for entering into a negotiation with the Bashaw whenever he should give evidence of his disposition to do so on proper terms; and I accordingly took up my residence in Malta, being well assured that nothing would occur to make my presence necessary at Algiers during the winter, and knowing that the Dey was perfectly satisfied as to the cause of my extended absence from his dominions.

On the 28th of December, I received a letter from Don Gerardo Joseph De Tauza, the Spanish consul at Tripoli, stating that, on the 17th of December, he had a private audience with the Bashaw of Tripoli, on the business of his nation; which being over, the Bashaw introduced the subject of this war with the United States, and expressed his willingness to conclude it, if the Americans were disposed to come forward on proper grounds. The Spanish consul answered, that he presumed they would have no objection to finish the war upon honorable terms. There, he says, the subject was dropped; and he took the liberty of making this communication to me, having heard that I was in Malta, adding, as his own opinion, that, if I would come over to Tripoli, in a flag of truce, he had no doubt but a peace might soon be concluded on honorable and satisfactory terms. As I had reason to believe that

this communication was made to me with the knowledge, if not by the express desire, of the Bashaw, I felt in no haste to reply to it, as I was persuaded that, if he then discovered a desire to terminate the business, he would be more anxious to do so when the season for active operations should approach. On the 28th of March, Commodore Barron sent a small vessel to Tripoli, with clothing, &c. for our captive countrymen; and by that occasion, I acknowledged the receipt of the Spanish consul's letter, and observed to him, that, as we had, last year, made several overtures to the Bashaw for peace, which had been rejected, he might be assured that we should never make the first advance again on that subject. But that, notwithstanding our force in this sea was very considerable, and would, at the proper season, act with decided vigor, yet we should be ready to receive and consider any propositions which might come from the Bashaw before that season arrived, provided such propositions were compatible with the dignity and rising character of our nation, and tending to an honorable and permanent peace.

On the 21st of April, I received, by the return of the same vessel from Tripoli, another letter from the Spanish consul, saying, that he had communicated to the Bashaw the contents of my letter of the 28th of March, who had directed him to inform me, that, to show his disposition to end the war, he would make a proposition, viz: that the United States should pay him two hundred thousand dollars for peace and ransom, and deliver up to him, gratis, all his subjects in their power, and make full restitution of the property taken from them. The Spanish consul added, that he considered the propositions of the Bashaw rather intended to form the basis for opening a negotiation, than made with an expectation of being granted. At the same time, he mentioned the mode of communication which might be pursued, if I should think proper to come off Tripoli, with a view to opening a negotiation. These propositions were so completely inadmissible, that, after communicating them to Commodore Barron, I thought no more of them, fully expecting further advances, either through the same or some other channel, as it evidently appeared to be the wish of the Bashaw to open a negotiation.

Between the time last mentioned and the 18th of May, there were intimations made, in various ways, of the disposition of the Bashaw to treat, but none in a direct or official manner. On that day, Commodore Barron wrote me the letter No. 1, to which, on the 19th, I returned the answer No. 2; and, on the 22d, he informed me he had relinquished the command of the squadron to Captain Rodgers. On the 24th, I embarked on board the United States' frigate Essex, Captain James Barron, to proceed to Tripoli. On the 26th, in the morning, we saw the town of Tripoli, distant about ten miles, and, at the same time, the United States' frigates Constitution and President. At ten o'clock, A. M., Captain Barron and myself went on board the former, when Captain Rodgers received the letter of Commodore Barron, relinquishing to him the command of the squadron, &c. He returned with us to the Essex, when we stood in for the town, and, within a short distance from the battery, hoisted the white flag, which was immediately answered by the same from the Bashaw's castle. In half an hour, a boat came off, with the Spanish consul and an officer of the Bashaw. I informed the Spanish consul that I had, agreeably to the desire of the Bashaw to treat, come for that purpose; but that the propositions which had been made through him (the Spanish consul) were totally out of the question, and must be relinquished before I would consent to move one step in the business; and that, if I had not the most unequivocal evidence that they would be put aside in toto, I would not go on shore; and told him he had better return with my determination, and come off again the next day, if the Bashaw was desirous of having peace on terms which we could admit. He left the ship; and the wind, during the night, blew so heavily on shore that the ships were obliged to stand off, and were not able to come in near the town again until the 29th; when, at nine, A. M., the Spanish consul came on board, bringing the tiscara or commission of the Bashaw to treat, on his part, on the principal points of accommodation. We now removed from the Essex to the Constitution. The Bashaw relinquished all pretensions to a payment for peace, or any future demand, of any nature whatever; but demanded the sum of one hundred and thirty thousand dollars for the ransom of our countrymen, and the delivery of his subjects gratis. To this I objected as strongly as to the first proposition; and, after some time spent in discussing the subject, I told the Spanish consul that, to prevent unnecessary delay and altercation, I would give him in writing my *ultimatum*, which must be at once decided upon, viz: that there should be an exchange of prisoners, man for man, as far as they would go; that the Bashaw should send all the Americans in his power on board the squadron now off Tripoli; that his subjects should be brought over from Syracuse, and delivered to him with all convenient speed; and, as he had three hundred Americans, more or less, and we one hundred Tripolitans, more or less, I would engage to give him for the balance in his favor sixty thousand dollars; that a treaty of peace should be made upon honorable and mutually beneficial terms. With this, he went on shore in the evening, but apparently without any expectation of its being accepted.

On the 30th, at 11, A. M., the Spanish consul came again on board the Constitution, and urged me very strongly to go on shore, where every thing, he said, should be satisfactorily arranged; but, as I had determined not to deviate from the ground I had taken, I declined, stating to him, that it now depended on the Bashaw to terminate the business by a single word, and that very little time more would be given for that purpose. He requested permission to send a letter on shore, to which he would await an answer; this was granted; and, on receiving an answer to his letter, he again urged my going on shore in the strongest terms. This I steadily refused to do. The wind increasing obliged the ship to stand off, and prevented the Spanish consul from going on shore this night.

At 8, A. M., on the 31st of May, the Spanish consul went on shore, promising to come off again in a few hours, with the Bashaw's answer. At noon, he came off, and said that the Bashaw had at length agreed to the sum of sixty thousand dollars for the balance of the prisoners; but that he could not think of delivering up the Americans until his subjects were ready to be delivered to him; and again urged me to go on shore. I told him, in one word, that the business had already been protracted beyond what I conceived to be a reasonable time; but, as the weather yesterday would not admit of our countrymen being sent on board, I would allow the Bashaw twenty-four hours from this time to agree to my propositions in toto, or reject them. He begged for further time, but without effect, and left the ship at 5, P. M.

At 11, A. M. June 1st, our unfortunate countryman, Captain Bainbridge came on board, who had been permitted to come off, under the guaranty of the Danish consul and Sidi Mahamet Dghies, the minister of Foreign Affairs. He assured me that the Americans would not be delivered up until a treaty of peace should be made with the Bashaw, as peace was more his object than the sum he might get for the captives; and, as it was our intention to conclude a treaty, it would be cruel to let our countrymen languish in captivity, merely on the punctilio of negotiating the treaty before or after their delivery, as whatever related to them was already understood. I informed him of all which had passed between the Spanish consul and myself, and told him that, as the Spanish consul had come on board as the commissioner of the Bashaw, with his credentials, which he had delivered to me, I considered the business as now brought nearly to a close, and that a very short time remained for the Bashaw to make up his mind. However, as I should make no difference in the terms of the treaty, whether it should be drawn up before or after the delivery of the prisoners, I would enter into an immediate negotiation for that purpose with any proper character whom the Bashaw might send on board, duly authorized, but I would have nothing more to do with the Spanish consul. But the Americans should be sent on board, without waiting the arrival of the Tripolines from Syracuse. Captain B. left us in the evening, and went on shore.

In the forenoon of the 2d of June, Mr. Nissen, His Danish Majesty's consul at Tripoli, came off to the Constitution, bringing a commission from the Bashaw to negotiate with me on the articles of the treaty. As I had a sketch prepared, I communicated it to Mr. Nissen, who observed that there were some articles more favorable to the United States than were to be found in any treaty which the Bashaw had with any other nation; yet he would take them on shore and submit them to the Bashaw. He did so, and returned on board again about 4, P. M. saying that the Bashaw had acceded to the articles, but was very desirous of having an article expressive of our determination to withdraw our forces, &c. from Derne, and that we should endeavor to persuade his brother to leave his dominions. To the first I could have no objection, as it would be a natural consequence of peace; but I insisted that, if his brother should leave his territory, he should have his wife and family restored to him. Mr. Nissen thought the latter clause would meet objections. However, he took it on shore.

In the morning of the 3d of June, Mr. Nissen came on board again, and declared that the Bashaw would not agree to deliver the wife and children of his brother. I adhered to that part of the article, and, after a little time, he went

on shore, saying that, if the Bashaw still persisted in refusing that part of the article, the white flag should be hauled down on shore. When Mr. Nissen had left us, I told Commodore Rodgers, and Captain Smith, of the Vixen, who was on board, that, if the Bashaw should persist in his opposition to that article, I would not suffer the business to be broken off, and leave our countrymen in slavery, but would, at all hazards, take a boat and go on shore, if the white flag should be hauled down. At 4, P. M., Mr. Nissen came off again with the seal of the Bashaw to the preliminary articles; but with a condition that time should be allowed for the delivery of the wife and family of his brother. I consented to it, and we went on board the Vixen to stand into the harbor. When we were near the town, we fired a gun, and hauled down the white flag. A salute of twenty-one guns was fired from the batteries, and answered by the Constitution. I went into the harbor in the Constitution's barge, with the flag of the United States displayed, and was received at the landing place by the American officers, who had been in captivity, with a sensibility more easily to be conceived than described. An immense concourse of people crowded the shore, and filled the streets, all signifying their pleasure on the conclusion of the peace.

This, I believe, is the first instance where a peace has been concluded by any of the Barbary States on board a ship of war. I must here pay a tribute of justice to Commodore Rodgers, whose conduct, during the negotiation on board, was mixed with that manly firmness and evident wish to continue the war, if it could be done with propriety, while he displayed the magnanimity of an American, in declaring that we fought not for conquest, but to mantain our just rights and national dignity, as fully convinced the negotiators that we did not ask, but grant peace. You will pardon me if I here introduce a circumstance evincive of the spirit of our countrymen. At breakfast this morning, Commodore Rodgers observed that, if the Bashaw would consent to deliver up our countrymen without making peace, he would engage to give him two hundred thousand dollars, instead of sixty thousand, and raise the difference between the two sums from the officers of the navy, who, he was perfectly assured, would contribute to it with the highest satisfaction.

In the evening I visited Sidi Mahamet Dghies, whom I found a sensible, liberal, and well-informed man. He is a great friend of ours, and has always been opposed to the war with us.

On the 4th of June, at 11, A. M. the flag-staff was raised on the American house, and the flag of the United States displayed, which was immediately saluted with twenty-one guns from the castle and forts, and was returned by the Constitution, and all our unfortunate countrymen sent off on board their ships. At noon I had an audience of the Bashaw, by appointment, and was received with every mark of respect and attention. He paid me many compliments, and expressed himself on the peace with much manliness. He is a man of very good presence, manly and dignified, and has not, in his appearance, so much of the *tyrant* as he has been represented to be. His court was much more superb than that of Algiers. We spoke but little on the subject of the treaty, &c. He observed that he had given stronger evidences of his confidence in us than he had ever before given to any nation. He had delivered our people before he had received his own: and, as to the money he was to receive, it was merely nominal —the sum was nothing—but it was impossible to deliver them without something. The other articles of the treaty I might form as I pleased; being convinced I would not insert any thing which was not just. I returned his compliments, and assured him he would find our nation as just as he had found them brave and persevering.

On the 6th of June the Constitution sailed for Malta and Syracuse, to return to Tripoli with the money and the Tripoline prisoners. The Constellation sailed also for Derne, to bring off the few of our countrymen who might be there. I remained at Tripoli till the return of the Constitution, to establish an agent and make a final settlement of our business there. Dr. John Ridgely, of Maryland, late surgeon of the Philadelphia, was strongly recommended as a proper person to reside at Tripoli till the pleasure of the President was known, and I accordingly appointed him, as will be seen by the enclosed power and letter of instructions.

On the 10th, I sent to the Bashaw two copies of the treaty, with translations in the Arabic language, to be signed by him and his divan. He requested me to attend the divan and see the form of business there; and as this was a favor never before granted to a Christian, he gave it as an evidence of his respect, &c. I accordingly attended, and was seated on the same seat with the Bashaw, on his right hand. Great order and solemnity were observed. I presented the treaty to the Bashaw, who delivered it to his first secretary to read article by article. Some observations and short debates took place on several of the articles, but the Bashaw appeared to explain them satisfactorily. After the whole was read, the form of its presentation and acceptance was written by the secretary, and the seals of the Bashaw and members of the divan affixed to the two copies; one of which the Bashaw delivered to me in a solemn manner, and with many expressions of friendship. (He speaks good Italian.)

On the 17th the Constitution arrived, but the wind was too high to admit of her landing the Tripolines or money: on the 18th, both were sent on shore; but, instead of one hundred Tripolines, there were only forty-eight, and forty-one blacks. Seven had been carried to the United States by Commodore Preble, and I could never obtain an accurate account of the whole number. I had the Bashaw's tiscara respecting those who had been taken by Commodore Dale, which had been left in the hands of Mr. Nissen, which I found expressed twenty-one Tripolines and Turks, for whom and their goods seven Americans were to have been delivered. I was, therefore, obliged to make it appear that the blacks were his subjects, and were to be included in the exchange. I found no difficulty in the case, though I am sure he was not *convinced* of the propriety of it. Those in the United States, I assured him, would be returned by the first opportunity. The sixty thousand dollars were paid, and a receipt therefor given on the treaty left with Dr. Ridgely, and a duplicate therefor, which is enclosed. No consular present is mentioned in the treaty: butt hat, it is understood, will be given, as usual with *all* nations, when a consul shall be sent; it does not exceed six thousand dollars, and the particulars I shall send in my next, as I shall also my accounts, which cannot yet be adjusted, as our quarantine at Malta did not admit of my having that communication with Mr. Higgins, which was necessary for settling, as I had given him bills on the house of Sir Francis Baring and Company in London, for the money sent to Tripoli, &c.

On the 20th Commodore Rodgers came on shore, and had an audience with the Bashaw, where the assurances of friendship, &c. were repeated by the Bashaw.

On the 21st, in the evening, we sailed for Malta and Syracuse, arrived at the former on the morning of the 24th, where we remained two days, and sailed for this place.

I shall, in a future letter, give a more particular account of Tripoli, &c. At present, I confine myself to the subject of the negotiation and treaty. As I have always been opposed to the Egyptian and Derne expedition, I shall say nothing on that subject, especially as, I presume, there will be full communications respecting it from other quarters.

On the 5th of March last, we were indebted to Algiers for one year's annuity, deducting the cargo of timber, &c. which had been sent. I had learned that they were in great want of wheat at that place, and it struck me that, if a cargo of that article was sent to them on account of our annuity, it would be received with gratitude, and be a great saving to the United States; I, therefore, purchased a cargo of about twelve thousand bushels at Malta, which cost, with charges, about thirty-two thousand dollars, and sent it to Algiers, with a proper letter on the occasion: and I am happy to inform you that it arrived in good time, and in fine order, and was more valuable, as it relates to the United States, than a cargo of money would have been at that time. It was received, as intended, as a proof of friendship, and an evidence of good faith; and will settle our accounts for one year at least.

As our force in this sea is now so respectable, Commodore Rodgers has determined to go to Tunis, not to defy the Bey to war, but to have all differences with that regency settled on a basis that will ensure us future tranquillity from that Power, and place our national honor on a permanent ground. The Bey has lately been threatening us very hard, but I presume he will now be as submissive as he has been presumptuous. I shall go with him to that place on my way to Algiers, and, notwithstanding what Mr. Davis says of the Bey's resolution not to discuss the affairs of the United States, with any other person but himself, I am persuaded I shall find no difficulty in convincing him that the President of the United States will choose whomsoever he may think proper to settle our national affairs, provided there be no well grounded personal objections to the man.

With sentiments of the highest respect and consideration, I have the honor to be, &c.

TOBIAS LEAR.

The Hon. JAMES MADISON, *Secretary of State.*

William Eaton to the Secretary of the Navy.

SYRACUSE, *July* 6, 1805.

SIR:

I have the honor to enclose herewith copies of my communications to the commodores since I left Egypt: by the next occasion, shall give the correspondence.

I cannot but think our pacification has been too much precipitated. Was it contemplated that so formidable a squadron should be sent into this sea to negotiate, without showing itself before the enemy's port? Such is the fact! If it had only appeared off the place, I have no doubt the effect would have been a peace without money. If it had gone into a vigorous co-operation, Joseph Bashaw must have resigned at discretion, or saved himself by flight; he was calculating more on this than on defence. But we have peace!

The whole expense of my expedition amounts, in cash, to thirty-nine thousand one hundred and eight dollars fifty-eight cents, payment of troops included. As soon as I can effect a full settlement, my accounts will be transmitted. It will be necessary for me to negotiate bills on your Department, in order to enable me to do this, to the amount of seventeen thousand eighty-two dollars fifty-eight cents.

I learn that our consul at Gibraltar, Mr. Gavino, intends resigning. George Dyson, Esquire, who was appointed navy agent here by Commodore Preble, and who has discharged the duties of that office with activity and truth, I am persuaded, would be glad to transfer his concerns to Gibraltar, if the consulate there might be conferred on him. It is believed no man would acquit himself in that trust more to the satisfaction of Government; perhaps, none has better deserved it. Commodore Preble would, I think, say as much.

I have the honor to be, &c.

WILLIAM EATON.

HON. SECRETARY OF THE NAVY *of the United States.*

To the People of the United States of America.

SYRACUSE, *September* 1, 1805.

It is known to the whole world that the reigning Bashaw of Tripoli, Jussuf, obtained the throne by the murder of our father and elder brother, and by my exile, who came next in succession. Driven by his impious and cruel usurpation, I took refuge in Egypt, where I was kindly received by the Mameluke Beys, who gave me a distinguished rank in the military service. Reposing in the security of peace, I had ceased to repine for the loss of my throne, and regretted only the lot of my unhappy subjects, doomed to the yoke of my cruel and tyrannical brother.

It was at this epoch, that the arrival of General Eaton gave me hopes of better fortune; and though I could not tell what were his powers, I trusted to the faith of a great people, of whom he was the ostensible representative, and threw myself into his arms. We concluded a treaty at Alexandria, a copy of which is among the papers of Commodore Barron, in the custody of his secretary Mr. Robert Dennison. This treaty not only stipulates the recovery of the throne for me, but also includes several advantageous articles for the United States, for which General Eaton will be my voucher. Ought I, then, to suppose that the engagements of an American agent would be disputed by his constituent Government? I cannot suppose that a gentleman has pledged towards me the honor of his country on purpose to deceive me.

General Eaton and myself, with our joint followers, had already advanced six hundred miles into the kingdom of Tripoli, and a general defection had seized my brother's army, and all things prepared the protected of America to be hailed sovereign of his usurped throne. At this juncture a peace is concluded, in which a throne, acquired by rapine and murder, is guarantied to its usurper, and I the rightful sovereign, the friend and ally of America, am left unprovided for. No article in my favor, no provision for me and my family, and no remuneration for the advantages I had foregone in trusting to American honor. I am left in Syracuse with thirty dependents, on the pittance of two hundred dollars per month, and no prospect of future establishment. What with the expenses of my retinue, &c. I, a sovereign Prince, am now reduced to the pension of one dollar and fifty cents per day.

I must here observe, that Mr. Eaton, whose generosity I cannot sufficiently praise, has assisted me from his own finances, else hard indeed had been my lot.

When the prevalence of ages has accustomed men to the government of one, the right of a throne enters into the system of human thoughts, and that usage must have its rights like others.

In this situation, I appeal to the virtue, generosity, and candor of the people and Government of America. I trust that a brave and free nation will interest itself in behalf of a fallen prince, who has trusted to its national honor and good faith. I trust the Government will take my case into consideration, and at least send me back to Egypt, indemnified for those comforts lost by uniting my fortune to theirs; and I am confident the American people will feel for the misfortunes of one, who has fought in the united cause of their interest, and his own right.

HAMET BASHAW, *son of Ali Bashaw Caramalli, of Tripoli.*

Mr. Eaton to the Secretary of the Navy.

WASHINGTON CITY, *December* 5, 1805.

SIR:

Commodore Barron's instructions to Captain Hull of September 15, 1804, and my convention with Hamet Bashaw, of February 23, 1805, comprise all the obligations entered into with Hamet: copies of both which are in the offices, as are also the correspondences resulting therefrom. By perusing the Bashaw's letters from Syracuse, and by reviewing the transactions to which they refer, I cannot find that any additional observations of mine can throw more light on our transactions. It is impossible for me to undertake to say that the Bashaw has not been deceived. Nor can I, by any shape in which the subject can be viewed, reconcile the manner of his being abandoned, with those principles of national justice and honor which have hitherto marked our character. The term *co-operation* I always considered so nearly synonymous with *alliance*, that it would require the nicest distinction of diplomatic skill to discriminate the meaning; and hence supposed that an engagement to *co-operate* with Hamet Bashaw excluded the idea of using him as an *instrument*. This construction was the more readily admitted in this case, because until after we had proceeded far in the co-operation, I never heard a syllable of peace, neither from the President, nor from yourself, nor from the commander-in-chief, which did not look forward beyond an effort to chastise the enemy, and because I always felt a confidence, that such an effort, well conducted, would dethrone him. I really can offer no explanations on the subject, which are not to be found in my official communications, except a circumstance which I am aware modesty should conceal, but which was calculated, at all events, to save the honor and the interests of the United States harmless. On entering the ground of war with Hamet Bashaw, Mr. O'Bannon and myself united in a resolution to perish with him before the walls of Tripoli, or to triumph with him within those walls. In the former event we should have acquitted our duty; in the latter glorified our country. We were supported by similar resolutions on the part of commanders in the squadron, and to encourage Hamet Bashaw to perseverance, and in order to move understandingly with him, I induced the convention with him, which has been made the base of our treaty with his rival.

I have the honor to be, &c. &c.

WM. EATON.

Letter from Achmet Bashaw to the President of the United States.

SYRACUSE, *August* 5, 1805.

EXCELLENCE:

For nearly eleven years, I have been laboring under the weight of misfortune; but, notwithstanding which, my distress was never equal to that which the actual combination of circumstances has made it.

My residence was near Cairo, when there arrived in Alexandria a brig commanded by Captain Hull, in company with General Eaton, who came recommended to Mr. Briggs, His Britannic Majesty's consul, and inquired of him where I could be found. My place of abode being made known, a courier was despatched for Cairo, by order of the general, and on his arrival at Razid, a second one, which came to Cairo, directed to the house of Tursuf Bashaw, an officer of the Ottoman Porte, who received a letter in which he was requested to suffer me to pass without interruption, in order that I might co-operate with the Americans to take Tripoli. These things being communicated to me, caused me to reflect seriously, whether they could be true or not. All doubts were dissipated by General Eaton meeting in Cairo my secretary, named Mahumed Mezaluna, to whom he consigned another paper, and, in company with two Maltese, arrived at Said, my place of residence, and delivered to me a despatch, urging me to leave that place immediately, in order that we might have a meeting (as really happened) in the city of Damintur, where the general was made known to me as one who had been sent thither by your excellency for the conquest of the Kingdom of Tripoli. I engaged to go with him to Syracuse, and also to keep myself secret, from which circumstance I was necessarily compelled to abandon all I possessed, and thus lose my horses, camels, &c. Previous to my leaving Damintur, General Eaton assured me the peace would never be made, unless I was placed in my *own seat* (throne) and often swore by himself, that he would never take me from where I was for the sole purpose of making the conquest.

I did not, however, fail to suggest to the general, that in case Jussuf Bashaw should actually remain conqueror, what part he would take in my favor, as I should not be able to remain any longer in the Turkish dominions. I was answered, that if the combinations of war should prove favorable to Jussuf Bashaw, a pension would be granted me, sufficient to maintain my family and suite; the people and money demanded by me, to effect this object, (for such a movement,) were ready; and that I had better expedite my secretary to Captain Hull, to inform him, that the general had come to conduct me from Upper Egypt to Syracuse, but that I could not trust myself at sea in the manner he had. My envoy having executed his commission, arrived first in Syracuse, and afterwards in Malta, in consequence of the absence of Captain Hull from the first, (place,) and whom he afterwards found in the second place, (Malta,) and executed his embassy: he was answered by the same (Hull) that every thing I could possibly want was ready, and in fact, there was sent me a vessel, laden with supplies and provisions, accompanied by the brig commanded by Captain Hull, which arrived at Bomba, delivering to the general and myself a despatch (to him directed) from the commodore, in which he renders Hull responsible for every thing I might want; I then asked for cannon, powder, and other warlike supplies, and was answered that a frigate was hourly expected, and that they would be sent to me. I afterwards left Bomba, in company with General Eaton, and we pursued our route towards Derne, arriving near it in twelve hours. Such a voyage made me extremely happy, as well as all my people, while the manner in which we were treated by the general excited universal admiration; his dignified soul (conduct) merits applause. We were scarcely on the twelfth hour of our voyage, when we saw a schooner, which brought us two pieces of cannon, and nothing more. After an attack of two hours, in which all the troops applaud and admire the courage of General Eaton, Derne was taken, (as the people of that country were much in our favor,) and in which attack the general was wounded in the hand.

After the capture of the city, we received from the chiefs of the brigands, letters offering to join us. After ten days a troop of cavalry and infantry (of the enemy) advanced; they were twice broken and put to flight by us. We now asked from the schooner, which had been sent us, people and arms, while there remained a respite and peace, and were waiting an answer respecting our demand for people and arms, in order that we might go and take Bergaza and Tripoli; in the mean time arrived a frigate which we supposed had brought us people, but she landed a Turkish ambassador from Jussuf Bashaw, who informed the general of the alliance of Jussuf Bashaw with your excellency; saying that the said Bashaw would restore my family, and that your excellency would give me, in the name of the United States, a pension. The same evening of the arrival of the frigate, the general informed me, that I must embark with all my people; and thus was again compelled to abandon all I possessed—the general having prevented the Turkish ambassador from landing, and thus we parted for Syracuse, where we found the whole squadron.

I daily expected my family, when finally I was told that he (the Bashaw) would not let them go: having thus broken his word, I demanded of the general to be replaced in my own country, which was also denied me, saying that he had no orders to that effect from your excellency, and it is thus I find myself in this country, with the small pension of two hundred dollars per month, and on which sum I am to support myself with a number of people. Such a state of things makes me feel that the weight of misfortune has only increased, and for the first time, am completely abandoned, and by a great nation; I therefore fling myself on the mercy of your excellency, who, under the influence of just laws, will not fail to render me that justice which oppression and misfortune entitle me to.

With the hope of an early reply from your excellency, I remain, &c. &c.

ACHMET BASHAW, *son of Ali Bashaw, &c.*

Commodore John Rodgers to Samuel Barron, Esq.—[Received at Malta, June 2.]

CONSTITUTION, OFF TRIPOLI, *May* 28, 1805.

SIR:

On the 26th instant, by the Essex, Captain James Barron, I had the honor to receive your letter bearing date 22d instant, with the accompanying letters, resigning the command of the United States squadron in these seas into my hands. The task which your unavoidable indisposition has consequently imposed on me, is a commission which I accept, with a diffidence no less conspicuous than its consequence is repugnant to your zeal and patriotism; and sir, while I commiserate your truly unpleasant situation, be assured that nothing will afford me more real satisfaction, than such a restoration of your health as will authorize your re-assuming a command which devolved on me by mere accident.

A few hours after the arrival of the Essex here, she stretched close in shore, and made the signal indicative of her mission, which was immediately answered by the Bashaw on his castle, in a manner expressive of his unfeigned approbation; and in an hour after the Spanish consul came on board by the Bashaw's order to make the suitable arrangements with Colonel Lear, previous to the opening of the negotiation, and to his going on shore; when from the favorable representation by the Spanish consul of the Bashaw's propitious disposition to peace, Colonel Lear resolved and had made arrangements for waiting on the Bashaw to commence his functions the next morning, but the weather has been so unsettled as to prevent further intercourse until this day.

From the same to the same.

MAY 29, 1805.

The arrival of the Vixen yesterday affords me the honor of acknowledging the receipt of your letter of the 25th inst. with the accompanying communications from Mr. Eaton, Mr. Davis, and Captain Hull, and happily before Colonel Lear had landed or touched even on the negotiation. Mr. Davis's communications contain information of

importance, and their timely arrival will, I sanguinely flatter myself, enable Colonel Lear, (on whose judgment I have the fullest confidence,) to assume an independence in negotiation, which it is equally his own and his country's honor and interest to observe. From the relation, by Captain Barron and Colonel Lear, of your last instructions to Mr. Eaton, I conceive it unnecessary for me to say any thing further on that subject, as he has no doubt evacuated Derne, and is now on his return in the Argus to Syracuse or Malta; and as Colonel Lear is of opinion with myself, that Mr Davis's communications do not require an immediate answer, particularly as the negotiation is already opened with Tripoli, and personally with the Bashaw. So soon as the event, whatever it may be, is known, I shall despatch the Vixen to Malta, to give you the intelligence, and if unfavorable to Captain Barron, to prepare our forces to compel the monster to a sense of reason. Although it is evident that the Bey of Tunis is afraid of the consequences of a war with the United States, yet, *at this critical moment*, I conceive it necessary that he should not be neglected; therefore, as soon as one of the vessels from this can be spared, I shall send her with advices to Mr. Davis, corroborating and seconding the steps you have already taken with that regency—as it is my determination to respect the lawful rights of that gentleman with as much delicacy as I am resolved to pursue pacific measures no further than his conduct will authorize. A peace with this regency will enable us to represent to him our opinion of his treachery in such language as he best understands.

From the same to the same.

MAY 30, 1805.

Yesterday the Spanish Consul returned on board again, empowered by the Bashaw to negotiate a peace, and although it appeared by his credentials that he was completely authorized to conclude a final settlement of differences with Colonel Lear, previous to his going on shore, yet he did not think Colonel Lear's propositions admissible, and, in consequence, returned on shore last evening to consult the Bashaw further on the business.

The Spanish consul has this moment (10 A. M.) returned on board again, and says that the Bashaw is not satisfied with the propositions that have been made. How things will turn out is yet uncertain. Captain Barron will be able to give you the particulars.

I have the honor, &c.

From the same to the same.

CONSTITUTION, OFF TRIPOLI, *June* 3, 1805.

SIR:

By the sperronara you despatched from Malta, I have this instant received duplicates of the Government despatches you forwarded by the Nautilus, with Mr. Simpson's representations relative to our affairs with Morocco. I shall be at Malta in the course of three or four days after this reaches you, and in time, I hope, to send a force to Morocco to meet Mr Simpson's wishes. The business is so far finished that a flag-staff is making on board the Constitution to display the American flag on the consular house.

From the same to the same.

SIR: JUNE 3, 1805.

In all probability peace will be concluded with Tripoli to-morrow, in which case it is likely the prisoners will be on board the squadron to-morrow morning. Colonel Lear, who has not yet been on shore, goes to-morrow for the purpose of concluding matters. Captain Bainbridge on parole was on board the Constitution yesterday: he desires to be affectionately remembered to you and your brother.

The Bashaw is much humiliated, which he now *himself* confesses; and I think I can venture to say that it is the last war that this regency will ever wage against the United States. None of the Philadelphia's officers have died—they are all well—this will be pleasing news to their friends.

In haste, I have the honor to be, &c. &c.

JOHN RODGERS.

General Eaton to Commodore Barron.

SIR: DERNE, *May* 29, 1805.

Since the departure of the Nautilus with my despatches of the 17th, the enemy have daily showed themselves in a menacing posture near us, but have not come to a general action. Yesterday a detachment of about fifty or sixty of their foot, covered by a troop of horse, descended the mountain, by a ravine, fell upon some of our Arab families, who were encamped in the rear of the town, and drove off several cattle and camels. The Bashaw's people pursued and attacked them under the mountain, killed and wounded three of them, and recovered their cattle. I marched out with Lieutenant O'Bannon, Mr. Mann, and Farquhar, and thirty rank and file, Americans and Greeks, from the garrison, and took a ravine on the left with a view of cutting off their retreat. We fell in with them soon after ascending the mountain—they opposed to us a short resistance, but fled before a charge of bayonet: we pursued them within a short distance of their camp, killed their captain and five men, wounded a number and took two prisoners, without receiving any injury ourselves. The camp beat to arms, mounted and moved towards us in a body, but did not come within musket shot—they could not ascertain our number, and apprehending we were an advanced party aiming to draw them into an ambuscade on disadvantageous ground, formed in order of battle and kept their post, while we retired down the mountain. The enemy swore vengeance, and resolved to execute it to-day. About nine in the morning they advanced their whole force, and posted themselves on an eminence in fair view—proper stations were taken on our part to receive them—they reconnoitered us awhile; but when orders were given to attack, their Arabs mutinied, and retrograded; and the Beys were compelled to follow with their Tripolitans.

JUNE 2.

To-day the enemy brought themselves to a resolution to attack; they had previously forced the Arabs into oaths of fidelity by seizing and chaining hostages from their most considerable families; but their movements this day terminated exactly as on the 29th—the Beys attempted to force the Arabs forward—they resisted, and alleged, as on similar occasions, that they were willing to fight an enemy of their own mode of warfare, but they could not resist the Americans, who fired enormous balls that carried away a man and his camel at once, or rushed on them with bayonets, without giving them time to load their muskets.

Last evening I had the honor to receive your letter of the 19th ultimo, by which I learn *that the reigning Bashaw of Tripoli has lately made overtures of peace, which the Consul General, Colonel Lear, has determined to meet, viewing the present moment propitious to such a step.* In consequence of which it seems contemplated that we should withdraw ourselves from this coast.

It was an event anticipated in my letter of the 1st ultimo that the reigning Bashaw would seize the moment, when he should apprehend himself seriously in danger from his brother, to rid himself of this rival by detaching from him our succor through overtures of peace. Facts establish the correctness of this conjecture.

That the inhabitants of Tripoli are weary of the war is well ascertained. That they secretly desire the restoration of their legitimate sovereign, because they believe him peaceably inclined, transpires through various indubitable channels: and that the Moors and Arabs of the kingdom, who form its entire population, are generally in a revolutionary state is equally true. Joseph Bashaw is not ignorant of these dispositions. As early as the month of January last, he was, according to the Danish consul, *very attentive upon our transactions with his brother in Alexandria.* On the 19th ultimo, *late overtures* had intimated to the Consul General his inclination towards a pacification—we had then been seventy-six days from Alexandria—thirty-five as far forward as Bomba, and twenty-one in possession of this place. Of these movements and operations, intercepted letters by way of Mensurat and Bengazi prove to us the enemy were not uninformed. It is now nineteen days since his forces were beaten on this ground; and since that, detached parties surprised and routed. These are also events which cannot be easily concealed: it does not appear that the season has hitherto permitted any formidable display of our naval force before Tripoli. It cannot be unfair, therefore, to infer, that the pacific overtures of the reigning Basha are influenced in a great measure by apprehensions of his brother's approach. Yet it seems not to be admitted that we have any obligations towards Hamet Bashaw—but if such is the effect of the enemy's apprehensions from this quarter, who certainly knows how to compare the relative influence of the parties, the calculations we have formed of the ultimate result of an effectual co-operation should no longer seem visionary. I do believe it was in the contemplation of Government to have profited of this advantageous circumstance, as instrumental to chastise a perfidious foe, rather than sacrifice a credulous friend. I know it was the general wish, and indeed the expectation of our country, that the enemy *should be chastised.* How far this wish and expectation will be satisfied from the arrangements now in operation, time and events must determine. But I cannot, from any shape in which the subject can be viewed, be persuaded that the manner of serving ourselves of Hamet Bashaw, and abandoning him, can be reconciled to those principles of honor and justice, which, I know, actuate the national breast. It seems enough to *cancel every pledge* that we have brought him back to the post from which he had been driven. It ought to be taken into consideration that this is no other than the post from whence he was always asked supplies; and that, consequently, setting him down here, just as he was, can render him no essential service; but that, to abandon him here under actual circumstances, where famine and the ravages of the enemy's forces have exhausted the resources of the province, and while those forces are still in our vicinity, cannot but leave him in a more hopeless situation, than he left the place. And here is an additional reason why his means are not materially altered for the better. He was driven away on account of his intercourse with the enemies of his rival. He has been induced to return under an expectation of receiving aids from the United States, to prosecute his views of recovering his throne. I thought myself authorized, from the assurances given me by the Secretary of the Navy, to encourage him with the prospect of receiving those aids; and frequent expressions of your resolution to make an example of Tripoli. The ensuing summer fortified me in the confidence that the exercise of my discretion here in the manner I have done would eventually, if not directly, assist the accomplishment of those objects. The resistance we met at this place is said to have discouraged the expectation formed of the co-operation in view. This resistance would undoubtedly have been less obstinate, had not the vicinity of the enemy's camp in some measure inspired, or at least encouraged it. But it might have been expected that the Governor of Joseph Bashaw, who, twenty months ago, with forces from Tripoli, drove Hamet Bashaw from the post, and who still held possession, would oppose his return by all the means in his power.

Want of qualities essential in the character of a commander and a prince is stated as a *serious obstacle to the advancement of his cause.* We do not hitherto find that the enemy possesses those qualities in so eminent a degree as to justify a comparison to the prejudice of his rival. It must be admitted that the latter possesses the capacity of commanding respect, and conciliating affection among his subjects. And I have lately had good reasons to correct the unfavorable opinion at one time entertained of his military enterprise; yet he is not a general: I never knew but one Turk who, I thought, deserved that character. I am not alone in the opinion, it is general among the gentlemen who have acted with me, that Hamet Bashaw possesses talents sufficient to our purpose. As evidence of this, every one of them is not only willing but solicitous to pursue the expedition.

With such aids as I have mentioned to be thought requisite, we could at once break up the enemy's camp in our front, and open our way, without further considerable impediments, to the gates of Tripoli. The enemy is aware of this, and is endeavoring to out-general us—his camp is abroad; of course his defence is weakened at the capital. The total defeat of his forces here would be a fatal blow to his interests. To recall them would be to abandon the provinces of Derne and Bengazi. But to remove the enemy near him by pacification, he may safely turn all his resources against his rival: and, when once relieved from this danger, we shall again undoubtedly have experience of his *respect to treaty.*

I am suspicious that the Spanish consul has an influence in Joseph Bashaw's measures. If my recollection serves me, he was accused by our late consul, Mr. Cathcart, of advising the war. I recollect perfectly well hearing him assert, at Tunis, in December 1801, that *the Americans miscalculated if they thought of forcing a peace without paying for it.* National shame, perhaps interest, and individual pride, engaged him to favor such an issue of the war: he is said to be the confidential man of the Bashaw.

I am afraid one important consideration has been overlooked in the arrangements lately adopted by Mr. Lear—the danger of falling back to an irrecoverable distance, in case of the failure of the negotiation commenced by him, and at the same time the abandonment of the advantageous ground we hold here—it would certainly have a tendency to unite the kingdom of Tripoli against us, and possibly to encourage the whole coast of Barbary to aggression. Or should it transpire that the evacuation of this post had been recommended, it would certainly have an unfavorable influence on the pending negotiation.

Another consideration is involved, which cannot but wound the pride of military principles. We must strike the flag of our country here in presence of an enemy who have not merited the triumph, and yield to them honor of a victory which no encounter hitherto has given them a right to claim, nor reason to expect; certainly they, and perhaps the world, will place an unjust construction on this retreat: at any rate it is a retreat—and a retreat of Americans! If individual feeling were alone to be consulted in this situation, it would prefer a manly defeat to this mode of safety: the consequences to the national character would be more honorable.

The burden of expense, which must accrue from pursuing the co-operation, seems an insurmountable obstacle I am apprehensive that the ultimate expense of maintaining a peace with Joseph Bashaw will be more burdensome to the United States than that accruing from this co-operation; besides it is calculated that this expense will be reimbursed.

It is insinuated that the Consul General is opposed to the measure. It is possible that he may have better information from whence to form an opinion of its issue, than we who have thus far accompanied the expedition; but it is not probable: has he any agency in the war?

I cannot but indulge the hope that additional instructions from Government will arrive in season, to enable you to furnish the means of prosecuting the co-operation to effect, of chastising the temerity of our enemy, and of preventing the melancholy and disagreeable events, which present appearances threaten. You would weep, sir, were you on the spot, to witness the unbounded confidence placed in the American character here, and to reflect that this confidence must shortly sink into contempt and immortal hatred; you would feel that this confidence, at any price, should be carried through the Barbary regencies, at least to Tripoli, by the same means that it has been inspired here. But if no further aids come to our assistance, and we are compelled to leave the place under its actual circumstances, humanity itself must weep. The whole city of Derne, together with numerous families of Arabs, who attached themselves to Hamet Bashaw, and who resisted Joseph's troops in expectation of succor from us, must be abandoned to their fate; havoc and slaughter will be the inevitable consequence; not a soul of them can escape the savage vengeance of the enemy. In proceeding, therefore, thus far and no further, instead of lending aids to the unfortunate people, whom we used as allies, and of whose situation we are actually profiting, to our own exclusive benefit, we involve them in destruction. Could I have apprehended this result of my exertions, certainly no consideration would have prevailed on me to have taken an agency in a tragedy so manifestly fraught with intrigue, so wounding to humane feelings, and, as I must view it, so degrading to our national honor.

It is impossible, though enjoined on me, to say any thing further of the squadron co-operating with Hamet Bashaw, after having been officially informed that a negotiation is opened with his brother, without so far having considered his situation as to have agreed on a cessation of arms. The delusion is already carried too far. If it had not been our intention to support him, or at least to save him, both honor and religion should have forbidden any encouragement to, or use of him.

It is said some provisions will be attempted in his favor, in our peace stipulations; this is, however, to be left to convenience. But before this provision be definitely arranged, if at all, and information of it received here, no armistice being agreed on, both himself and adherents may be cut in pieces by the enemy's army here, and by such of his own party as disappointment and rage will carry over to them.

Viewing the present posture of affairs, therefore, either as relative to our national honor and interests, or the situation of the Bashaw and people here, I consider it due to the confidence of Government, and a bond imposed by all the injunctions of humanity, to endeavor to hold this post till the last moment, in hopes that some happy occurrence may take place to secure our own, and, at the same time, to assist the interests of our friends. And I most devoutly pray heaven, that the blood of innocence may not stain the footsteps of us, who have aimed only to fight the enemies of our country.

JUNE 3.

The enemies feinted another attack to-day, by sending a detachment on the back of the town, which was repelled with loss. Their object seemed to aim at ascertaining the disposition of the inhabitants of the place. These turned out to a man in view of them. Their main body halted at a safe distance; and, after some manœuvring, retired to their camp. During the alarm a detachment from the garrison, under command of lieutenant O'Bannon, passed through town; every body, age and childhood, even women from their recluses, shouted, "Live the Americans! Long live our friends and protectors!" Hapless beings! if they could descry the reverse that probably awaits them, how justly would their acclamations of confidence be turned to execrations!

JUNE 5.

This morning a spy, a religious chief, whom I had employed to watch the enemy's motions, and who last night slept in their camp, reports that a courier arrived yesterday, eleven days from Tripoli, with despatches from the reigning Bashaw to his commander-in-chief in this vicinity, stating his intentions of concluding a peace with the United States, which he was resolved to carry into effect even if he sold his wardrobe: after which he should know how to dispose of his internal enemies. He enjoined it on his commander to hold his position before this town, if possible, till the issue of this project of peace should be known. The Mirabout chief added, that the Beys had it in contemplation to propose an armistice to me; I shall meet such an overture, if it should be offered, until I receive further advice from head quarters.

Eleven o'clock, A. M. this morning came in two deserters from the enemy's camp, both Levant Turks, Ismien and Mahamet, a choux and a cheriff, corresponding with the rank of aid-de-camp and ensign, who confirm the information before stated; and add that the Beys cannot prevail on their troops to attack this place, under our batteries and guns of the shipping; but that they calculate on sacking the city the moment we evacuate our posts. Their officers put themselves under the protection of the American flag, giving this reason for their preference, that "they wished to get out of the kingdom of Tripoli, and thought this a favorable occasion." They say Joseph Bashaw has about two hundred soldiers in Tripoli, in whom he can place confidence, and three or four hundred others who are undisciplined and suspected. They declare that the people, in general, of the kingdom, expect with solicitude and impatience the approach of Hamet Bashaw, as they think him a good man, and are weary of the madness and violence of his brother.

Five o'clock, P. M. This afternoon an Arabic chief, Ab'd'el Selim, with a party of warriors, came over to us. He brings a message from the principal Arab chief at camp, that he will come over to the Bashaw with his cavalry, amounting to about one hundred and fifty, if he can have assurances that the Americans will not abandon him, in which case Joseph Bashaw would devour his family and lands. This chief asserts that the Bey of Bengazi, who is with the camp, is well disposed towards us; and only waits the arrival of our supplies to declare himself. Be assured, sir, we only want cash and a few marines to proceed to Tripoli, and to meet you in the citadel of that piratical kennel for the liberation of our captives. It would only occasion a delay of their release a few months. Their triumph will amply compensate this delay.

It is thought proper to despatch the Hornet with these communications, and hold ground here until your answer can be received.

JUNE 9.

Day before yesterday, Hadge Ismein Bey, the second in command of the enemy's army here, deserted with a few attendants and camels, took off the military chest, and entered the desert for Upper Egypt. This defection is said to have been caused by his being charged with bad generalship in the affair of the 13th ultimo. He commanded the cavalry.

JUNE 11.

Yesterday morning the enemy having received fresh reinforcements of Arabs, appeared in great numbers on the heights which overlook the town, and moved along the site of the mountain for the space of two or three miles, apparently in search of some avenue to descend without being exposed to our cannon; but seemed irresolute. An accident brought on an engagement. The declivity of the mountain is a steep and uneven ledge of rocks, with only one pass where cavalry can move down, and this about two miles and a half from the town. The plain below, bordering on the sea about one mile in depth, is calcareous rock, and red earth, very much broken: in many places of which the brig's brass twelves could take effect, in others impeded by ridges near the shore. About half way between the town and the pass of the mountain, the Bashaw had posted a few cavalry to serve as videts. A detachment of the enemy, of superior numbers, descended the pass, with a view of cutting off this post, but they were manfully resisted and repelled. Reinforcements of small parties joined, and continued to join, on one side and the other, until about two o'clock, when the action became general. We were little more than spectators of the scene. The Argus, as often as the enemy were uncovered from the ridges, galled them with her shot from her long twelves, (the twenty-four pound carronades could not reach,) and we occasionally brought one of our field-pieces to bear on them from our advanced battery. But the fire of the Hornet was lost, by reason of her being too near the shore, the high bluff of which covered the enemy. Captain Hull, who had the fairest opportunity of ascertaining it, judges there were five thousand men on the field. The engagement lasted four hours. Though frequently charged, the Bashaw lost not an inch of ground. At length the enemy gave way, and were pursued quite to the pass of the mountain, where a regard to safety compelled many of them to quit their horses, which fell into the hands of our friends. This action, though fought in the Barbary manner, was conducted judiciously on the part of the Bashaw, and the victory was decidedly his. The number of his killed and wounded is between fifty and sixty; among the latter, four of his principal officers. Some Arab women, who came in from the enemy's camp this morning, say the Beys lost between forty and fifty killed, and upwards of seventy wounded. If we could have furnished but two hundred bayonets to assist a charge, and cut the pass of the mountain, not a horse should have escaped. Mr. O'Bannon was impatient to lead his marines and Greeks (about thirty in number) to the scene of action. This could not be done without leaving our post too defenceless in case of a reverse; besides, I confess I had doubts whether the measures lately adopted by our commissioner of peace would justify me in acting offensively any longer in this quarter. Had the aids come forward seasonably which we hoped to receive here, we might now have been at Cape Mensurat, and in fifteen days more at Tripoli.

Head winds have detained the Hornet, and a gale last night took the Argus to sea: as soon as she returns Captain Evans will be despatched to head quarters.

I have communicated, some days since, such parts of the contents of your letter of the 19th ultimo, as concern him, to Hamet Bashaw. He answers, that, even with supplies, it would be fruitless for him to attempt to prosecute the war with his brother, after you shall have withdrawn your squadron from the coast; but without supplies he

must be left in a most forlorn situation, for he can command no resources here, nor can he place any faith in provisions which may be stipulated with his brother in his favor, except guarantied by the United States. He emphatically says, that, to abandon him here is not to co-operate with him, but with his rival! He wishes us to take him off in case of a peace. I am extremely anxious to learn the issue of the negotiation.

Meantime, I have the honor to be, &c.

WILLIAM EATON.

SAMUEL BARRON, Esq. *Commander-in-chief of the U. S. forces in the Mediterranean.*

A list of commanders and forces of Joseph Bashaw, defeated before Derne on the 10th June.

TURKS.

Hassien Bey, commander-in-chief.
Hadge Ismein Bey, commander of cavalry, deserted June 7th, and succeeded by the late Governor of Derne.
Muhamed Bey, of Bengazi, commander of infantry.
Mustapha Bey, of Derne.
Imhemed Bey, of Ogna, commander of the Arabs.

Draughts on the most considerable districts.

Tripolitans mounted,		270
Left Tripoli early in January, as is supposed from Captain Bainbridge's letter,		
District of Mensurat, mounted		90
Imselletti, - ditto		30
Issileiti, - ditto		30
Issiheli, - ditto		75
Province of Bengazi, ditto		90
Ieiberna Arabs, ditto		260
Haddud Arabs, ditto		100
Total cavalry,		945
Infantry, including Arabs,	1,250	
Refugees from Derne,	350	1,600
		2,545
Recruits up to the 10th June,		500
Total,		3,045

The germ of this army had been five months in the field, had moved through the greatest extent of the kingdom, and, with every exertion to augment its strength, could only bring this small number to the field. Why? Want of cash on the part of Joseph Bashaw, and want of attachment on the part of his subjects. Though we were enough, with Hamet Bashaw, to defeat this force, we had not the means of pursuing the advantage. Why?

Mr. Davis to the Secretary of State.

SIR: TRIPOLI, *June* 2, 1807.

I arrived at this place on the 7th ultimo, and on the 10th communicated to the Minister of Foreign Affairs, Sidi Dghies, my orders relative to the execution of the third article of the treaty. He expressed some surprise at the demand, and instantly handed me the secret article, (of which I have the honor to enclose you a copy,) and promised to take an early opportunity of acquainting the Bashaw.

On the morning of the 11th, the Minister of Marines, brother-in-law to the Bashaw, waited on me at an early hour, and asked me, in the name of his excellency, to repeat what I had stated the day before to the minister Sidi Dghies. He said it was so strange, that his master supposed there must be some misunderstanding; that every body knew the opposition which was made to that article on the part of the Bashaw, even in the form it stood; and that my Government must be convinced that time had not lessened the difficulties annexed to its execution; that it appeared very inconsistent for me to present assurances of our friendship, while I came instructed to violate the most sacred article of our treaty. I informed him that I only wanted an answer to the demand I had made, by which my future conduct would be regulated; and as his comments could not possibly affect the measures my Government had resolved to take, they might very well be spared.

When he retired, I waited on the minister Sidi Dghies, who had not received any answer from the Bashaw. His impressions were, that my exertions to obtain the release of the family would prove fruitless, and suggested the propriety of my acquainting the Government with the nature of the secret article, which he supposed, from my instructions, they must be ignorant of. I expressed the wish of having an early answer, and informed him, that, as the line of conduct I was to pursue, in case of a refusal, had been directed by the Government, a delay of that kind was very unnecessary, and that he might not be aware of the consequences which might result from the inexecution of the treaty. He requested me to call again the next day.

On the morning of the 12th we again waited on the minister, who received us with a forced gayety, and, after some desultory conversation, asked if I was not of his opinion, that it would be better to wait an answer from the President than to carry things to a serious extreme; that the Bashaw appeared much displeased, and very unhappy, and certainly would not make such a sacrifice for nothing.

I asked if that was to be considered as a definitive answer from his master. He hesitated, and evaded an answer. I assured him that it was unnecessary for us to speak at a distance; that I requested an immediate answer from the Bashaw; that the brig could be detained no longer; and that the family or myself must embark on board.

A short time after we had left him he sent for Mr. Ridgely, and requested I would join him in half an hour. On entering his apartment, I found him walking with extreme agitation. He requested Mr. Ridgely to explain to me the object of this visit. Mr. Ridgely prefaced his observations by saying that he was fully satisfied of the minister's sincerity, and hoped it would influence my conduct. The minister told him he feared for his life, and explained some traits in the Bashaw's character, and reasons which made him so tenacious on this point; that his friendship for the exile was known, and had drawn upon him great and powerful enemies; that my persevering so warmly in the demand might induce the Bashaw to believe that he (the minister) supported rather than opposed me; that he would make a considerable pecuniary sacrifice to obtain my wishes, and, that it might be successful, solicited me to ask the family as a favor rather than demand it as a right; the Divan had been called, and I would be received by them at the castle; that he would be the interpreter, opposing me warmly in *lingua Franca*, but would take a very different part in Arabic; and concluded with some warm ejaculations for the happy termination of the affair.

I thanked the minister for his friendship, and assured him of my compliance with his wishes; that his confidence in me induced me to add that the expectations of my Government were not restricted to the delivery of the family; that I was instructed to demand an establishment for them. He said, if the first was granted, there would be no great difficulty in the second, to a moderate degree.

At half-past nine, P. M. I was sent for to the castle, where we found the Divan assembled, when my orders were again made known, and each in his turn offered his comments on the secret article; and, after considerable discus-

sion, the Bashaw addressed himself to me, and requested my opinion on the line of conduct he ought to pursue; that he had strong reasons for wishing to retain the family, and that he had justice on his side. I told his excellency that I could foresee no possible ill which could result to him from their immediate delivery, but that his retention of them would do us considerable injury; that our treaty was known to all the world, and our public faith pledged in their behalf; that his brother had co-operated with us, and to deceive him in such a tender point was to disgrace us as a nation. He asked if I would certify that the treaty had been ratified: to which I consented, provided he would execute the third article. He replied that the acts of no individual should again involve him with us, and that the wishes of our Government should be complied with. I thanked him, and informed him that the wife of the Bey and the other married sister were permitted to remain; at which the Divan expressed much satisfaction.

On the 13th I waited on the minister to learn when they would be ready to embark, and requested that their slaves, effects, &c. would not be withheld; to which he consented. I told him that I had now a favor to solicit, which was, that some establishment should be made for the children. He assured us that he had made a considerable pecuniary sacrifice to release them; that the Bey was much disposed to do something for the mother and brothers of his wife; and, in order that no discontent might remain on our part, he would engage that they should be provided for, and that he would give something handsome towards it himself. I told him that he should not lose by his liberality, and that the expenses he had incurred would be remunerated him by the United States; the exact amount of his sacrifices will be ascertained, and I shall trust to his excellency the President to make good my assurances.

Captain Dent's orders being to sail in the evening, and it requiring some time to prepare and clothe the family, I could not avail myself of this opportunity of sending them to Syracuse. The same reason prevented my writing by the Hornet.

I have the honor to enclose you copies of my letters to Commodore Campbell and his excellency Achmet Bashaw. The minister Dghies holds his public situation from policy, perhaps necessity. He is wealthy, and the greatest sufferer in all serious difficulties. He possesses considerable talents, and which I am sure will never be used to foment a war with any Power. The concessions we have obtained here are unprecedented, and every circumstance tends to impress me with the belief that we are not placed beneath England or France.

With profound respect and consideration, I have the honor to be, sir, your most obedient servant,

GEORGE DAVIS.

JAMES MADISON, Esq.

[Secret article of the treaty enclosed in the foregoing letter.]

Whereas his excellency the Bashaw of Tripoli has well grounded reasons to believe, if the wife and children of his brother should be delivered up to him immediately on his leaving his (the Bashaw's) dominions, as expressed in the third article of the treaty of peace and amity concluded between the United States of America and the Bashaw of Tripoli on the fourth day of the present month, that he, the said brother, would engage in new operations of hostility against him, to the disturbance of the internal tranquillity of his dominions; and the said United States being willing to evince their good disposition to preserve the said treaty with sincerity, and that tranquillity should be secured in the dominions of the said Bashaw, do hereby agree to a modification of the said article of the treaty aforesaid, so that the term of four years, from the conclusion of said treaty, shall be fixed for the execution of the engagement of the Bashaw to deliver to his brother his wife and children; during which time the said brother is to give evident proofs of his peaceful disposition towards the Bashaw, and of his determination not to disturb the internal tranquillity of his dominions.

Given under my hand and seal, at Tripoli, in Barbary, this fifth day of June, in the year one thousand eight hundred and five.

TOBIAS LEAR,
Commissioner of the United States of America for concluding a peace with the Bashaw of Tripoli.

9th CONGRESS.] No. 193. [1st SESSION.

FRANCE.

COMMUNICATED TO CONGRESS, JANUARY 10, 1806.

JANUARY 10, 1806.

To the Senate of the United States:

In compliance with the request of the Senate, expressed in their resolution of December 27, I now lay before them such documents and papers (there being no other information in my possession) as relate to complaints by the Government of France against the commerce carried on by the citizens of the United States to the French islands of St. Domingo.

TH: JEFFERSON.

[TRANSLATION.]

From General Turreau to the Secretary of State.

OCTOBER 14, 1805.

The undersigned, minister plenipotentiary of His Imperial and Royal Majesty to His Excellency the President of the United States of America, has testified, in his conversations with the Secretary of State, his just discontent with the commercial relations which many citizens of different States of the Union maintain with the rebels of every color, who have momentarily withdrawn the colony of St. Domingo from the legal authority.

The principles injuriously affected by such a commerce, or rather by such a system of robbery, (brigandage,) are so evident, so generally acknowledged, and adopted, not only by all nations who have a colonial system to defend, but even by those who have none, and, moreover, even by every wise people to whatsoever political aggregation they may belong, that the statesman, if he has not lost every idea of justice, of humanity, and of public law, can no more contest their wisdom than their existence. And certainly the undersigned, in finding himself called by his duty, as well as by his inclination, in the bosom of a friendly people, and near the respectable Chief who directs its Government; certainly the undersigned ought not to have expected that his first political relations would have for their object a complaint so serious, an infraction so manifest of law, the most sacred and the best observed by every nation under the dominion of civilization.

But it was not enough for some citizens of the United States to convey munitions of every kind to the rebels of St. Domingo, to that race of African slaves the reproach and the refuse of nature; it was moreover necessary to insure the success of this ignoble and criminal traffic by the use of force. The vessels destined to protect it are constructed, loaded, armed in all the ports of the Union, under the eyes of the American people, of its particular authorities, and of the Federal Government itself: and this Government, which has taken for the basis of its political career the most scrupulous equity and the most impartial neutrality, does not forbid it.

Without doubt, and notwithstanding the profound consideration with which the minister plenipotentiary of the French empire is penetrated for the Government of the Union, he might enlarge still further upon the reflections suggested by such a state of things—a circumstance so important, so unexpected. But it would be equally as afflicting for him to dwell upon it, to state its consequences, as it would be for the Government to hear them.

The Secretary of State, who perfectly knows the justice of the principles, and the legitimacy of the rights referred to in this note, will be of opinion, that neither are susceptible of discussion; because, a principle universally assented to, a right generally established, is never discussed, or, at least, is discussed in vain. The only way open for the redress of these complaints, is, to put an end to the tolerance which produces them, and which daily aggravates their consequences.

Moreover, this note, founded upon facts not less evident than the principles which they infract, does not permit the undersigned to doubt that the Government of the United States will take the most prompt, as well as the most effectual prohibitory measures, in order to put an end to its cause; and he seizes with eagerness this occasion of renewing to the Secretary of State the assurance of his high consideration.

TURREAU.

[TRANSLATION.]

General Turreau, minister plenipotentiary of His Imperial and Royal Majesty, to Mr. Madison, Secretary of State.

WASHINGTON, *January* 3, 1806.

SIR:

Formal orders of my Government oblige me to insist upon the contents of my official note of the 14th of October last, relative to the commerce which some inhabitants of the United States maintain with the rebels of St. Domingo.

Not receiving any answer to that note, I had room to hope that the Government of the Union would take prompt and effectual measures to put an end to the causes which produced it: but your silence towards me, especially in relation to St. Domingo, and that of your Government towards Congress, impose upon me the duty of recalling to your recollection the said official note, and of renewing to you my complaints upon the tolerance given to an abuse as shocking, as contrary to the law of nations, as it is to the treaties of peace and friendship existing between France and the United States.

I will not recur, sir, to the different circumstances which have attended the commerce with the revolted part of St. Domingo; to the scandalous publicity given to its shameful success; to the rewards and encomiums prostituted upon the crews of armed vessels, whose destination is to protect the voyages to carry munitions of every kind to the rebels, and thus to nourish rebellion and robbery.

You ought not to be surprised, sir, that I call anew the attention of the American Government to this subject. His excellency M. Talleyrand has already testified his discontent to General Armstrong, your minister plenipotentiary at Paris; and you will be of opinion, that it is at length time to pursue formal measures against every adventure to the ports of St. Domingo occupied by the rebels. The system of tolerance which produces this commerce, which suffers its being armed, which encourages, by impunity, its extension and its excess, cannot longer remain; and the Emperor and King my master expects from the dignity and candor of the Government of the Union that an end be put to it promptly.

I add to this despatch a copy of the official note which has been already transmitted to you. I earnestly request, sir, that you acknowledge the receipt of both; and receive anew assurances of my high consideration.

TURREAU.

[Enclosed in General Armstrong's letter to the Secretary of State, of the 10th August, 1805.]

[TRANSLATION.]

From M. Talleyrand to General Armstrong.

SIR:

I have several times had the honor to call your attention to the commerce carried on from the ports of the United States to those of St. Domingo occupied by the rebels. These commercial communications would appear to be almost daily increased. In order to cover their true destination, the vessels are cleared for the West Indies, without a more particular designation of the place; and, with the aid of these commissions, provisions, arms, and other objects of supply, of which they stand in need, are carried to the rebels of St. Domingo.

Although these adventures may be no more than the result of private speculations, the Government of the United States is not the less engaged to put an end to them, by a consequence of the obligations which bind together all the civilized Powers, all those who are in a state of peace. No Government can second the spirit of revolt of the subjects of another Power; and, as in this state of things it cannot maintain communications with them, it ought not to favor those which its own subjects maintain.

It is impossible that the Government of the United States should longer shut its eyes upon the communications of their commerce with St. Domingo. The adventures for that island are making with a scandalous publicity. They are supported by armed vessels. At their return, feasts are given in order to vaunt the success of their speculations; and the acknowledgment, even the eulogies of Government are so much relied upon, that it is at these feasts, and in the midst of an immense concourse, where are found the first authorities of the country, that the principles of the Government of Hayti are celebrated, and that vows are made for its duration.

I have the honor, sir, to transmit to your excellency an extract of an American journal, in which are contained sundry details of a feast given in the port of New York, on board of a convoy which had arrived from St. Domingo.

The ninth toast, given to the Government of Hayti, cannot fail, sir, to excite your indignation. It is not, after having covered every thing with blood and with ruins, that the rebels of St. Domingo ought to have found apologists in a nation the friend of France.

But they do not stop at their first speculations. The company of merchants, which gave a feast on the return of their adventure, is preparing a second convoy, and proposes to place it under the escort of several armed vessels.

I have the honor, sir, to give you this information, in order that you may be pleased to call the most serious attention of your Government towards a series of facts, which it becomes its dignity and candor no longer to permit. The Federal Government cannot so far separate itself from the inhabitants of the United States, as to permit to them acts and communications which it thinks itself bound to interdict to itself, or as to think that it can distinguish its own responsibility from that of its subjects, when there is in question an unparalleled revolt, whose circumstances and whose horrible consequences must alarm all nations, and who are all equally interested in seeing it cease.

France ought to expect from the amity of the United States, and His Majesty charges me, sir, to request, in his name, that they interdict every private adventure, which, under any pretext or designation whatever, may be destined to the ports of St. Domingo occupied by the rebels.

Receive, General, the assurances of my high consideration.

CH. MAU. TALLEYRAND.

To His Excellency General ARMSTRONG,
Minister Plenipotentiary of the United States.

[TRANSLATION.]

From M. Talleyrand to General Armstrong.

PARIS, (*29th Thermidor, 13th year,*) *August* 16, 1805.

SIR:

Since the letter I had the honor to write to you, on the 2d Thermidor, concerning the armaments which were making in the ports of the United States for the western part of St. Domingo, fresh information upon this point confirms every thing which had been received. The adventures for St. Domingo are publicly made; vessels are armed for war to protect the convoys; and it is in virtue of contracts entered into between Dessalines and American merchants, that the latter send him supplies and munitions of war.

I add, sir, to the letter which I have the honor to write to you, a copy of a sentence given at Halifax, in the matter of a merchant of New York, who had conveyed into the revolted part of St. Domingo three cargoes of gunpowder, and who was taken on his return by an English frigate.

If even in the English tribunal, where this prize was condemned, the whole island of St. Domingo was considered as a French colony, how can the Federal Government tolerate that the rebels of this colony should continue to receive from America succors against the parent country? It is impossible that that Government should be ignorant of the armaments making in its ports. Too much publicity is given to them not to render it responsible; and it ought to perceive that it is contrary to every system of peace and good friendship to suffer longer in its ports armaments evidently directed against France.

Without doubt the Federal Government would not wish, in order to favor certain private speculations, to give new facilities to rebellion and robbery (brigandage): the tolerance of a commerce so scandalous would be unworthy of it. Neither your Government nor His Majesty can be any longer indifferent to it; and, as the seriousness of the facts which occasion this complaint obliges His Majesty to consider as good prize every thing which shall enter the port of St. Domingo occupied by the rebels, and every thing coming out, he persuades himself that the Government of the United States will take, on its part, against this commerce, at once illicit and contrary to all the principles of the law of nations, all the repressive and authoritative measures proper to put an end to it. This system of impunity and tolerance can no longer continue;* and His Majesty is convinced that your Government will think it due from its frankness promptly to put an end to it.

Receive, sir, the assurances of my high consideration.

CH. MAU. TALLEYRAND.

To His Excellency General ARMSTRONG.

9th CONGRESS.] No. 194. [1st SESSION.

GRAT BRITAIN AND FRANCE.

COMMUNICATED TO CONGRESS, JANUARY 17, 1806.†

JANUARY 17, 1806.

To the Senate and House of Representatives of the United States:

In my message to both Houses of Congress at the opening of their present session, I submitted to their attention, among other subjects, the oppression of our commerce and navigation by the irregular practices of armed vessels, public and private, and by the introduction of new principles, derogatory of the rights of neutrals, and unacknowledged by the usage of nations.

The memorials of several bodies of merchants of the United States are now communicated, and will develope these principles and practices which are producing the most ruinous effects on our lawful commerce and navigation.

The right of a neutral to carry on commercial intercourse with every part of the dominions of a belligerent, permitted by the laws of the country, (with the exception of blockaded ports and contraband of war,) was believed to have been decided between Great Britain and the United States by the sentence of their commissioners, mutually appointed to decide on that and other questions of difference between the two nations, and by the actual payment of the damages awarded by them against Great Britain for the infractions of that right; when, therefore, it was perceived, that the same principle was revived, with others more novel, and extending the injury, instructions were given to the minister plenipotentiary of the United States at the court of London, and remonstrances duly made by him on this subject, as will appear by documents transmitted herewith: these were followed by a partial and temporary suspension only, without any disavowal of the principle. He has, therefore, been instructed to urge this subject anew, to bring it more fully to the bar of reason, and to insist on rights too evident and too important to be surrendered. In the mean time, the evil is proceeding under adjudications founded on the principle which is denied. Under these circumstances the subject presents itself for the consideration of Congress.

On the impressment of our seamen our remonstrances have never been intermitted. A hope existed at one moment of an arrangement which might have been submitted to, but it soon passed away, and the practice, though relaxed at times in the distant seas, has been constantly pursued in those in our neighborhood. The grounds on which the reclamations on this subject have been urged, will appear in an extract from instructions to our minister at London, now communicated.

TH: JEFFERSON.

* Ne pourroit durer davantage.

† In addition to the papers communicated by this message, the President transmitted, *confidentially*, a number of documents relating to the same subject, by messages of January 17, 27, and 29, and March 24, 1806; nearly all of which will appear in the message of March 22, 1808, No. 215.

DEPARTMENT OF STATE, *January* 25, 1806.

The Secretary of State, to whom the President has been pleased to refer the resolution of the Senate, dated on the 10th instant, has the honor to make the following report:

The most important of the principles interpolated into the law of nations, is that which appears to be maintained by the British Government and its prize courts, that a trade opened to neutrals by a nation at war, on account of the war, is unlawful.

This principle has been relaxed, from time to time, by orders, allowing, as favors to neutrals, particular branches of trade, disallowed by the general principle; which orders have, also, in some instances, extended the modifications of the principle beyond its avowed import.

In like manner, the last of these orders, bearing date the 24th of June 1803, has incorporated, with the relaxation, a collateral principle, which is itself an interpolation, namely, that a vessel on a return voyage is liable to capture by the circumstance of her having, on the outward voyage, conveyed contraband articles to an enemy's port. How far a like penalty, attached, by the same order, to the circumstance of a previous communication with a blockaded port, would likewise be an interpolation, may depend upon the construction under which that part of the order has been, or is to be, carried into execution.

The general principle, first above stated, as lately applied to re-exportations of articles imported into neutral countries from hostile colonies, or *vice versa*, by considering the re-exportation, in many cases, as a continuation of the original voyage, forms another interpolation, deeply affecting the trade of neutrals. For a fuller view of this and some other interpolations, reference may be had to the documents communicated with the message to Congress of the 17th instant.

The British principle which makes a notification to foreign Governments of an intended blockade equivalent to the notice required by the law of nations, before the penalty can be incurred; and that which subjects to capture vessels, arriving at a port, in the interval between a removal and return of the blockading force, are other important deviations from the code of public law.

Another unjustifiable measure is the mode of search practised by British ships, which, instead of remaining at a proper distance from the vessel to be searched, and sending their own boat with a few men for the purpose, compel the vessel to send her papers in her own boat, and sometimes with great danger from the condition of the boat and the state of the weather.

To these instances, without adverting to others of an inferior or less definite character, in the practice of Great Britain, must be added the assumed right to impress persons from American vessels, sailing under the American flag on the high seas. An explanation of this practice will be found in the extract from the instructions to Mr. Monroe, communicated with the message of the President above referred to.

Among the interpolations introduced by the French Government, is a decree dated June 6, 1805, (18th Prairial, 13th year,) importing that every privateer of which two-thirds of the crew should not be natives of England, or subjects of a Power the enemy of France, shall be considered as pirates.

Another is evidenced by the result of an application made by the deputy consul of the United States, at Cadiz, through the French consul, to Admiral Villeneuve, for the liberation of some seamen of the United States, who were on board the French fleet under his command. The answer of the Admiral, dated 29th August last, (11th Fructidor, 13th year,) states that "a decision of His Imperial and Royal Majesty provides that every foreigner found on board the vessels of war or of commerce of the enemy, is to be treated as a prisoner of war, and can have no right to the protection of the diplomatic and commercial agents of his nation."

Other unjustifiable innovations on the law of nations are exemplified in the decree of General Ferrand, lately passed at the city of St. Domingo, a translation of which is annexed.

The irregular mode of search above described is also practised by the cruisers of France and Spain.

The cruisers of the two latter Powers have harassed the commerce of the United States in various other forms, but as it is not known or believed that their conduct has been prescribed or santioned by the public authority of their respective nations, they are not considered as falling within the purview of the resolution of the Senate.

All which is respectfully submitted.

JAMES MADISON.

In the name of the Emperor.

DECREE.

AT THE HEAD QUARTERS OF ST. DOMINGO,
20*th Vendemiaire*, 14*th year*, (6*th June*, 1805.)

We, LOUIS FERRAND, General of Brigade, Commander-in-chief, Captain General, pro tempore, member of the Legion of Honor:

Whereas our decrees of the 8th Thermidor, in the twelfth year, and thirteenth Messidor, of the thirteenth year, as well as our instructions to the owners and captains of privateers of the 29th Prairial, in the same year, can have left no doubt of the sentiments which we have repeatedly expressed for the respect due to the freedom of navigation and neutral rights; that those principles have been scrupulously adhered to by the administrative and judicial authorities, under our directions, in several decisions or judgments rendered by them in cases of capture, and releasing several captured vessels.

Considering that we had a right to hope from our candor a just reciprocity on the part of the Governments of the neighboring neutral countries, and their concurrence, by the measures which are in their power, to cause to be observed by their subjects the treaties which bind them to France, as also to restrain the infamous cupidity of those who, contrary to the law of nations, supply the revolted blacks by means of a trade, the suppression of which is required by our personal responsibility to the Emperor of the French.

Considering that, far from having obtained the end which we expected from this frank and loyal conduct, the rigor of our principles in favor of neutral flags has become, to many, a stimulus to their rapacity, and that it results from papers found on board of prizes lately condemned; that the greater proportion of neutral vessels, sailing from the rebels' ports, are very carefully and methodically cleared for the ports of Dominique, Tobago, St. Thomas, Curaçoa, Jamaica, Havana, Baraçoa, St. Jago de Cuba, &c.

Considering that the officers of the customs, in several ports of the United States of America have even had the impudence to give official clearances to neutral vessels for the ports occupied by the rebels, and that, in many instances of this kind, they have used the signature of President Jefferson, whose justice was doubtless surprised.

Considering that, from the voluminous correspondence found on board the captured vessels since our decree of the 23d Messidor, it results that several of the most respectable mercantile houses of New York, Philadelphia, Baltimore, &c. have, for a long time past, kept up a continued intercourse with the revolted blacks, and have habitually supplied them with every sort of provisions and warlike stores.

Considering that powerful equipments of neutral vessels, for war and merchandise, have been made in the ports of the United States to protect this infamous commerce; that the brig Jane, of Baltimore, Captain Kennedy, of sixteen guns, and sailing from a port of the rebels, has lately been boarded and captured, after a bloody engagement, by the French privateer, the Superb, Captain Dominique.

Considering that it is notorious that the America of thirty-two guns, the Connecticut of twenty-two, the Indostan of fourteen, and several other American vessels of that description, are not only engaged in that execrable

commerce, but actually transport the arms and ammunition of Dessaline's army from one port to another, thereby becoming the auxiliaries of the black rebels against France.

Considering that such conduct, on the part of the subjects of the United States of America, cannot be avowed by that Government without acknowledging explicitly the independence of the black rebels of St. Domingo, and provoking an open rupture with France.

Considering that the twenty-sixth article of the convention, of the 30th September, 1800, ratified 31st July, 1801, expressly prohibits the citizens of both the contracting parties to receive, protect, conceal, harbor, or assist any pirate, and that, notwithstanding, vessels armed under the American flag daily convoy, and sail in concert with vessels of the negroes, bearing a flag unknown amongst the civilized powers, and consequently pirates; which is evidently an infraction of that article of the convention of which we have carefully executed the clauses within the extent of our Government.

Considering, finally, that it is our duty, and for which we are responsible, to put a stop, by every effort in our power, to such outrageous abuses, which tend to furnish profusely the black rebels with the means of carrying on their rebellion, and opposing an obstinate resistance to His Imperial Majesty's arms, when they shall be directed against them, have decreed, and do decree:

ARTICLE 1. All vessels taken either with direct clearances for ports occupied by the rebels, or coming out from them with clearances from the custom-house, or plausibly suspected of a masked clearance, the better to ensure their communication with the rebels, may be conducted into the ports of neighboring islands, either neutral or allied, showing, nevertheless, a legitimate cause opposing their carrying them directly to St. Domingo or Jamaica, derogating, in that instance, from our decree of the 13th Messidor last. The Captains General, Governors, and commanders in these islands, who can no longer doubt the obligations whereby all nations ought to concur in measures to suppress the rebellion in that of St. Domingo, shall be invited to authorize the entry of these vessels into their ports.

ART. 2. In this case, conformably to our instructions of the 29th Prairial last, the functions of our agents or delegates are limited to the putting on or taking off the seals; selecting the documents found on board; receiving the declarations and interrogatories; authorizing provisional sales if there should be imminent danger of damage which shall be proved, and in which case they shall make a process verbal of the unloading, an inventory of appraisement, and judicial sale by adjudication at auction; the proceeds of which shall be deposited, either in the hands of a solvent merchant, or in those of the delegate, to be remitted after definitive judgment to the party in whose favor the judgment shall be rendered.

ART. 3. The suit being concluded, the above mentioned proceedings relative thereto, as well as the ship's papers inventoried, (without subtracting under any pretext whatever the invoices or bills of lading) shall be addressed to the chief of administration, of the marine of St. Domingo, in originals, who shall transmit them to the competent tribunal to take cognizance thereof; and as the original papers might be lost, it shall be the duty of the agent or delegate of St. Domingo to deposite in his office collated copies thereof, which copies in such case, legally proved, shall acquire the full effect and force of the original papers.

ART. 4. It shall beside be their duty to join to the above mentioned paper an order on demand agreeing with the invoices, bills of lading, process verbal of the unloading, appraised inventory, and provisional sale, on which order on demand shall be stated the amount of duties due to Government, calculated at five per cent., which duties shall be rigorously paid at St. Domingo by the certifier of the security of the letter of marque before granting a copy of the judgments of condemnation; and it is expressly forbid that the Registers deliver it, without a certificate from the collector of the duties of invalids, testifying the receipt of those duties which shall be attached to the original of the said judgment.

ART. 5. Conformably with the decree of the 12th Vendemiaire, 11th year, (October 3, 1803,) all the prizes made in contravention of the provisions of the laws and regulations concerning foreign commerce with the colony, shall continue to be adjudged by the ordinary tribunal of first instance at St. Domingo, with an appeal to the special commission established conformably with the same decree for deciding in the last resort; but having regard to the just representations of the owners of privateers, and on account of the considerable expense their equipments occasion, they shall not be liable to the expense of the process, further than to the mere fee for copies of the judgment, fixed at forty-four francs for each of the secretaries, both of the tribunal of first instance and the special commission of appeal. There shall be raised upon the produce of the duties paid in the bank of invalids of the marine, a sum to be divided in the form of a gratification among the members of the tribunal of first instance and those of the commission of appeal, designated by us to participate therein. This sum may not, in any case, exceed the fifth of that paid into the bank for the duties of any one prize; derogating thus far from the eighty-eighth and eighty-ninth articles of our regulation upon the organization of the Judiciary, dated the 5th of last complementary day, of which we suspend, as to those kind of judgments only, the execution until peace, when they shall resume their force and vigor. We, moreover, promise that we will take care, that the greatest celerity be used in all the proceedings relative to prizes.

ART. 6. Our agents or delegates in the neighboring neutral islands, in cases wherein they have proceeded to the institution of process concerning prize, shall receive, for their fee of agency, half per cent. upon the amount of the sales; but they shall not demand any fee of attendance for the crier employed in them.

ART. 7. In case of a judgment of condemnation, the agents or delegates of St. Domingo are bound to state, within three months, the accounts of liquidation and distribution of the proceeds of sales in the form prescribed by the laws, and to address them to the colonial inspector, in order that he may superintend their verification and registry or deposite.

ART. 8. At the time of the transmission of the proceedings and ship's papers to St. Domingo, our agents or delegates are to send us, as soon as possible, the captains, supercargoes, mates, sailors, and passengers, who shall have been taken on board of vessels detained in the act, and in evident communication with the ports of the rebels, appearing by clearances which they may have for those ports, or by those they may have received from the rebels; in order that they may be prosecuted according to the rigor of the laws.

As to captains, whose contravention may not be evidenced by the documents found on board, they shall be informed of the transmission of the ship's papers and proceedings to St. Domingo, with the offer to go with them, if they think proper, and with an express summons in every case to appear, by procuration or in person, within fifteen days, before the judges, who are to take cognizance of the stopping of their vessel, in order there to defend their rights. Mention shall be made of their acquiescence or refusal, in the declaration which shall be taken from them for the purpose.

ART. 9. The agents or delegates of St. Domingo are required to collect, with the greatest care, all the letters and documents which shall be found in vessels detained for communications with the rebels; to take away for the purpose of annexing to the process, only those which may give elucidations concerning the validity of the capture; and to transmit directly to us the remainder, by the most prompt and safe opportunities.

ART. 10. These letters and documents shall be dissected in our secretary's office by the interpreters of the Government; the documents shall be separated, which show the owners, insurers, freighters, merchants, dealers, captains, supercargoes, and others, connected by commercial relations or interests with the revolted blacks; which documents specially marked by the President Regent of the imperial audience or court of appeal, filling here the station of commissary of justice, shall be deposited as proofs of the offences, with those which are already in the registry of the special commission of appeal, established by the decree of the Government of the 12th Vendemiaire, 11th year, to adjudge the captures for contravention of the provisions of the laws and regulations concerning foreign commerce with the colony.

ART. 11. A list shall be drawn up by the same magistrate of the owners, insurers, freighters, merchants, traders, captains, supercargoes, and others, connected by commercial relations or interests with the rebels, and designated in the correspondence and documents deposited as proofs of the offences: at the head of this list shall be placed the owners and others interested in the vessels, stopped in the fact, and condemned as such from their clearances, either directly for the ports of the rebels, or proving that they are coming therefrom by receipts of duties, &c. The

same operation shall take place every month. Copies of these lists shall be delivered to every cruiser bearing our letters of mart.

ART. 12. Every vessel whatsoever, under whatsoever flag it may navigate, on board of which shall be found invoices, bills of lading, and other documents, having a direct relation to one or more of the persons contained upon the list directed by the preceding article, shall be provisionally detained, without any regard to the distance of the territorial sea or place in which it may have been found, and shall be carried into port to be there examined. There, after the most exact researches, which shall be made by the competent tribunals, it shall be decided whether there be or not a ground of confiscation and condemnation, either of the vessel or of the whole or part of the cargo only; but in no case may the captured captain claim from the capturing cruiser any indemnity for the deviation from his route, or the delay in his voyage. Even the costs of suit shall in this case be borne by the captains.

ART. 13. Every cruiser, which shall take a vessel at anchor in a port occupied by the rebels, or navigating under the *indegine* flag, shall be exempt from all duties for his prize.

ART 14. Every cruiser which shall enter at St. Domingo, and convey provisions thither in case of a siege, shall enjoy the same exemption during a cruise of six months.

ART. 15. The present decree shall be transcribed upon the registers of the colonial inspection, of the tribunal of first instance, and of the special commission of appeal, adjudging, in the last resort, captures for contravention of the provisions of the laws and regulations concerning foreign commerce with the colony; it shall be transmitted to our agents and delegates, with an injunction to conform thereto; to the Governors and commandants of allied and neutral islands; to the minister plenipotentiary of France to the United States of America; and, finally, to His Excellency Monseigneur, the minister of marine and the colonies; in order to avail ourselves of every effort in order to repress a shameful and hostile traffic which tends to nourish the most odious of rebellions.

L. FERRAND.

[On the subject of Impressments.]

Extract of a letter from the Secretary of State to James Monroe, Esq., dated

JANUARY 5, 1804.

We consider a neutral flag on the high seas as a safeguard to those sailing under it. Great Britain, on the contrary, asserts a right to search for, and seize her own subjects; and under that cover, as cannot but happen, are often seized and taken off citizens of the United States, and citizens or subjects of other neutral countries, navigating the high seas, under the protection of the American flag.

Were the right of Great Britain in this case not denied, the abuses flowing from it would justify the United States in claiming and expecting a discontinuance of its exercise. But the right is denied, and on the best grounds.

Although Great Britain has not yet adopted, in the same latitude with most other nations, the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only as are annexed to it, by the law of nations. She must produce, then, such an exception in the law of nations in favor of the right she contends for. But in what written and received authority will she find it? In what usage except her own will it be found? She will find in both, that a neutral vessel does not protect certain objects denominated contraband of war, including enemies serving in the war, nor articles going into a blockaded port, nor, as she has maintained, and as we have not contested, enemies' property of any kind. But no where will she find an exception to this freedom of the seas, and of neutral flags, which justifies the taking away of any person not an enemy in military service, found on board a neutral vessel.

If treaties, British as well as others, are to be consulted on this subject, it will equally appear that no countenance to the practice can be found in them. Whilst they admit a contraband of war, by enumerating its articles, and the effect of a real blockade by defining it, in no instance do they affirm or imply a right in any sovereign to enforce his claims to the allegiance of his subjects, on board neutral vessels, on the high seas. On the contrary, whenever a belligerent claim against persons on board a neutral vessel is referred to in treaties, enemies in military service alone are excepted from the general immunity of persons in that situation; and this exception confirms the immunity of those who are not included in it.

It is not, then, from the law or the usage of nations, nor from the tenor of treaties, that any sanction can be derived for the practice in question. And surely it will not be pretended, that the sovereignty of any nation extends in any case whatever beyond its own dominions, and its own vessels on the high seas. Such a doctrine would give just claims to all nations, and more than any thing would countenance the imputation of aspiring to an universal empire of the seas. It would be the less admissible too, as it would be applicable to times of peace, as well as to times of war, and to property as well as to persons. If the law of allegiance, which is a municipal law, be in force at all on the high seas, on board foreign vessels, it must be so at all times there, as it is within its acknowledged sphere. If the reason alleged for it be good in time of war, namely, that the sovereign has then a right to the service of all his subjects, it must be good at all times, because at all times he has the same right to their service. War is not the only occasion for which he may want their services, nor is external danger the only danger against which their services may be required for his security. Again, if the authority of a municipal law can operate on persons in foreign vessels on the high seas, because within the dominion of their sovereign they would be subject to that law, and are violating that law by being in that situation, how reject the inference that the authority of a municipal law may equally be enforced on board foreign vessels on the high seas, against articles of property exported in violation of such a law, or belonging to the country from which it was exported; and thus every commercial regulation in time of peace too, as well as of war, would be made obligatory on foreigners and their vessels, nor only whilst within the dominion of the sovereign making the regulation, but in every sea, and at every distance, where an armed vessel might meet with them. Another inference deserves attention. If the subjects of one sovereign may be taken by force from the vessels of another, on the high seas, the right of taking them when found implies the right of searching for them, a vexation of commerce, especially in time of peace, which has not yet been attempted, and which for that as well as other reasons may be regarded as contradicting the principle form which it would flow.

Taking reason and justice for the test of this practice, it is peculiarly indefensible, because it deprives the dearest rights of persons of a regular trial, to which the most inconsiderable article of property, captured on the high seas, is entitled, and leaves their destiny to the will of an officer, sometimes cruel, often ignorant, and generally interested, by his want of mariners, in his own decisions. Whenever property found in a neutral vessel is supposed to be liable on any ground to capture and condemnation, the rule in all cases is, that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages for an abuse of his power. Can it be reasonable, then, or just, that a belligerent commander who is thus restricted and thus responsible in a case of mere property of trivial amount, should be permitted, without recurring to any tribunal whatever, to examine the crew of a neutral vessel, to decide the important question of their respective allegiances, and to carry that decision into instant execution, by forcing every individual he may choose into a service abhorrent to his feelings, cutting him off from his most tender connexions, exposing his mind and his person to the most humiliating discipline, and his life itself to the greatest dangers? Reason, justice, and humanity, unite in protesting against so extravagant a proceeding. And what is the pretext for it? It is that the similarity of language and of features between American citizens and British subjects, are such as not easily to be distinguished, and that without this arbitrary and summary authority to make the distinction, British subjects would escape, under the name of American citizens, from the duty which they owe to their sovereign. Is, then, the difficulty of distinguishing a mariner of one country from the mariner of the other, and the importance of his services, a good plea for referring the question whether he belongs to the one or to the other, to an arbitrary decision on the

spot, by an interested and unresponsible officer? In all other cases the difficulty and the importance of questions are considered as reasons for requiring greater care and formality in investigating them, and greater security for a right decision on them. To say that precautions of this sort are incompatible with the object, is to admit that the object is unjustifiable; since the only means by which it can be pursued are such as cannot be justified.

The evil takes a deeper die when viewed in its practice as well as its principles. Were it allowable that British subjects should be taken out of American vessels on the high seas, it might at least be required that the proof of their allegiance should lie on the British side. This obvious and just rule is, however, reversed; and every seaman on board, though going from an American port, and sailing under the American flag, and sometimes even speaking an idiom proving him not to be a British subject, is presumed to be such unless shown to be an American citizen. It may safely be affirmed that this is an outrage and an indignity which has no precedent, and which Great Britain would be among the last nations in the world to suffer if offered to her own subjects and her own flag. Nor is it always against the right presumption alone, which is in favor of the citizenship corresponding with the flag, that the violation is committed. Not unfrequeutly it takes place in defiance of the most positive proof, certified in due form by an American officer. Let it not be said that in granting to American seamen this protection for their rights as such, the point is yielded, that the proof lies on the American side, and that the want of it in the prescribed form justifies the inference that the seaman is not of American allegiance. It is distinctly to be understood, that the certificate usually called a protection to American seamen, is not meant to protect them under their own or even any other neutral flag, on the high seas. We can never admit, that in such a situation any other protection is required for them, than the neutral flag itself on the high seas. The document is given to prove their real character, in situations to which neither the law of nations nor the law of their own country are applicable, in other words, to protect them within the jurisdiction of the British laws, and to secure to them, within every other jurisdiction, the rights and immunities due to them. If, in the course of their navigation even on the high seas, the document should have the effect of repelling wrongs of any sort, it is an incidental advantage only of which they avail themselves, and is by no means to be misconstrued into a right to exact such a proof, or to make any disadvantageous inference from the want of it.

Were it even admitted that certificates for protection might be justly required in time of war, from American seamen, they could only be required, in cases where the lapse of time from its commencement had given an opportunity for the American seamen to provide themselves with such a document. Yet it is certain, that in a variety of instances seamen have been impressed from American vessels, on the plea that they had not this proof of citizenship, when the dates and places of impressments demonstrated the impossibility of their knowing in time to provide the proof that a state of war had rendered it necessary.

Whether, therefore, we consult the law of nations, the tenor of treaties, or the dictates of reason and justice, no warrant, no pretext can be found for the British practice of making impressments from American vessels on the high seas.

Great Britain has the less to say in excuse for this practice, as it is in direct contradiction to the principles on which she proceeds in other cases. Whilst she claims and seizes, on the high seas, her own subjects voluntarily serving in American vessels, she has constantly given, when she could give, as a reason for not discharging from her service American citizens, that they had voluntarily engaged in it. Nay more, whilst she impresses her own subjects from the American service, although they may have been settled and married, and even naturalized in the United States, she constantly refuses to release from hers, American citizens impressed into it, whenever she can give for a reason, that they were either settled or married within her dominions. Thus, when the voluntary consent of the individual favors her pretensions, she pleads the validity of that consent. When the voluntary consent of the individuals stands in the way of her pretensions, it goes for nothing. When marriage or residence can be pleaded in her favor, she avails herself of the plea. When marriage and residence and even naturalization are against her, no respect whatever is paid to either; she takes by force her own subjects voluntarily serving in our vessels. She keeps by force American citizens involuntarily serving in hers. More flagrant inconsistencies cannot be imagined.

Notwithstanding the powerful motives which ought to be felt by the British Government to relinquish a practice which exposes it to so many reproaches, it is foreseen that objections of different sorts will be pressed on you. You will be told, first, of the great number of British seamen in the American trade, and of the necessity for their services in time of war and danger. Secondly, of the rights and the prejudice of the British nation, with respect to what are called the British or narrow seas, where its domain would be abandoned by the general stipulation required. Thirdly, of the use which would be made of such a sanctuary as that of American vessels, for desertions, and traitorous communications to her enemies, especially across the channel to France.

1st. With respect to the British seamen serving in our trade it may be remarked, first, that the number, though considerable, is probably less than may be supposed; secondly, that what is wrong in itself cannot be made right by considerations of expediency or advantage; thirdly, that it is proved by the fact, that the number of real British gained by the practice in question is of inconsiderable importance, even in the scale of advantage. The annexed report to Congress on the subject of impressments, with the addition of such cases as may be in the hands of Mr. Erving, will verify the remark in its application to the present war. The statement made by his predecessor during the last war, and which is also annexed, is in the same view still more conclusive. The statement comprehends not only all the applications made by him in the first instance, for the liberation of impressed seamen, between the month of June, 1797, and September, 1801, but many also which had been made previous to this agency, by Mr. Pinckney and Mr. King, and which it was necessary for him to renew. These applications, therefore, may fairly be considered as embracing the greater part of the period of the war; and as applications are known to be pretty indiscriminately made, they may be further considered as embracing if not the whole the far greater part of the impressments, those of British subjects as well as others. Yet the result exhibits two thousand and fifty-nine cases only, and of this number one hundred and two seamen only detained as being British subjects, which is less than one-twentieth of the number impressed; and one thousand one hundred and forty-two discharged or ordered to be so, as not being British subjects, which is more than half of the whole number, leaving eight hundred and five for further proof, with the strongest presumption, that the greater part, if not the whole, were Americans or other aliens, whose proof of citizenship had been lost or destroyed, or whose situation would account for the difficulty and delays in producing it. So that it is certain, that for all the British seamen gained by this violent proceeding, more than an equal number who were not so were the victims; it is highly probable that for every British seaman so gained, a number of others less than ten for one must have been the victims, and it is even probable that this number may have exceeded the proportion of twenty to one.

It cannot, therefore, be doubted that the acquisition of British seamen, by these impressments, whatever may be its advantage, is lost in the wrong done to Americans ignorantly or wilfully mistaken for British subjects, in the jealousy and ill-will excited among all maritime nations by an adherence to such a practice, and in the particular provocation to measures of redress on the part of the United States, not less disagreeable to them, then embarrassing to Great Britain, and which may threaten the good understanding which ought to be faithfully cultivated by both. The copy of a bill brought into Congress under the influence of violations committed on our flag, gives force to this latter consideration. Whether it will pass into a law, and at the present session, is more than can yet be said. As there is every reason to believe, that it has been proposed with reluctance, it will probably not be pursued into effect, if any hope can be supported of a remedy by an amicable arrangement between the two nations.

There is a further consideration which ought to have weight in this question. Although the British seamen employed in carrying on American commerce be in some respect lost to their own nation, yet such is the intimate and extensive connexion of this commerce, direct and circuitous, with the commerce, the manufactures, the revenue and the general resources of the British nation, that, in other respects, its mariners, on board American vessels, may truly be said to be rendering it the most valuable services. It would not be extravagant to make it a question, whether great Britain would not suffer more by withdrawing her seamen from the merchant vessels of the

United States, than her enemies would suffer from the addition of them to the crews of her ships of war and cruisers.

Should any difficulty be started concerning seamen born within the British dominions and naturalized by the United States, since the treaty of 1783, you may remove it by observing, first, that very few if any such naturalizations can take place, the law here requiring a preparatory residence of five years, with notice of the intention to become a citizen entered of record two years before the last necessary formality; besides a regular proof of good moral character, conditions little likely to be complied with by ordinary seafaring persons: secondly, that a discontinuance of impressments on the high seas will preclude an actual collision between the interfering claims. Within the jurisdiction of each nation, and in their respective vessels on the high seas, each will enforce the allegiance which it claims. In other situations the individuals doubly claimed will be within a jurisdiction independent of both nations.

2d. The British pretensions to domain over the narrow seas are so absolute, and so indefensible, that they never would have occurred as a probable objection in this case, if they had not actually frustrated an arrangement settled by Mr. King with the British ministry on the subject of impressments from American vessels on the high seas. At the moment when the articles were expected to be signed, an exception of the "narrow seas" was urged and insisted on by Lord St. Vincent; and being utterly inadmissible on our part, the negotiation was abandoned.

The objection in itself has certainly not the slightest foundation. The time has been, indeed, when England not only claimed but exercised pretensions scarcely inferior to full sovereignty over the seas surrounding the British isles, and even as far as Cape Finesterre to the south, and Van Staten in Norway to the north. It was a time, however, when reason had little share in determining the law, and the intercourse of nations, when power alone decided questions of rights, and when the ignorance and want of concert among other maritime countries facilitated such an usurpation.

The progress of civilization and information has produced a change in all those respects; and no principle in the code of public law is at present better established than the common freedom of the seas beyond a very limited distance from the territories washed by them. This distance is not, indeed, fixed with absolute precision. It is varied in a small degree by written authorities, and perhaps it may be reasonably varied in some degree by local peculiarities. But the greatest distance which would now be listened to any where would make a small proportion of the narrowest part of the narrowest seas in question.

What are, in fact, the prerogatives claimed and exercised by Great Britain over these seas? If they were really a part of her domain, her authority would be the same there as within her other domain. Foreign vessels would be subject to all the laws and regulations framed for them, as much as if they were within the harbors or rivers of the country. Nothing of this sort is pretended. Nothing of this sort would be tolerated. The only instances in which these seas are distinguished from other seas, or in which Great Britain enjoys within them any distinction over other nations are, first, the compliment paid by other flags to hers; secondly, the extension of her territorial jurisdiction in certain cases to the distance of four leagues from the coast. The first is a relic of ancient usurpation, which has thus long escaped the correction, which modern and more enlightened times have applied to other usurpations. The prerogative has been often contested, however, even at the expense of bloody wars, and is still borne with ill will and impatience by her neighbors. At the last treaty of peace at Amiens, the abolition of it was repeatedly and strongly pressed by France; and it is not improbable, that at no remote day it will follow the fate of the title of "King of France" so long worn by the British monarchs, and at length so properly sacrificed to the lessons of a magnanimous wisdom. As far as this homage to the British flag has any foundation at present, it rests merely on long usage, and long acquiescence, which are construed, as in a few other cases of maritime claims, into the effect of a general, though tacit convention. The second instance is the extension of the territorial jurisdiction to four leagues from the shore. This, too, as far as the distance may exceed that which is generally allowed, rests on a like foundation, strengthened, perhaps, by the local facility of smuggling, and the peculiar interest which Great Britain has in preventing a practice affecting so deeply her whole system of revenue, commerce, and manufactures: whilst the limitation itself to four leagues necessarily implies that beyond that distance no territorial jurisdiction is assumed.

But, whatever may be the origin or the value of these prerogatives over foreign flags in one case, and within a limited portion of these seas in another, it is obvious that neither of them will be violated by the exemption of American vessels from impressments, which are nowise connected with either; having never been made on the pretext either of withholding the wonted homage to the British flag, or of smuggling in defiance of British laws.

This extension of the British law to four leagues from the shore is inferred from an act of Parliament, passed in the year 1736, (9 Geo. 2. c. 35,) the terms of which comprehend all vessels foreign as well as British; it is possible, however, that the former are constructively excepted. Should your inquiries ascertain this to be the case, you will find yourself on better ground than the concession here made.

With respect to the compliment paid to the British flag, it is also possible that more is here conceded than you may find to be necessary. After the peace of 1783, this compliment was peremptorily withheld by France, in spite of the remonstrances of Great Britain; and it remains for your inquiry, whether it did not continue to be refused, notwithstanding the failure at Amiens to obtain from Great Britain a formal renunciation of the claim.

From every view of the subject, it is reasonable to expect, that the exception of the narrow seas from the stipulation against impressments, will not be inflexibly maintained: should it be so, your negotiation will be at an end. The truth is, that so great a proportion of our trade, direct and circuitous, passes through those channels, and such is its peculiar exposure in them to the wrong practised, that, with such an exception, any remedy would be very partial. And we can never consent to purchase a partial remedy by confirming a general evil, and by subjecting ourselves to our own reproaches as well as to those of other nations.

3d. It appears, as well by a letter from Mr. Thornton, in answer to one from me, of both which copies are enclosed, as from conversations with Mr. Merry, that the facility which would be given, particularly in the British channel, by the immunity claimed for American vessels, to the escape of traitors, and the desertion of others whose services, in time of war, may be particularly important to an enemy, forms one of the pleas for the British practice of examining American crews; and will be one of the objections to a formal relinquishment of it.

This plea, like all others, admits a solid and satisfactory reply. In the first place, if it could prevail at all against the neutral claim, it would authorize the seizure of the persons described only, and in vessels bound to a hostile country only; whereas, the practice of impressing is applied to persons, few or any of whom are alleged to be of either description, and to vessels whithersoever found, even to Great Britain herself. In the next place, it is not only a preference of the smaller object on one side to a greater object on the other, but a sacrifice of right on one side to expediency on the other side.

[On the subject of the Colonial Trade.]

Extract of a letter from the Secretary of State to James Monroe, Esq.

DEPARTMENT OF STATE, *April* 12, 1805.

The papers herewith enclosed explain particularly the case of the brig Aurora.

The sum of the case is, that while Spain was at war with Great Britain, this vessel, owned by a citizen of the United States, brought a cargo of Spanish produce, purchased at the Havana, from that place to Charleston, where the cargo was landed, except an insignificant portion of it, and the duties paid, or secured, according to law, in like manner as they are required to be paid, or secured, on a like cargo, from whatever port, meant for home consumption; that the cargo remained on land about three weeks, when it was reshipped for Barcelona, in old Spain, and the duties drawn back, with a deduction of three and half per cent. as is permitted to imported articles in all cases, at

any time within one year, under certain regulations, which were pursued in this case; that the vessel was taken on her voyage by a British cruiser, and sent for trial to Newfoundland, where the cargo was condemned by the court of Vice-Admiralty; and that the cause was carried thence, by appeal, to Great Britain, where it was apprehended that the sentence below would not be reversed.

The ground of this sentence was, and that of its confirmation, if such be the result, must be, that the trade in which the vessel was engaged was unlawful, and this unlawfulness must rest, first, on the general principle assumed by Great Britain, that a trade from a colony to its parent country, being a trade not permitted to other nations in time of peace, cannot be made lawful to them in time of war; secondly, on the allegation that the continuity of the voyage from the Havana to Barcelona was not broken by landing the cargo in the United States, paying the duties thereon, and thus fulfilling the legal pre-requisites to a home consumption; and, therefore, that the cargo was subject to condemnation, even under the British regulation of January, 1798, which so far relaxes the general principle as to allow a direct trade between a belligerent colony, and a neutral country carrying on such a trade.

With respect to the general principle, which disallows to neutral nations, in time of war, a trade not allowed to them in time of peace, it may be observed—

First, That the principle is of modern date; that it is maintained, as is believed, by no other nation but Great Britain; and that it was assumed by her under the auspices of a maritime ascendency, which rendered such a principle subservient to her particular interest. The history of her regulations on this subject shows that they have been constantly modified under the influence of that consideration. The course of these modifications will be seen in an appendix to the fourth volume of Robinson's Admiralty Reports.

Secondly, That the principle is manifestly contrary to the general interest of commercial nations, as well as to the law of nations settled by the most approved authorities, which recognises no restraints on the trade of nations not at war, with nations at war, other than that it shall be impartial between the latter, that it shall not extend to certain military articles, nor to the transportation of persons in military service, nor to places actually blockaded or besieged.

Thirdly, That the principle is the more contrary to reason and to right, inasmuch as the admission of neutrals into a colonial trade shut against them in times of peace, may, and often does, result from considerations which open to neutrals direct channels of trade with the parent state, shut to them in times of peace, the legality of which latter relaxation is not known to have been contested; and inasmuch as a commerce may be, and frequently is opened in time of war, between a colony and other countries, from considerations which are not incident to the war, and which would produce the same effect in a time of peace; such, for example, as a failure or diminution of the ordinary sources of necessary supplies, or new turns in the course of profitable interchanges.

Fourthly, That it is not only contrary to the principles and practice of other nations, but to the practice of Great Britain herself. It is well known to be her invariable practice in time of war, by relaxations in her navigation laws, to admit neutrals to trade in channels forbidden to them in times of peace; and particularly to open her colonial trade both to neutral vessels and supplies, to which it is shut in times of peace: and that one at least of her objects, in these relaxations, is to give to her trade an immunity from capture, to which in her own hands it would be subjected by the war.

Fifthly, The practice which has prevailed in the British dominions, sanctioned by orders of council and an act of parliament, [39 G. 3. c. 98.] authorizing for British subjects a direct trade with the enemy, still further diminishes the force of her pretensions for depriving us of the colonial trade. Thus we see in Robinson's Admiralty Reports *passim*, that during the last war a licensed commercial intercourse prevailed between Great Britain and her enemies, France, Spain, and Holland, because it comprehended articles necessary for her manufactures and agriculture; notwithstanding the effect it had in opening a vent to the surplus productions of the others. In this manner she assumes to suspend the war itself as to particular objects of trade beneficial to herself; whilst she denies the right of the other belligerents to suspend their accustomed commercial restrictions, in favor of neutrals. But the injustice and inconsistency of her attempt to press a strict rule on neutrals, is more forcibly displayed by the nature of the trade which is openly carried on between the colonies of Great Britain and Spain, in the West Indies. The mode of it is detailed in the enclosed copy of a letter from ——— wherein it will be seen that American vessels and cargoes, after being condemned in British courts, under pretence of illicit commerce, are sent, on British account, to the enemies of Great Britain, if not to the very port of the destination interrupted when they were American property. What respect can be claimed from others, to a doctrine not only of so recent an origin, and enforced with so little uniformity, but which is so conspicuously disregarded in practice by the nation itself, which stands alone in contending for it?

Sixthly, It is particularly worthy of attention that the Board of Commissioners, jointly constituted by the British and American Governments, under the seventh article of the treaty of 1794, by reversing condemnations of the British courts founded on the British instructions of November, 1793, condemned the principle, that a trade forbidden to neutrals in time of peace, could not be opened to them in time of war: on which precise principle these instructions were founded. And as the reversal could be justified by no other authority than the law of nations, by which they were guided, the law of nations, according to that joint tribunal, condemns the principle here combated. Whether the British Commissioners concurred in these reversals does not appear, but whether they did, or did not, the decision was equally binding; and affords a precedent which could not be disrespected by a like succeeding tribunal, and ought not to be without great weight with both nations, in like questions recurring between them.

On these grounds the United States may justly regard the British captures and condemnations of neutral trade, with colonies of the enemies of Great Britain, as violations of right; and if reason, consistency, or that sound policy which cannot be at variance with either, be allowed the weight which they ought to have, the British Government will feel sufficient motives to repair the wrongs done in such cases by its cruisers and courts.

But, apart from this general view of the subject, a refusal to indemnify the sufferers, in the particular case of the Aurora, is destitute of every pretext, because, in the second place, the continuity of her voyage was clearly and palpably broken, and the trade converted into a new character.

It has been already noted that the British regulation of 1798 admits a direct trade, in time of war, between a belligerent colony and neutral country carrying on the trade; and admits consequently the legality of the importation by the Aurora, from the Havana to Charleston. Nor has it ever been pretended that a neutral nation has not a right to re-export to any belligerent country whatever foreign productions, not contraband of war, which may have been duly incorporated and naturalized, as a part of the commercial stock of the country re-exporting it.

The question, then, to be decided under the British regulation itself, is, whether in landing the cargo, paying the duties, and thus as effectually qualifying the articles for the legal consumption of the country, as if they had been its native productions, they were not, at the same time, equally qualified with native productions for exportation to a foreign market. That such ought to be the decision results irresistibly from the following considerations:

1. From the respect which is due to the internal regulations of every country, where they cannot be charged with a temporizing partiality towards particular belligerent parties, or with fraudulent views towards all of them. The regulations of the United States on this subject must be free from every possible imputation, being not only fair in their appearance, but just in their principles, and having continued the same during the periods of war, as they were in those of peace. It may be added that they probably correspond, in every essential feature relating to re-exportation, with the laws of other commercial countries, and particularly with those of Great Britain. The annexed outline of them, by the Secretary of the Treasury, will at once explain their character, and show that, in the case of the Aurora, every legal requisite was duly complied with.

2. From the impossibility of substituting any other admissible criterion, than that of landing the articles, and otherwise qualifying them for the use of the country. If this regular and customary proceeding be not a barrier against further inquires, where, it may be asked, are the inquires to stop? By what evidence are particular articles to be identified on the high seas, or before a foreign tribunal? If identified, how is it to be ascertained whether they were imported with a view to be the market at home, or to a foreign market, or, as ought always to presumed, to the one or the other, as it should happen to invite? or if to a foreign market, whether to one forbidden or permitted by the British regulations? for it is to be recollected that among the modifications which her policy has given to the general princi-

ple asserted by her, a direct trade is permitted to a neutral carrier from a belligerent colony, to her ports, as well as to those of his own country. If, again, the landing of the goods and the payment of the duties be not sufficient to break the continuity of the voyage, what, it may be asked, is the degree of internal change or alienation which will have that effect? May not a claim be set up to trace the articles from hand to hand, from ship to ship, in the same port, and even from one port to another port, as long as they remain in the country? In a word, in departing from the simple criterion provided by the country itself, for its own legitimate and permanent objects, it is obvious, that, besides the defalcations which might be committed on our carrying trade, pretexts will be given to cruisers for endless vexations on our commerce at large, and that a latitude and delays will accrue in the distant proceedings of admiralty courts, still more ruinous and intolerable.

3. From the decision in the British High Court of Admiralty itself, given in the case of the Polly, Lasky, master, by a judge deservedly celebrated for a profound judgement, which cannot be suspected of leaning towards doctrines unjust or injurious to the rights of his own country. On that occasion he expressly declares; "It is not my business to say what is universally the test of a bona fide importation: it is argued that it would be sufficient that the duties should be paid, and that the cargo should be landed. If these criteria are not to be resorted to, I should be at a loss to know what should be the test; and I am strongly disposed to hold, that it would be sufficient that the goods should be landed and the duties paid." 2 Rob. Reports, p. 368-9.

The President has thought it proper that you should be furnished with such a view of the subject as is here sketched; that you may make the use of it best suited to the occasion. If the trial of the Aurora should not be over, it is questionable whether the Government will interfere with its courts. Should the trial be over, and the sentence of the Vice Admiralty Court at St. John's have been confirmed, you are to lose no time in presenting to the British Government a representation corresponding with the scope of these observations; and in urging that redress in the case, which is equally due to private justice, to the reasonable expectations of the United States, and to that confidence and harmony which ought to be cherished between the two nations.

Mr. Monroe to the Secretary of Foreign Affairs of Great Britain.

No. 12, Great Cumberland Place, *September* 23, 1805.

My Lord:

I flattered myself, from what passed in our last interview, that I should have been honored before this with an answer from your lordship to my letters respecting the late seizure of American vessels. I understood it to be agreed that the discussion which then took place should be considered as inofficial, as explanatory only of the ideas which we might respectively entertain on the subject, and that your lordship would afterwards give me such a reply to my letters respecting that measure as His Majesty's Government might desire to have communicated to the Government of the United States. In consequence, I have since waited with anxiety such a communication, in the daily expectation of receiving it. It is far from being my desire to give your lordship any trouble in this business which I can avoid, as the time which has since elapsed sufficiently shows; but the great importance of the subject, which has, indeed, become more so, by the continuance of the same policy, and the frequency of seizures which are still made of American vessels, place me in a situation of peculiar responsibility. My Government will expect of me correct information on this point, in all its views, and I am very desirous of complying with its just expectation. I must, therefore, again request that your lordship will be so good as to enable me to make such a representation to my Government of that measure as His Majesty's Government may think proper to give.

I am sorry to add, that the longer I have reflected on the subject, the more confirmed I have been in the objections to the measure. If we examine it in reference to the law of nations, it appears to me to be repugnant to every principle of that law; if by the understanding, or, as it may be more properly called, the agreement of our Governments respecting the commerce in question, I consider it equally repugnant to the principles of that agreement. In both these views your lordship will permit me to make some additional remarks on this subject.

By the law of nations, as settled by the most approved writers, no other restraint is acknowledged on the trade of neutral nations with those at war than that it be impartial between the latter; that it shall not extend to articles which are deemed contraband of war, nor to the transportation of persons in military service, nor to places actually blockaded or besieged. Every other commerce of a neutral with a belligerent is considered a lawful commerce; and every other restraint on it to either of the belligerents by the other an unlawful restraint.

The list of contraband is well defined, as are also the circumstances which constitute a blockade. The best authorities have united in confining the first to such articles as are used in war, and are applicable to military purposes; and in requiring, to constitute the latter, the disposition of such a force, consisting of stationary ships, so near the port, by the Power which attacks it, as to make it dangerous for the vessel of a neutral Power to enter it. The late treaty between Great Britain and Russia designates these circumstances as necessary to constitute a blockade, and it is believed that it was never viewed before in a light more favorable to the invading Power. The vessels condemned were engaged in a commerce between the United States and some port in Europe, or between those States and the West India islands, belonging to an enemy of Great Britain. In the European voyage, the cargo consisted of the productions of the colonies; in the voyage to the West Indies, it consisted of the goods of the Power to which the colony belonged, and to which the ship was destined. The ship and cargo, in every case, were the property of American citizens, and the cargo had been landed, and the duty on it paid, in the United States. It was decided that these voyages were continuous; and the vessels and cargoes were condemned, on the principle that the commerce was illegal. I beg to refer more especially in this statement to the case of the Essex, an appeal from the judgment of the Vice Admiralty court at New Providence, in which the Lords Commissioners of Appeals, in confirming that judgment, established this doctrine.

It requires but a slight view of the subject to be satisfied that these condemnations are incompatible with the law of nations, as above stated. None of the cases have involved a question of contraband, of blockade, or of any other kind, that was ever contested till of late in favor of a belligerent against a neutral Power. It is not on any principle that is applicable to any such case that the measure can be defended. On what principle, then, is it supported by Great Britain? What is the nature and extent of her doctrine? What are the circumstances which recommend the arguments which support it? For information on these points we cannot refer to the well known writers on the law of nations; no illustration can be obtained from them of a doctrine which they never heard of. We must look for it to an authority more modern; to one which, however respectable for the learning and professional abilities of the judge who presides, is nevertheless one which, from many considerations, is not obligatory on other Powers. In a report of the decisions of the Court of Admiralty of this kingdom, we find a notice of a series of orders issued by the Government, of different dates and imports, which have regulated this business. The first of these bears date on the 6th of November, 1793; the second on the 8th of January, 1794; the third on the 25th of January, 1798. Other orders have been issued since the commencement of the present war. It is these orders which have authorized the seizures that were made at different times in the course of the last war, and were lately made by British cruisers of the vessels of the United States. They, too, form the law which has governed the courts in the decisions on the several cases which have arisen under those seizures. The first of these orders prohibits altogether every species of commerce between neutral countries and enemies' colonies, and between neutral and other countries, in the productions of those colonies, the second and subsequent orders modify it in various forms. The doctrine, however, in every decision, is the same: it is contended in each that the character and just extent of the principle is to be found in the first order, and that every departure from it since has been a relaxation of the principle, not claimed of right by neutral Powers, but conceded in their favor gratuitously by Great Britain.

In support of these orders, it is urged that, as the colonial trade is a system of monopoly to the parent country, in time of peace, neutral Powers have no right to participate in it in time of war, although they be permitted so to do by the parent country: that a belligerent has a right to interdict them from such a commerce. It is on this system

of internal restraint, this regulation of colonial trade by the Powers having colonies, that a new principle of the law of nations is attempted to be founded: one which seeks to discriminate in respect to the commerce of neutral Powers with a belligerent, between different parts of the territory of the same Power, and likewise subverts many other principles of great importance, which have heretofore been held sacred among nations. It is believed that so important a superstructure was never raised on so slight a foundation. Permit me to ask, does it follow, because the parent country monopolises in peace the whole commerce of its colonies, that in war it should have no right to regulate it at all? That, on the contrary, it should be construed to transfer, in equal extent, a right to its enemy, to the prejudice of the parent country, of the colonies, and of neutral Powers? If this doctrine was sound, it would certainly institute a new and singular mode of acquiring and losing rights; one which would be highly advantageous to one party, while it was equally injurious to the other. To the colonies more especially, it would prove peculiarly onerous and oppressive. It is known that they are essentially dependent for their existence on supplies from other countries, especially the United States of America, who, being in their neighborhood, have the means of furnishing them with greatest certainty, and on the best terms. Is it not sufficient that they be subjected to that restraint in peace, when the evils attending it by the occasional interference of the parent country may be, and are, frequently repaired? Is it consistent with justice or humanity, that it should be converted into a principle in favor of an enemy, inexorable of course, but otherwise without the means of listening to their complaints, not for their distress or oppression only, but for their extermination? But there are other insuperable objections to this doctrine. Are not the colonies of every country a part of its domain, and do they not continue to be so until they are severed from it by conquest? Is not the power to regulate commerce incident to the sovereignty, and is it not co-extensive over the whole territory which any Government possesses? Can one belligerent acquire any right to the territory of another, but by conquest? And can any rights which appertain thereto, be otherwise defeated or curtailed in war? In whatever light, therefore, the subject is viewed, it appears to me evident that this doctrine cannot be supported. No distinction founded in reason can be taken between the different parts of the territory of the same Power to justify it. The separation of one portion from another by the sea, gives lawfully to the belligerent, which is superior on that element, a vast ascendency in all the concerns on which the success of the war, or the relative prosperity of their respective dominions may in any degree depend. It opens to such Power ample means for its own aggrandizement, and for the harassment and distress of its adversary. With these it should be satisfied. But neither can that circumstance, nor can any of internal arrangement which any Power may adopt for the government of its dominions, be construed to give to its enemy any other advantage over it. They certainly do not justify the doctrine in question, which asserts that the law of nations varies in its application to different portions of the territory of the same Power: that it operates in one mode in respect to one, and in another, or even not at all, in respect to another; that the rights of humanity of neutral Powers and all other rights are to sink before it.

It is further urged that neutral Powers ought not to complain of this restraint, because they stand under it on the same ground with respect to that commerce which they held in time of peace. But this fact, if true, gives no support to the pretension. The claim involves a question of right, not of interest. If the neutral Powers have a right in war to such commerce with the colonies of the enemies of Great Britain, as the parent States respectively allowed, they ought not to be deprived of it by her, nor can its just claims be satisfied by any compromise of the kind alluded to. For this argument to have the weight which it is intended to give it, the commerce of the neutral Powers with those colonies should be placed and preserved through the war, in the same state as if it had not occurred. Great Britain should in respect to them take the place of the parent country, and do every thing which the latter would have done, had there been no war. To discharge that duty, it would be necessary for her to establish such a police over the colony, as to be able to examine the circumstances attending it annually, to ascertain whether the crops were abundant, supplies from other quarters had failed, and eventually to decide whether under such circumstances the parent country would have opened the ports to neutral Powers. But these offices cannot be performed by any Power which is not in possession of the colony; that can only be obtained by conquest, in which case the victor would of course have a right to regulate its trade as it thought fit.

It is also said, that neutral Powers have no right to profit of the advantages which are gained in war by the arms of Great Britain. This argument has even less weight than the others. It does not, in truth, apply at all to the question. Neutral Powers do not claim a right, as already observed, to any commerce with the colonies which Great Britain may have conquered of her enemies, otherwise than on the conditions which she imposes. The point in question turns on the commerce which they are entitled to with the colonies which she has not conquered, but still remain subject to the dominion of the parent country. With such it is contended, for reasons which have been already given, that neutral Powers have a right to enjoy all the advantages in trade which the parent country allows them; a right of which the mere circumstance of war cannot deprive them. If Great Britain had a right to prohibit that commerce, it existed before the war began, and of course before she had gained any advantage over her enemies. If it did not then exist, it certainly does not at the present time. Rights of the kind in question cannot depend on the fortune of war, or other contingencies. The law which regulates them is invariable, until it be changed by the competent authority. It forms a rule equally between belligerent Powers, and between neutral and belligerent, which is dictated by reason and sanctioned by the usage and consent of nations.

The foregoing considerations have, it is presumed, proved that the claim of Great Britain to prohibit the commerce of neutral Powers, in the manner proposed, is repugnant to the law of nations. If, however, any doubt remained on that point, other considerations which may be urged cannot fail to remove it. The number of orders of different imports which have been issued by Government, to regulate the seizure of neutral vessels, is a proof that there is no established law for the purpose. And the strictness with which the courts have followed those orders, through their various modifications, is equally a proof that there is no other authority for the government of their decisions. If the order of the 6th of November, 1793, contained the true doctrine of the law of nations, there would have been no occasion for those which followed, nor is it probable that they would have been issued: indeed, if that order had been in conformity with that law, there would have been no occasion for it. As in the cases of blockade and contraband, the law would have been well known without an order, especially one so very descriptive; the interest of the cruisers, which is always sufficiently active, would have prompted them to make the seizures, and the opinions of eminent writers, which in that case would not have been wanting, would have furnished the courts the best authority for their decisions.

I shall now proceed to show that the decisions complained of are contrary to the understanding, or what, perhaps, may more properly be called an agreement of the two Governments on the subject. By the order of the 6th November, 1793, some hundreds of American vessels were seized, carried into port, and condemned. Those seizures and condemnations became the subject of an immediate negotiation between the two nations, which terminated in a treaty, by which it was agreed to submit the whole subject to commissioners, who should be invested with full power to settle the controversy which had thus arisen. That stipulation was carried into complete effect: commissioners were appointed, who examined laboriously and fully all the cases of seizure and condemnation which had taken place, and finally decided on the same; in which decisions, they condemned the principle of the order, and awarded compensation to those who had suffered under it. Those awards have been since fairly and honorably discharged by Great Britain. It merits particular attention that a part of the twelfth article of that treaty referred expressly to the point in question, and that it was, on the solemn deliberation of each Government, by their mutual consent, expunged from it. It seems, therefore, to be impossible to consider that transaction, under all the circumstances attending it, in any other light than as a fair and amicable adjustment of the question between the parties—one which authorized the just expectation that it would never have become again a cause of complaint between them. The sense of both was expressed on it in a manner too marked and explicit to admit of a different conclusion. The subject, too, was of a nature that when once settled ought to be considered as settled forever. It is not like questions of commerce between two Powers, which affect their internal concerns, and depend, of course, on the internal regulations of each. When these latter are arranged by treaty, the rights which accrue to each party under it in the interior of the other cease when the treaty expires. Each has a right afterwards to decide for itself in what manner that concern shall be regulated in future, and in that decision to consult solely its interest.

But the present topic is of a very different character. It involves no question of commerce or other internal concern between the two nations. It respects the commerce only which either may have with the enemies of the other in time of war. It involves, therefore, only a question of right, under the law of nations, which in its nature cannot fluctuate. It is proper to add that the conclusion above mentioned was further supported by the important fact, that, until the late decree in the case of the Essex, not one American vessel engaged in this commerce had been condemned on this doctrine; that several which were met in the channel by the British cruisers were permitted, after an examination of their papers, to pursue their voyage. This circumstance justified the opinion that that commerce was deemed a lawful one by Great Britain.

There is another ground on which the late seizures and condemnations are considered as highly objectionable, and to furnish just cause of complaint to the United States. Until the final report of the commissioners under the seventh article of the treaty of 1794, which was not made until last year, it is admitted that their arbitrament was not obligatory on the parties in the sense in which it is now contended to be. Every intermediate declaration, however, by Great Britain, of her sense on the subject, must be considered as binding on her, as it laid the foundation of commercial enterprises, which were thought to be secure while within that limit. Your lordship will permit me to refer you to several examples of this kind, which were equally formal and official, in which the sense of His Majesty's Government was declared very differently from what it has been in the late condemnations. In Robinson's Reports, vol. 2, page 368, (case the Polly, Lasky, master,) it seems to have been clearly established by the learned judge of the Court of Admiralty, that an American has a right to import the produce of an enemy's colony into the United States, and to send it on afterwards to the general commerce of Europe; and that the landing the goods and paying the duties in the United States should preclude all further question relative to the voyage. The terms "for his own use," which are to be found in the report, are obviously intended to assert the claim only that the property shall be American, and not that of an enemy; by admitting the right to send on the produce afterwards to the general commerce of Europe, it is not possible that those terms should convey any other idea. A *bona fide* importation is also held by the judge to be satisfied by the landing the goods and paying the duties. This, therefore, is, I think, the true import of that decision. The doctrine is again laid down, in still more explicit terms, by the Government itself, in a correspondence between Lord Hawkesbury and my predecessor, Mr. King. The case was precisely similar to those which have been lately before the Court. Mr. King complained, in a letter of March 18, 1801, that the cargo of an American vessel, going from the United States to a Spanish colony, had been condemned by the Viceadmiralty Court of Nassau, on the ground that it was of the growth of Spain, which decision he contended was contrary to the law of nations, and requested that suitable instructions might be despatched to the proper officers in the West Indies, to prevent like abuses in future. Lord Hawkesbury, in a reply of April 11th, communicated the report of the King's advocate general, in which it is expressly stated, that the produce of an enemy may be imported by a neutral into his own country, and re-exported thence to the mother country; and, in like manner, in that circuitous mode, that the produce and manufactures of the mother country might find their way to its colonies; that the landing the goods and paying the duties in the neutral country broke the continuity of the voyage, and legalized the trade, although the goods were re-shipped in the same vessel, on account of the same neutral proprietors, and forwarded for sale to the mother country of the colony. It merits attention in this report, (so clearly and positively is the doctrine laid down that the landing the goods and paying the duties in the neutral country broke the continuity of the voyage,) that it is stated as a doubtful point whether the mere touching in the neutral country to obtain fresh clearances will be considered in the light of the direct trade; that no positive inhibition is insisted on any but the direct trade between the mother country and the colonies. This doctrine, in the light herein stated, is also to be found in the treaty between Great Britain and Russia, June 17, 1801. By the second section of the third article, the commerce of neutrals, in the productions or manufactures of the enemies of Great Britain, which have become the property of the neutral, is declared to be free. That section was afterwards explained by a declaratory article of October 20, of the same year, by which it is agreed that it shall not be understood to authorize neutrals to carry the produce or merchandise of an enemy either directly from the colonies to the parent country, or from the parent country to the colonies. In other respects, the commerce was left on the footing on which it was placed by that section, perfectly free, except in the direct trade between the colony and the parent country. It is worthy of remark, that as, by the reference made in the explanatory article of the treaty with Russia, to the United States of America, it was supposed that those States and Russia, Denmark, and Sweden, had a common interest in neutral questions, so it was obviously intended, from the similarity of sentiment which is observable between that treaty as amended and the report of the advocate general above mentioned, to place all the parties on the same footing. After these acts of the British Government, which, being official, were made public, it was not to be expected that any greater restraint would have been contemplated by it, on that commerce, than they impose; that an inquiry would ever have been made, not whether the property with which an American vessel was charged belonged to a citizen of the United States or an enemy, but whether it belonged to this or that American—an inquiry which imposes a condition which it is believed that no independent nation, having a just sense of what it owes to its rights or its honor, can ever comply with. Much less was it to be expected that such a restraint would have been thought of after the report of the commissioners above adverted to, which seemed to have placed the rights of the United States incontestably on a much more liberal and, as is contended, just footing.

It is proper to add, that the decree of the Lords Commissioners of Appeals in the case of the Essex produced the same effect as an order from the Government would have done. Prior to that decree, from the commencement of the war, the commerce in question was pursued by the citizens of the United States, as has been already observed, without molestation. It is presumable that till then His Majesty's cruisers were induced to forbear a seizure by the same considerations which induced the American citizens to engage in the commerce—a belief that it was a lawful one. The facts above mentioned were equally before the parties, and it is not surprising that they should have drawn the same conclusion from them. That decree, however, opened a new scene. It certainly gave a signal to the cruisers to commence the seizures, which they have not failed to do, as has been sufficiently felt by the citizens of the United States who have suffered under it. According to the information which has been given me, about fifty vessels have been brought into the ports of Great Britain in consequence of it; and there is reason to believe that the same system is pursued in the West Indies and elsewhere. The measure is the more to be complained of, because Great Britain had, in permitting the commerce for two years, given a sanction to it by her conduct, and nothing had occurred to create a suspicion that her sentiments varied from her conduct. Had that been the case, or had she been disposed to change her conduct in that respect towards the United States, it might reasonably have been expected that some intimation would have been given of it before the measure was carried into effect. Between Powers who are equally desirous of preserving the relations of friendship with each other, notice might in all such cases be expected. But, in the present case, the obligation to give it seemed to be peculiarly strong. The existence of a negotiation which had been sought on the part of the United States, some considerable time before my departure from Spain, for the express purpose of adjusting amicably and fairly all such questions between the two nations, and postponed on that occasion to accommodate the views of His Majesty's Government, furnished a suitable opportunity for such an intimation, while it could not otherwise than increase the claim to it.

In this communication, I have made no comment on the difference which is observable in the import of the several orders which have regulated, at different times, the seizure of neutral vessels, some of which were more moderate than others. It is proper, however, to remark here, that those which were issued, or even that any had been issued, since the commencement of the present war, were circumstances not known till very lately; on principle, it is acknowledged that they are to be viewed in the same light, and it has been my object to examine them by that standard, without going into detail, or marking the shades of difference between them. I have made the examination with that freedom and candor which belongs to a subject of very high importance to the United States; the result of which has been, as I presume, to prove that all the orders are repugnant to the law of nations, and that the late condemnations, which have revived the pretension on the part of Great Britain, are not only repugnant to that law, but to the understanding which it was supposed had taken place between the two Powers respecting the commerce in question.

I cannot conclude this note without adverting to the other topics depending between our Governments, which it is also much wished to adjust at this time. These are well known to your lordship, and it is therefore unnecessary to add any thing on them at present. With a view to perpetuate the friendship of the two nations, no unnecessary cause of collision should be left open. Those adverted to are believed to be of this kind, such as the case of boundary, the impressment of seamen, &c., since it is presumed that there can be no real conflicting interest between them on those points. The general commercial relation may then be adjusted or postponed as may be most consistent with the views of His Majesty's Government. On that point, also, it is believed that it will not be difficult to make such an arrangement as, by giving sufficient scope to the resources, to the industry, and the enterprise, of the people of both countries, may prove highly reciprocal and advantageous to them. In the topic of impressment, however, the motive is more urgent. In that line, the rights of the United States have been so long trampled under foot, and the feelings of humanity in respect to the sufferers, and the honor of their Government, even in their own ports, so often outraged, that the astonished world may begin to doubt whether the patience with which these injuries have been borne ought to be attributed to generous or unworthy motives: whether the United States merit the rank to which, in other respects, they are justly entitled among independent Powers, or have already, in the very morn of their political career, lost their energy and become degenerate. The United States are not insensible that their conduct has exposed them to such suspicions, though they well know that they have not merited them. They are aware, from the similarity in the person, the manners, and, above all, the identity of the language, which is common to the people of both nations, that the subject is a difficult one. They are equally aware that to Great Britain, also, it is a delicate one; and they have been willing, in seeking an arrangement of this important interest, to give a proof, by the mode, of their very sincere desire to cherish the relations of friendship with her. I have only to add, that I shall be happy to meet your lordship on these points as soon as you can make it convenient to you.

I have the honor to be, &c.

JAMES MONROE.

To the President of the United States, and the Senate and House of Representatives of America in Congress assembled, the memorial of the merchants of the city of New York.

Your memorialists beg leave respectfully to approach the Government of their country on subjects of great importance, which have affected their minds with the deepest anxiety and alarm.

Confiding in the justice and friendly dispositions of the Government of Great Britain, and entertaining a correspondent expectation that no unusual restrictions would be imposed on neutral commerce without adequate motives and the most ample notice: presuming, especially, that commercial enterprises, commenced under the sanction of established principles, would, on no account, be affected by a change of system; your memorialists have employed a vast capital in importing various colonial productions, the surplus of which, exceeding the demands of this country, they have been accustomed to export freely to the different markets of Europe.

After this, commerce had been prosecuted without restriction for several years, and had attracted a great proportion of their wealth; after their insurers had assumed immense responsibilities, grounded on an opinion that this trade was strictly regular; having never received the slightest intimation that it could be deemed incompatible with the rights of a belligerent nation, they have been suddenly confounded by unexpected intelligence of the arrestation, on the high seas, of a large portion of their property, which had been embarked with the most unsuspecting confidence.

The feelings of your memorialists are not only excited by the losses which they have actually sustained, in consequence of a measure insusceptible of previous calculation, but also from the state of uncertainty in which they are placed with respect to future commercial operations.

Your memorialists have heretofore believed that commerce between the United States and colonies subject to the enemies of Great Britain, when *bona fide* prosecuted on their own account, would be perfectly safe from interruption; they have also believed that all articles, which might be securely *imported* into the United States, might be as securely *exported*, with the exceptions well understood, both in respect to the import and export trade of commerce with places blockaded, or in articles contraband of war.

In a recent interpretation of what is considered by the tribunals of Great Britain as a *direct trade* between the colonies and the parent countries of their enemies, your memorialists perceive, with concern, the development of a principle which, if conceded on the part of the United States, must prove fatal to their commercial importance.

It is understood to have been decided that, whenever it appears to be the intention of the importer of colonial produce to export the same to Europe, or whenever it is so exported by the original importer, such intention or exportation shall be evidence of a *direct trade*, and subject the property, though neutral, to confiscation.

Your memorialists consider it their bounden duty to themselves and their country, to express their most decided opposition to this decision.

As to the evidence arising from the supposed intention of an importer, they readily admit that the great quantities of colonial produce which are acquired by means of the American commerce, exceeding the demand for consumption in the United States, will fairly justify a *general presumption* that the surplus is ultimately destined for European markets. They assert, however, that the *intention* of a merchant in respect to the *future destination of his property* must, from the nature of things, be inconclusive. All plans of business formed by individuals are liable to be affected by circumstances, not to be foreseen or controlled; these plans are, therefore, necessarily revocable by those who form them, and an *intention*, which has *not been executed*, proves nothing more than might justly be inferred from a general presumption, arising from the course of our commerce. To apply such an intention, in a particular case, to the prejudice of an individual; to presume that he has voluntarily incurred an immense risk, which, consistently with the success of his main object, he might have fairly avoided; and to involve him in ruin for prosecuting a trade, which, if undertaken with a different motive, would have been declared lawful, would be, in the opinion of your memorialists, to confound and reverse the best established principles of reason, equity, and law.

Your memorialists contend for no innovations on the law of nations; and, except where special treaties have prescribed a different rule, they admit that they may lawfully be restrained from transporting the property of the parties engaged in war. In the recent decision, which prohibits an importer of colonial produce from exporting it to Europe, they, however, perceive with concern either a nugatory and vexatious regulation, or a meditated blow at what they deem an incontestable and valuable right.

Heretofore there existed clear and obvious circumstances of discrimination between the *direct trade* which Great Britain has assumed, the right of denying to neutrals, and the indirect or *circuitous trade* which she admits to be lawful. The *direct trade* could be performed by a single shipment or voyage, whereas the *circuitous trade* subjected the property to double freights and insurances, to deductions in favor of the revenue, and various other expenses in this country.

If the arrival of a ship in the country to which it belongs, the landing of the cargo, the inspection of the custom-house, the payment or security of duties, do not *terminate a voyage*, then we confess our ignorance on a point which, never having been before questioned, has been assumed by us as an acknowledged truth. If the entry for exportation, the embarkation of merchandise, the reinspection of the custom-house, the bond for securing a delivery in a foreign cruntry, and a public clearance, do not indicate the *commencement of a new voyage*, then we are yet to learn the meaning of the expression. If all the formalities and sanctions established for the security of our revenue, if operations of immense magnitude, transacted with the greatest publicity, and without any motive for concealment, are considered as unreal representations, and merely colorable and fraudulent contrivances to cover an *illicit trade* between the colonies and the parent countries of the enemies of Great Britain; then it becomes necessary, both in regard to our characters and interests, to inquire whether the new regulations establish a more definite criterion for the discovery of truth. We repel, with indignation, the suggestion that the transhipment of property for a foreign

market by the original importer is evidence of fraud or chicane, or that, unsupported by other circumstances, it can justify a suspicion that it is other than neutral. In our opinion, any discrimination between the rights of an importing merchant, and a vender, in the United States, is manifestly fallacious, as it virtually asserts that the former can exercise only an imperfect dominion over property lawfully acquired and possessed in this country, while, at the same time, he can convey to the latter a title to a privilege not enjoyed by himself. In short, that a trade is unlawful when the advantage is to result to one person, but may be rendered lawful by being participated with another.

If the new doctrine is executed in the mildest form, its operation must be highly injurious, by originating new questions for litigation, and, of course, subjecting all our commerce to new hazards of interruption. We presume not, however, to comprehend to what extent, or in what manner, the principle will be applied. We perceive that the ancient landmark has been removed, but we seek in vain for a beacon to direct our course. If we inquire whether a *bona fide* sale and delivery of merchandise by an importer, being a citizen, to another known citizen of the United States, for a valuable consideration, will, as in ordinary cases, be conclusive evidence of a transfer of property, and the answer is affirmative, then we complain that our ships have been detained, the rates of insurance enhanced, and our property confiscated, for the establishment of a rule which, when once understood, will become nugatory, and cease to produce any commercial or political effect. If, on the other hand, this evidence is not to be deemed conclusive, we profess ourselves to be utterly at a loss to discover what proofs of ownership and neutrality of property can, with safety, be relied on.

But these embarrassments, though perplexing and vexatious, are not those which principally occasion our solicitude. We are compelled to consider the late decisions of the British tribunals as preliminary steps towards a system for controlling the importations and exportations of colonial productions, and thereby annihilating the most lucrative branches of our foreign commerce.

If we owed this trade solely to the favor of Great Britain, still we might ask what urgent motive, what imperious necessity, required that the favor should be resumed at a period when our commerce was spread over the ocean, and when a change so essential might destroy its security, and subject us to incalculable losses.

We deny, however, that the rights of commerce, as claimed by us, are to be deemed favors: on the contrary, if the law of nations is other than a temporary rule, prescribed by an arbitrary will, and enforced by power, then we appeal to its most universal and inviolable principle in our defence. This principle is, *that the goods of a neutral, consisting of articles not contraband of war, in a neutral vessel, employed in a direct trade between neutral countries and ports of a belligerent country, not invested or blockaded, are protected.*

In the controversies which have existed, at different times, for extending the privileges of neutral vessels and limiting the grounds of capture, we take no part. We appeal to the old law. If neutral rights can be reduced within more confined limits than this law prescribes, we perceive not how, amidst the collisions of national interests, any neutral commerce can exist, even in our native productions.

If it be intimated that neutrals should be confined to a commerce with such places, and in such articles only, as were allowed in peace by the municipal regulations of the countries engaged in war, the doctrine may be repelled by the notorious fact that no such principle has governed the conduct of nations during any wars in which they have been engaged; all were free to vary, and all in fact have varied, their commercial systems; whatever theoretical opinions may therefore have been advanced, there has existed no such practical rule, and to set up such a rule under the unparalleled circumstances of the present war, must infallibly destroy the commerce of this country.

It is a well known fact that the people of the United States export to foreign countries a greater proportion of the aggregate annual value of the products of their industry than any other people of the globe; they are consequently most deeply interested in the security and freedom of their trade; in short, being almost exclusively an agricultural and commercial people, those parts of our country which, from recent settlement, or from other circumstances, are wholly agricultural, are more immediately interested than any other, as they are in a greater degree dependent on foreign supplies, and consequently most liable to be affected by any vibrations of the commercial system.

As our manufactures do not flourish in proportion to the progress of our population, wealth, and luxury, the necessity of extending our commerce is constantly increasing. The basis of all our trade is the aggregate value of our native productions exceeding what are consumed in the United States. These are exported to various countries, from which we receive supplies for domestic use; or other articles for exportation. A very great proportion of all the results of our commerce with the world centre in the dominions of Great Britain, and we receive, almost exclusively from that country, our clothing and other necessary manufactures. By the events of the late and present war, many countries with which we prosecuted an increasing trade, have been either diverted from manufacturing pursuits, or have been greatly impoverished, or conquered and subjected, to the colonial system of Great Britain. With these preliminary facts in view, we request permission to detail some of the most important consequences of the assumed rule, *that neutrals may be restrained, in time of war, to their accustomed trade in time of peace.* The injustice of such a rule in relation to the United States will be most manifest. The individuals employed in commerce would not alone be affected; all the internal relations of our country would be disturbed; the interests of those districts which are most remote from our principal ports would, in proportion to their dependence on foreign supplies, be most severely depressed.

The effects of war cannot be confined to the countries engaged in war. The value of money, the price of labor, the rates of freight and insurance, are by war enhanced throughout the world; all articles of merchandise, both of export and import, are variously affected in their quantities and value, by new wants, by the relinquishment of former pursuits, and by the new direction which is thereby given to the industry of different nations. Other consequences result from the effects of war; as the impoverishment of some, and the aggrandisement of other countries; also from the acknowledged right of belligerent nations to interdict commerce in contraband articles and to institute blockades. This last right is highly injurious to neutrals as it frequently restrains them from proceeding to the best markets. It is obviously impossible, therefore, to confine the United States in time of war amidst all these changes and disadvantages, to their *accustomed trade in time of peace* without *destroying all trade.*

If, in consequence of the war, certain articles usually exported from the United States, to countries from which we received necessary supplies, cease to be demanded in those countries; may we not export other articles, and thereby obtain the supplies we need? If articles, usually imported into the United States in time of peace, cease to be demanded by us in time of war, in consequence of our ability to obtain substitutes which we prefer, shall we be required to renounce our export trade by being forbid to import other articles for consumption or for commerce? or shall we be compelled to receive in exchange articles we do not require? If in consequence of an increased demand for our exports to particular countries, we obtain, in exchange, articles of commerce exceeding our domestic wants, shall it be required that the surplus perish in our hands? If Great Britain permits commerce between her subjects and the colonies of her enemies, may we not, with the consent of those colonies, participate in the same commerce. If our commerce with the enemies of Great Britain may now be confined to the system established in time of peace, may we not apprehend that the principle will be retaliated in respect to our commerce with the colonies of Great Britain? In that case what can ensue, but war, pillage, and devastation?

These are not imaginary suppositions; they illustrate the most important principles of our commerce; they evince the necessity of a circuitous trade, to enable us to realise the great value of exports in our native productions, by which alone we acquire the power to liquidate the balance against us in our commerce with Great Britain; they demonstrate that the position against which we contend is not a rule of the law of nations. The law of nations ordains no rule which is unequal and unjust.

But still we have other and more forcible objections; the concession which is required would deprive us of many advantages connected with our local situation, our enterprise, our wealth, and our fortune; it would require us to divert much of our capital and industry to new employments; it would amount to an abandonment of views as a commercial people, and might involve us in dangerous controversies by a virtual admission that any essential articles of supply may, at the pleasure of a belligerent nation, be placed in a state of inhibition equivalent to being declared contraband of war.

Hitherto we have regarded it as a peculiar felicity, incident to our neutral situation, that it was equally beneficial to ourselves and to all the parties with whom we are connected: the articles exported by us to the enemies of Great Britain being convenient supplies promised to secure to our ships in their ports a welcome reception and hospitable treatment; as the direct returns for these exports were inconsiderable, and as the products were almost exclusively remitted to Great Britain, and there applied in payment for manufactures purchased on our account, we considered ourselves sure of receiving from them at least that degree of protection which was recommended by a regard to mutual interests.

It is, however, with much surprise that we have recently discovered that the very circumstances upon which our hopes of security were reposed, have been urged as arguments to justify an invasion of our rights, and that having totally suppressed the external commerce of her enemies, Great Britain is now counselled to appropriate to herself that of her friends. If it be true that, as exporters of certain articles to the ultimate markets, our interests are in collision with hers, yet it ought to be recollected that it is a particular and minor interest only which suffers, and that the disadvantage is a necessary consequence of her colonial system; that the general results of our commerce are greatly in her favor; that they invigorate her manufacturing interests, which are the great basis of her wealth; and that these interests can never be promoted by the impoverishment of her best customers. Surely the security of neutral rights ought not to diminish as their value is augmented; surely a maritime preponderancy, which enables its possessor to blockade any of the ports of its enemies, conveys no just title to a monopoly of the commerce of the world!

In the list of our complaints, we cannot forbear to enumerate the humiliating and oppressive conduct of ships of war in the vicinity of our coasts and harbors. We respect the principle, and emulate the conduct of Great Britain, in regard to her own jurisdiction, and we wish merely to claim, to ourselves, the same measure of justice which she exacts from others. But while we contend that we ought not to be exposed to humiliating inquisitions, in the verge of our port, which, by means of secret connexions with our city, may be rendered conducive to the indulgence of partiality, favor, or malice, we disavow every wish to divest the belligerent nations of their rights. If, in particular instances, the American flag, and the character of an American merchant, have been prostituted to unworthy purposes, we declare the individuals thus guilty to be our enemies, and we wish not to screen them from the just consequences of their misconduct. We also assert, that a comprehensive view of our commerce affords conclusive evidence that, of the property circulated through this port, the proportion which can possibly belong to the enemies of Great Britain is an object unworthy the attention of a great Power, especially if, in a rigorous pursuit of its strict rights, it incurs the hazard of forfeiting the esteem of its friends.

If, therefore, the mode in which the American commerce is prosecuted is allowed by the law of nations; if irrefragable evidence arises from our situation, wants, and necessary connexions with the rest of the world, that it is almost exclusively grounded on American capital; if the suggestions that we are the mere agents of foreigners are ungenerous insults, contrived as apologies for injuries; if frauds in relation to foreign trusts are not more frequent in this country than in Great Britain, and if no Government is able wholly to prevent them, then our conclusion in the present, as in all other cases, ought to be deduced from general facts, and not from particular exceptions. This conclusion is, that the American commerce is one of the great links which connect those interests of civilized nations which wars ought not to disturb; that, to break this link, will be to destroy all commerce, and, therefore, that a serious misunderstanding with Great Britain would prove fatal to the most important interests of both countries.

This view of the subject, while it excites our anxiety, furnishes also a resource for our hopes. We wish only for justice; and believing that a commercial nation which disregards justice thereby undermines the citadel of her power, we rely on the effect of mutual interests and wishes in promoting a cordial explanation, and fair adjustment of every cause of misunderstanding; in particular, we rely on the Government of our country that our rights will not be abandoned, and that no argument in favor of an usurpation will ever be derived from our acquiescence.

If our personal interests and local attachments have not greatly misdirected our opinions, the defenceless situation of the port of New York ought to excite the anxious solicitude of every friend of his country; our river is the only commercial avenue to a fertile and populous country, which is rapidly rising into importance; it is here that *one-third* of the revenue of the Union is collected, and this proportion is understood to be relatively increasing. But, while we are grateful for these distinguished advantages of nature, our satisfaction is diminished by reflecting on their insecurity: for, in proportion as the resources of our country accumulate to this point, is the hazard that they may present a temptation to rapacity, and become the prize of violence. Without recurring to the experience of past times for proofs, that no nation can long maintain an extensive commerce without well defended seaports and an efficient military marine, we are admonished, by the new and portentous aspect of Europe, and the alarming prevalence of piracy in the West Indies, that energetic measures of defence have become indispensably necessary.

We presume not to express any opinion respecting the degree of force of which the permanent navy ought to consist, and being sensible that delay must attend the construction of suitable defences for our port, we shall rest satisfied when we perceive that these measures are commenced in a manner, and upon a scale which will assure to us an efficient completion.

Such, however, is the present organized force of the United States, that we should consider it as inconsistent with the honor, interests, or security, of our country, to parley with the pirates of the West Indies, whose conduct being inconsistent with any known rules of lawful welfare, cannot have been authorized by any civilized nation towards another nation in a state of peace. Our vessels, while pursuing a lawful trade, have been piratically seized; their cargoes have been forcibly taken away and distributed, without even the form of a trial; the vessels, in many instances, sunk and destroyed, and the crews stripped of all their property. All these outrages have been exercised on innocent and defenceless men, aggravated by unprecedented circumstances of insult, oppression, and barbarity. Some of these violences have been committed on vessels which were captured within sight of our harbors; and the great scene of these unparalleled enormities is the island of Cuba, which commands the only avenue by which we preserve a commercial connexion with our brethren of the Western States; a connexion which we cherish with ardor as a source of mutual advantage, and a bond of permanent union.

But it is not on account of our pecuniary losses alone that we complain. The constancy and valor of the seamen of the United States are justly themes of patriotic exultation; from their connexion with us we consider their cause as our cause, their rights as our rights, their interests as our interests. Our feelings are indignant at the recital of their wrongs, and we request, in addition to the protection of a naval force, that, at least in the American seas, our brave countrymen may be permitted to display their energy in their own defence.

Your memorialists conclude with remarking, that they deem the present situation of public affairs to be peculiarly critical and perilous, and such as requires all the prudence, the wisdom, and energy of Government, supported by the co-operation of all good citizens. By mutual exertions, under the benign influence of Providence, upon this hitherto favored nation, we hope the clouds which threaten to obscure its prosperity may be dispelled, and we pledge our united support in favor of all measures adapted to vindicate and secure the just rights of our country.

And your memorialists, as in duty bound, will ever pray, &c.

Signed by the unanimous order, and on behalf of a general meeting of merchants, convened on the 26th December, 1805, at the Tontine Coffee House in the city of New York.

JOHN BROOM, *Chairman*,
and forty-eight others.

New York, *December* 28, 1805.

To the President of the United States, and the Senate and House of Representatives of the United States of America, in Congress assembled; the memorial of the merchants and traders of the city of Philadelphia:

At a moment of distress and a season of solicitude, resulting from a novel and peculiar affection of the commercial interest of their country, your memorialists, as composing a great proportion of that interest in one of the principal commercial cities of the United States, submit to you the following considerations:

Under the influence of a form of Government calculated to inspire confidence in the security of our acquisitions, and with a reliance upon the authority of the nation for protection and support in all lawful enterprise, the commerce of the country has increased in a manner almost unparalleled; and has widely extended a spirit of enterprise which has added to the stock of private wealth, and enriched the treasury of the nation.

By the existence of war in Europe, and our neutral standing with the belligerents, our commerce was naturally and necessarily favored and flourishing. Conducted upon fair and honorable principles, our trade wanted no privilege but the just privilege of its neutral character, and it needed no favor but that which had been yielded by the universal consent of civilized nations. But this privilege, we conceive, has been denied to us, and a jealousy of our enterprise and prosperity has excited a design of checking the commercial growth of our country; the fruit of which has been an attempt to innovate upon ancient and approved principles, and to introduce unheard of articles and provisions into the code of public law. Of this design, of its origin and extent, your memorialists are not left in doubt, when they consider the course and nature of the spoliations which have been committed on the American commerce.

For a time your memorialists were disposed to regard the violence committed on the vessels and merchandise of the citizens of the United States, as the unauthorized acts of lawless individuals; for the fact was well known, that many French and Spanish cruisers were on the ocean without legal commissions, who seized without authority, and robbed without even the form of trial. They were aware, that many instances of violated rights were within the knowledge of the Government; and anticipated the adoption of measures calculated to put a stop to the growing mischief. They, moreover, reflected that, during a war between powerful maritime States, it is the unavoidable lot of the neutral to incur loss and suffer inconvenience, even from a fair exercise of the rights of the belligerent; and to be exposed to imposition and outrage, practised sometimes with the color of authority, and sometimes in despite of both law and humanity. Resting, however, with confidence, upon the protection which they regarded their Government as bound to afford to the fair and lawful trader, they submitted to the present inconvenience, and referred themselves to that protecting principle, and to the integrity of the superior tribunals before which the seizures of their property would be finally considered, as the sureties of a certain, though distant retribution.

It becomes your memorialists to state, that the pressure of these evils has greatly increased, and that others of even superior magnitude have arisen, which assume a most alarming and distressing form. What were considered as irregularities, unsusceptible of prevention, have, by continuance and success, strengthened into regular and systematic plunder. What were regarded as mischiefs incident to a state of war, temporary, though not remediless, are vindicated upon the ground of right, and their practice is reiterated under the authority of Government, and receives the solemn sanction of the law. They, moreover, foresee, in the prevalence of the principles, and in the continuance of the practices alluded to, nothing but the ruin of individuals, the destruction of their commerce, and the degradation of their country.

Could the judgment, or even the charity, of your memorialists see, in the new doctrines of the British court nothing but the revival and enforcement of an ancient and established principle, which friendship had relaxed or favor permitted to slumber, they might regret the departed good, but could impute no injustice to the hand that withdrew it. They are struck, however, with the novelty of these doctrines; their unequivocal hostility to neutral interest and rights; their inconsistency with former declarations of their ministry and decisions of their courts, and with the extraordinary time and manner of their annunciation.

In the reflection that the great code of the laws of nations presents a system of reason and right, approved by the unimpassioned and disinterested judgment of the civilized world, neither tempering its provisions to the wants or demands of an imperious belligerent, nor yet giving aid to the crooked subtleties of unfaithful neutrality, your memorialists have conceived the rights of their nation, as a neutral, to stand upon unchangeable ground. These rights, they cannot but believe, extend to a free and uninterrupted commerce, with their own goods in their own vessels, with other neutrals, if admitted by their laws, or with the belligerents themselves, subject to the received regulations relating to blockade, and to articles contraband of war. The established restrictions on the points just mentioned, with the right of examination and search, have been reasonably considered as giving to the belligerent the most ample security against the infidelity or cupidity which would lend a covert assistance to his antagonist. The policy and interested views of a single State may call for severities against neutral commerce, which are neither commanded of right, nor sanctioned by usage; but the principles of public law cannot vary with the purposes of the politic, nor shift with the designs of the interested. That policy, not justice, that interest, not fair and admitted precedent, have given birth to the principle that neutrals should be restricted to the same commerce with a belligerent, which was allowed to them by that Power, in the time of peace, is conceived, by your memorialists, to be true. Incompatible with the general freedom of neutral commerce, this rule has the sanction of no common observance by civilized nations, and cannot bear that faithful test which every fair and righteous principle of the law of nations will abide. Against the soundness of the principle itself, it is also to be observed, that its advocates, instead of tracing its currency from age to age, point to the war of 1756 as the era of its discovery; and, instead of stamping its validity by the concurrence of the civilized world, indicate its fallibility by a labored detail of their own relaxation and contraction of the rule.

The effect of this novel principle upon neutral interests is of the most serious and alarming character. It goes to nothing short of the destruction of neutral commerce, and, from the well-known neutral situation and character of the United States, to nothing short of inflicting a most deep and deadly wound upon their trade.

But your memorialists cannot but consider, that this principle has not the weight of a consistent and uniform support by the Government which professes to uphold it. In 1801, the declarations of its ministry and the decisions of its courts were unequivocally, "that the produce of the colonies of the enemy may be imported by a neutral into his own country, and be re-exported from thence, even to the mother country of such colony;" and, also, "that landing the goods, and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade, although the goods be re-shipped in the same vessel, and on account of the same neutral proprietors, and forwarded for sale to the mother country." In 1805, it is decided, that landing and paying duties does not break the continuity of the voyage, and that the course of trade pointed out to the neutral four years before, as legal and safe, is now unsatisfactory to the belligerent, and attended, infallibly, with confiscation. What clear and immutable principle of the laws of nations can that be, your memorialists would ask, which is supported by the High Court of Admiralty, and avowed by the ministry in 1801, and which is prostrated by the ministry and the high court of appeals in 1805? Such a principle must be considered as partaking rather of the shifting character of convenience, than of that of permanent right and established law.

The time and manner of announcing it accord with the principle itself. At a moment when mercantile enterprise, confiding in the explanations on this point given by the British ministry to our ambassador, was strained to the utmost, a new decision of the court of appeals is announced, and every sail is stretched to collect the unwary Americans, who are unsuspectingly confiding in what was the law of nations.

After this view of the principle itself, your memorialists would state, that it has received a vigorous and active enforcement. Under this pretence, many American vessels, with cargoes unquestionably American, have been carried into the ports of Great Britain, charged with a departure from neutral character in this important particular. Some have, indeed, been liberated, after long delay, and with great expense; but many are still detained, without a clear understanding of the precise grounds of detention.

On this interesting point, your memorialists refer themselves, with confidence, to the wisdom and the honor of their Government. In the principles they have here submitted to your consideration, they feel all the confidence

of justice, and all the tenacity of truth. To surrender them, they conceive, would derogate from the national character and independence of the United States. From the justice of Government, they hope for their avowal; from the spirit of Government, they hope for their defence; and from the blessing of heaven, they hope for their establishment.

The attention of Government is also solicited by your memorialists, to other embarrassments of their commerce, and to inconveniences deeply affecting the trading interest of the United States, in a different quarter. With a forbearance seldom exercised under like circumstances, the merchants of this country have expected retribution for the injuries imposed upon them by another nation. Instead of receiving this retribution, fresh injuries have been inflicted; and, even during the existence of the present war, adjudications, which outrage every principle of justice, have passed in the courts of Spain on American property. From the Government of that country, between whom and the United States there exists a treaty of friendship and commerce, we had the right to expect, within her ports and jurisdiction, perfect safety and protection. Instead of receiving them, it is too notorious that we have experienced from the officers of that Government, when applied to, the most mortifying inattention; and that, in entire derogation of our treaty, we have been the pointed objects of their neglect and injustice. The severity of this case is increased by the consideration, that, at the time of its occurrence, the very country at whose hands this injustice has been experienced, stood indebted to us for supplies essential to subsistence, and for giving currency and value to its products. Under this head it deserves also to be mentioned, as a point not beneath the notice of Government, that in our own ports, and under your own eyes, public officers of that nation have had the confidence to extort from our merchants fees and emoluments unprecedented and unreasonable.

In detailing the general distresses of our commerce, your memorialists must also remark, that the license of pirates and plunderers in the West Indies has become almost unbounded; and that the defenceless and unprotected state of our shipping exposes it to the most outrageous ravages of the daring and unprincipled. That our seamen should be exposed to the meanest insults, and most wanton cruelties, and the fruits of our industry and enterprise fall a prey to the profligate, cannot but excite both feeling and indignation, and call loudly for the aid and protection of Government. That a belligerent power should depart from the common and accustomed course of examining the ships of the neutral, on the high seas, as chance or vigilance should give the opportunity of search, and should station its vessels of war at the entrance of our ports and harbors, to scrutinize every thing that enters or departs, must also be regarded as attaching reproach to the fairness of our neutral conduct, and is by no means compatible with our dignity or our rights.

Since your memorialists have directed their attention to Government on the subjects herein submitted, they have seen with astonishment a proclamation issued by General Ferrand, an officer of the French Government commanding at the city of St. Domingo, in the island of Hispaniola, which they regard as declaratory of the most outrageous and hostile intentions. As an act of an authorised agent (an officer of Government) it is considered as without a parallel. Taken in its obvious extent, it gives authority to vessels in French commission to carry in all Americans they meet with, because the terms of the proclamation are so indefinite as to leave every thing to the discretion of the cruiser. Experience has too fatally proved, that property once taken into their ports is irretrievably lost.

If this proclamation have issued under the authority of the French nation, it can only be considered as a declaration of war. If it be ultimately disavowed by the Government of this agent, it must be at a distant point of time, when mischiefs great and ruinous may have been done under its authority. It is to prevent these mischiefs that your memorialists solicit the attention of Government, and respectfully suggest, that this extraordinary measure might be speedily counteracted by our national force.

Under the pressure of this state of things, your memorialists have thought proper freely to make known to their Government the injuries sustained and apprehended by the commercial interest of the country. They feel themselves bound to address to you their firm persuasion, that [the amount of losses sustained by the merchants of the United States, from unlawful depredations, would, of itself, be sufficient to defray the expense of an armament adequate to the protection of their commerce. As citizens, they claim protection; and they conceive that the claim is enforced by the consideration, that from their industry and enterprise is collected a revenue which no nation has been able to equal, without a correspondent expense for the protection of the means.

After this fair and candid statement of the distress and exposure of the commerce of the United States, your memorialists cannot but feel and express extreme solicitude for the possible event. In perfect confidence that their foreign commerce was sheltered not only by the law of nations, but by existing treaties, with some of the belligerents, and by the explanations given to the public law by another, they have extended it to every sea, with no other security than a reliance upon those treaties and explanations. It is, of course, defenceless, and liable to arrestation by the most inconsiderable force. It may, then, be naturally supposed, that your memorialists look, with anxiety, to the remedies which may be applied to these pressing evils. To preserve peace with all nations is admitted, without reserve, to be both the interest and the policy of the United States. They, therefore, presume to suggest, that every measure, not inconsistent with the honor of the nation, by which the great objects of redress and security may be attained, should first be used. If such measures prove ineffectual, whatever may be the sacrifice, on their part, it will be met with submission. But whatever measures may be pursued by their Government, your memorialists express their firmest faith that every caution will be used to preserve private property and mercantile credit from violation.

With these observations, submitted with deference and respect to the President and representative body, it remains only to add the hope of your memorialists, that, on subjects of such deep and extensive concern, such measures will be adopted as consists with the honor and interest of the United States.

THOMAS FITZSIMONS, *Chairman, and eighteen others.*

R. E. HOBART, *Secretary.*

Exhibit of captures by the belligerent Powers of property insured by the insurance offices in Philadelphia.

Date of policy.	Vessels' names.	For whom insured.	British captures.	French captures.	Spanish captures.	Remarks.
1804.						
October 27,	Ship Amsterdam Packet, -	J. G. Koch, - -	$24,000, goods,			
September 18,	Do. do. -	L. Clapier and Paul Siemen, -	24,000, do.			
October 17,	Do. do. -	Paul Siemen, - -	8,000, vessel,	- -	- -	Amsterdam to Batavia and Philadelphia. Halifax.
Do. 18,	Do. do. -	- - - -	24,000, goods,			
Do. 18,	Do. do. -	- - - -	8,000, vessel,			
1805.						
August 29,	Ship Columbian Packet, -	William Montgomery, -	2,500, goods,			
Do. 30,	Do. do. -	Aug. Bousquet, - -	6,000, do.			
September 16,	Do. do. -	J. S. Duval, - -	2,600, do.			
October 30,	Do. do. -	L. D. Carpentier, - -	7,000, do.			
September 16,	Do. do. -	C. Brugiere and A. Tessiere, -	1,400, do.			
Do. 21,	Do. do. -	J. F. Dumas, - -	1,700, do.			
Do. 18,	Do. do. -	J. W. Foussat, - -	5,000, do.	- -	- -	Bordeaux to Philadelphia. Bermuda.
Do. 23,	Do. do. -	P. Lambert, - -	400, do.			
Do. 21,	Do. do. -	- - - -	5,000, vessel,			
Do. 28,	Do. do. -	- - - -	12,000, goods,			
October 7,	Do. do. -	- - - -	1,500, do.			
Do. 17,	Do. do. -	- - - -	17,700, freight,			
Do. 16,	Do. do. -	- - - -	22,500, goods,			
Do. 23,	Do. do. -	W. Smith, Jun. - -	1,700, do.			
Do. 27,	Ship Clyde, - -	L. D. Carpentier, - -	15,000, do.	- -	- -	Martinique to New York. Antigua.
1803.						
December 28,	Brig Dove, - -	L. Clapier, - -	- -	7,000, goods,		
1804.						
January 6,	Do. - -	Do. - -	- -	3,100, do.	- -	New York to St. Jago de Cuba. City of St. Do-
Do. 10,	Do. - -	Do. - -	- -	10,000, do.		mingo.
1805.						
September 3,	Ship Eugenia, - -	Ducoing and Lacombe, -	1,500, goods,	- -	- -	Bermuda to New York. Halifax.
Do. 12,	Ship Enterprise, - -	Aug. Bousquet, - -	10,000, do.	- -	- -	Do. do. do.
1804.						
June 1,	Brig Fame, - -	D. W. Coxe, - -	5,000, do.	- -	- -	Philadelphia to Martinique. Tortola.
Do. 1,	Do. - -	Do. - -	2,500, do.			
1805.						
June 22,	Brig Globe, - -	James Tatem, - -	6,000, do.	- -	- -	Philadelphia to La Guaira. Jamaica.
Do. 20,	Do. - -	Do. - -	4,400, do.			
1804.						
November 17,	Brig Hetty, - -	L. Clapier, - -	10,000, do.			
Do. 17,	Do. - -	- - - -	12,450, do.	- -	- -	Marseilles to St. Thomas. Tortola.
Do. 17,	Do. - -	- - - -	10,000, vessel,			
July 21,	Brig Jupiter, - -	Walker and Kennedy, -	2,000, freight,	- -	- -	New York to Bay Honduras.
1803.						
August 2,	Schooner Polly, - -	- - - -	10,300, goods,	- -	- -	Port au Prince to New York. Jamaica.
Do. 19,	Do. - -	Chandler Price, - -	1,000, vessel,			

EXHIBIT OF CAPTURES—Continued.

Date of policy.	Vessels' names.	For whom insured.	British captures.	French captures.	Spanish captures.	Remarks.
1803.						
September 3,	Brig Harriet,		9,500, goods, 4,000, vessel, 2,000, freight,			Bordeaux to Philadelphia. Tortola.
October 6,	Ship Young Eagle,		3,000, goods, 6,000, vessel,			New York to Bordeaux. Bristol.
October 7,	Schooner Amphion,		7,500, goods, 10,000, vessel,			Baltimore to Martinique. Jamaica.
Do. 25,	James A. Bayard,		7,784, goods,			Philadelphia to St. Domingo. New Providence.
1804.						
August 13,	Ship Hibberts,		10,000, do.			Havana to New York. Halifax.
Do. 31,	Brig Favorite,		6,900, do. 4,000, vessel,			Philadelphia to Leghorn. Malta.
1805.						
September 5,	Brig Betsey,	F. Dusar,	5,000, goods,			Cadiz to New York.
May 8,	Ship Hamilton,		10,000, do.			New York to Bordeaux. Halifax.
June 26,	Brig Eliza,		3,000, do.			Guadaloupe to New Haven. Tortola.
July 2,	Schooner Industry,		5,000, ves. & goods			Porto Rico to Charleston. Jamaica.
Do. 16,	Ship John Bulkley,		25,000, goods.			
Do. 16,	Do.	William Waln,	20,000, do.			
August 31,	Do.	S. Richardet,	1,000, do.			
July 18,	Do.	William Waln,	15,000, vessel.			
August 12,	Do.	Do.	6,000, goods.			
May 23,	Do.	Do.	5,000, freight.			
August 17,	Do.	C. Clay,	1,400, goods.			
Do. 17,	Schooner Regulator,	E. E. and W. L. Maddox,		3,000, vessel, 3,800, goods,		
Do. 12,	Ship Young Elias,	Jacob Sperry,	3,000, goods,			
Do. 22,	Do.	J. Longherry,	3,000, do.			
Do. 19,	Do.	Savage and Dugan,	7,500, do.			Philadelphia to Amsterdam. England.
Do. 19,	Do.	Ridg and Maris,	7,500, do.			
Do. 12,	Do.	J. F. Dumas,	15,000, do.			
July 26,	Brig Adeline,		12,000, do.			Guadaloupe to New York. Halifax.
October 15,	Do.	Ducoing and Lacombe,	5,500, do.			
March 20,	Ship Commerce,	Edward Carrell,	10,000, do.			Isle of France to New York. Liverpool.
June 3,	Ship Charles,	Snowden and North,	4,000, do.			Havana to St. Thomas. Tortola.
July 13,	Brig Sally,	Pettit and Bayard,		6,000, goods,		
Do. 27,	Do.	John Maybin,		1,000, do.		New York to Kingston. Baracoa.
Do. 9,	Do.	Pettit and Bayard,		2,000, vessel,		
Do. 12,	Do.	Do.		1,500, freight,		
August 19,	Ship Rebecca,	Joseph Summerl,	20,000, goods,			
Do. 19,	Do.	Smith and Wood,	12,000, do.			Philadelphia to Antwerp. England.
Do. 19,	Do.	James Smith,	7,500, do.			
September 11,	Ship Samson,		18,500, do.			
Do. 20,	Do.	Daniel Man,	4,800, freight,			Philadelphia to Havana and Philadelphia. New Providence.
Do. 16,	Do.	Do.	3,200, do.			

EXHIBIT OF CAPTURES—Continued.

Date of policy.	Vessels' names.	For whom insured.	British captures.	French captures.	Spanish captures.	Remarks.
1805.						
September 16,	Ship Zulema,	Daniel Man,	9,000, vessel,			
April 11,	Do.	Do.	700, goods,			
September 20,	Do.	Samuel McCall,	2,000, do.			
Do. 16,	Do.	- - -	7,000, freight,			
Do. 16,	Do.	" - -	11,000, goods.			
August 29,	Do.	Aug. Bousquet,	8,400, do.			
Do. 30,	Do.	L. D. Carpentier,	5,000, do.	- -	- -	Bordeaux to Philadelphia. Halifax.
Do. 31,	Do.	A. Bousquet,	1,660, do.			
September 7,	Do.	J. S. Duval,	4,000, do.			
Do. 13,	Do.	J. J. Mazurie,	4,500, do.			
Do. 16,	Do.	C. Bruguiere and A. Tessiere,	1,900, do.			
Do. 16,	Do.	J. W. Foussatt,	1,500, vessel,			
Do. 18,	Ship Dispatch,	- - -	24,000, goods,	- -	- -	Amsterdam to Canton, &c. England.
Do. 18,	Do.	- - -	600, vessel,			
Do. 11,	Ship Samson,	James S. Duval,	1,800, goods,			
Do. 14,	Do.	John Dabadie,	4,000, do.			
Do. 16,	Do.	Daniel Man,	10,000, vessel,	- -	- -	Philadelphia to Havana and Philadelphia. New Providence.
Do. 21,	Do.	John Warder and Sons,	3,000, goods,			
Do. 16,	Brig Hiram,	L. Croussillat,	8,000, do.	- -	- -	St. Sebastian's to St. Thomas. Tortola.
February 15,	Ship New Orleans,	Benjamin Wilson,	1,200, do.			
Do. 15,	Do.	William Davis,	1,200, do.			
March 11,	Do.	Benjamin Wilson,	4,000, vessel,	- -	- -	Marseilles to Philadelphia. Halifax.
Do. 11,	Do.	Do.	4,000, goods,			
Do. 11,	Do.	Do.	5,200, freight,			
1804.						
March 24,	Schooner President,	Samuel Boys & Co.	- -	1,200, vessel,	- -	North Carolina to Jamaica.
Do. 24,	Do.	Do.	- -	800, goods,		
Do. 3,	Brig Samuel,	Pratt, Son, and Kintzing,	10,000, goods,	- -	- -	Martinique to Philadelphia.
October 14,	Ship Roberius,	Aug. Bousquet,	15,000, do.	- -	- -	Bordeaux to New Orleans. Tortola.
August 15,	Ship Thomas,	F. Dusar,	10,000, vessel,	- -	- -	Cayenne to New York. Halifax.
Do. 15,	Do.	Do.	3,000, goods,			
Do. 15,	Ship Two Pollies,	Savage and Dugan,	7,000, do.	- -	- -	Matanzas to Philadelphia. New Providence.
November 4,	Brig Mercury,	M. Lowber,	453, do.			
Do. 4,	Do.	Chandler Price,	2,300, do.			
Do. 4,	Do.	Robert Oakley,	4,000, do.	- -	- -	Philadelphia to Havana. New Providence.
Do. 4,	Do.	Howell and Pleasants,	5,800, do.			
March 16,	Brig Susannah,	Robert Bines,	- -	6,000, freight,	- -	Liverpool to New Orleans. New Providence.
Do. 16,	Do.	Do.	- -	5,000, vessel,		
Do. 16,	Ship Young Elias,	Pratt, Son, and Kintzing,	8,000, goods,	- -	- -	Philadelphia to Amsterdam. England.
Do. 16,	Do.	Willings and Francis,	6,500, do.			
May 30,	Sloop Polly,	Edward Russell,	- -	4,000, vessel,		
Do. 30,	Do.	Do.	- -	3,500, goods,		
Do. 30,	Brig Hudson,	Jesse and Robert Waln,	- -	- -	8,000, goods.	
1803.						
December 20,	Ship Mercury,	John Craig,	- -	3,000, com's.	- -	New York to Demarara.

EXHIBIT OF CAPTURES—Continued.

Date of policy.	Vessels' names.	For whom insured.	British captures.	French captures.	Spanish captures.	Remarks.
1805.						
July 22,	Brig Sally, - -	William Bell, - -	6,000, vessel,			
Do. 22,	Do. - -	Do. - -	7,700, goods,	- -	- -	Havana to Philadelphia. New Providence.
November 27,	Do. - -	Joseph Jones & Co. - -	3,000, do.			
Do. 27,	Do. - -	Lewis Clapier, - -	- -			
October 18,	Ship Sally, - -	Montgomery and Newbolds, -	5,500, goods,			
November 29,	Do. - -	Robert Ralston, - -	5,000, do.			
December 29,	Do. - -	Do. - -	1,500, do.	- -	- -	Bordeaux to Philadelphia. Tortola.
November 9,	Do. - -	Chandler Price, - -	5,000, vessel,			
Do. 9,	Do. - -	Do. - -	5,000, goods,			
July 10,	Schooner Sally, - -	John Welsh, - -	2,000, goods,	- -	- -	Cayenne to New York. Halifax.
September 6,	Do. - -	John Warder and Sons, -	3,800, do.			
March 6,	Schooner Volunteer, -	John Welsh, - -	2,000, vessel,			
Do. 6,	Do. - -	Do. - -	6,000, goods,	- -	- -	Curaçoa to New York. Halifax.
Do. 27,	Do. - -	Do. - -	2,000, do.			
April 18,	Brig Sally, - -	Edward Carrell, - -	8,000, do.	- -	- -	Guadaloupe to New York. Tortola.
Do. 18,	Brig Jason, - -	J. B. and Whitton Evans, -	- -	4,000, vessel,	- -	Liverpool to New Orleans. Cuba.
Do. 18,	Do. - -	Do. do. -	- -	3,000, freight,		
August 6,	Ship Richmond, - -	Jesse Waln & Co. - -	1,500, goods.			
Do. 6,	Do. - -					
Do. 6,	Ship Missouri, - -					
Do. 6,	Ship Manhattan, - -					
January 2,	Brig Fair American, -	Pettit and Bayard, - -	4,000, goods.			
Do. 2,	Schooner Harmony, -	- - - -	3,500, do.	- -	- -	Curaçoa to Philadelphia. Jamaica.
Do. 2,	Ship Missouri, - -	- - - -	1,000, do.	- -	- -	Batavia to Cowes. England.
Do. 2,	Schooner Milford, - -	- - - -	6,760, do.	- -	- -	Curaçoa to Alexandria. Jamaica.
Do. 2,	Ship President, - -	- - - -	11,574, do.	- -	- -	Cape of Good Hope to Cowes, &c. England.
Do. 2,	Ship Manhattan, - -	- - - -	12,500, do.	- -	- -	Batavia to New York. Bermuda.
Do. 2,	Schooner Success, - -	- - - -	15,000, do.	- -	- -	Guadaloupe to Philadelphia. Halifax.
Do. 2,	Schooner Susannah, -	- - - -	- -	- -	15,000, -	Laguaira to St. Jago de Cuba. St. Jago de Cuba.
Do. 2,	Brig Globe, - -	- - - -	10,000, do.	- -	- -	Trinidad to Laguaira, &c. Jamaica.
Do. 2,	Ship Young Elias, -	- - - -	1,400, do.	- -	- -	Philadelphia to Amsterdam. England.
Do. 2,	Ship John and James, -	- - - -	7,500, do.	- -	- -	Baltimore to St. Jago de Cuba.
Do. 2,	Ship Commerce, - -	- - - -	10,000, do.	- -	- -	Isle of France to New York. England.
Do. 2,	Ship Ocean, - -	- - - -	6,500, do.	- -	- -	Amsterdam to New York. Halifax.
Do. 2,	Ship John Bulkley, -	- - - -	30,000, do.	- -	- -	Philadelphia to Amsterdam. England.
Do. 2,	Ship Hercules, - -	- - - -	20,000, do.	- -	- -	Philadelphia to Antwerp.
Do. 2,	Brig Susannah, - -	- - - -	5,000, do.	- -	- -	Liverpool to New Orleans.
			$1,070,181	$67,900	$23,000	

To the Honorable James Madison, Secretary of State of the United States: the memorial of the merchants of Newburyport and its vicinity, respectfully represents:

That while pursuing a just and legal commerce, we have suffered great and aggravated losses from unwarrantable depredations on our property by several of the belligerent Powers of Europe. In conducting our commerce, we have endeavored strictly to conform ourselves to the laws of nations and existing treaties, to the regulations of our own Government, and to those of the belligerent Powers; yet, nevertheless, our property has, in various instances, been taken from us on the high seas, in a piratical manner; in some others, it has been seized by the cruisers of one nation, carried into the ports of another, and there embezzled with scarcely the semblance of a trial; and in many cases our vessels and cargoes have been captured, tried, and condemned in courts of law, under unusual and alarming pretences, which, if permitted to continue, threaten the ruin of our commercial interests.

So far from obtaining redress of our grievances, by the ordinary modes and processes of law, we have in most cases been subjected to heavy costs, and suffered embarrassing and distressing detention of property, even where no pretence could be found to authorize the seizure of it.

In this alarming situation of our commercial affairs, both our duty and interest strongly urge us to embrace the earliest opportunity to communicate to the constituted guardians of our rights, such facts and documents as may enable them effectually to demand indemnification for past losses, and security from future aggressions.

You will, therefore, have the goodness, as soon as may be, to lay before the President of the United States, the enclosed list of losses sustained by the merchants of Newburyport and vicinity, together with the memorial.

Having sustained these losses and injuries in the prosecution of our lawful commerce, and in the exercise of our just rights, we rely with confidence on the wisdom, firmness, and justice of our Government, to obtain for us that compensation, and to grant to us that protection which a regard to the honor of our country, no less than to the rights of our citizens, must dictate and require.

We have the honor to be, very respectfully, sir, your obedient servants,

WILLIAM BARTLETT,
MOSES MOWN,
WILLIAM FARIS,
JOHN PEARSON,
EBENEZER STOKERS,
STEPHEN HOWARD,
EDWARD TOPPAN,
} *Committee.*

List of Losses sustained by the merchants of Newburyport and vicinity, by depredations of the belligerent Powers of Europe.

Name of the vessel.	Name of the master.	Name of the owner.	By whom captured or detained.	Value of property.	
Brig Respect, -	John March, -	William Bartlett, -	This vessel was from Newburyport, bound to Amsterdam, with a cargo of coffee, sugar, ginger, and logwood; was taken by a Guernsey privateer, 2d of July last, carried to Plymouth, libelled, tried, and sentence, further proof.	Vessel and outfits valued, -	$10,000 00
				Cargo, - - -	51,709 78
				Adventures on board, -	5,269 68
					$66,979 46
Brig Adair, -	Hector Coffin, -	Ditto, - - -	This vessel was from Newburyport, bound to Amsterdam; was taken by a privateer, called the Polecat, and carried into Dover, in September last, libelled, tried, and two-thirds of the sugar in casks was condemned.	Vessel and outfits, $7,000 00	
				Cargo, - - 31,765 99	
				Adventures, - 1,097 87	
					39,863 86
Brig Swift Packet, -	Jeremiah Goodhue,	Ebenezer Stocker and Thomas C. Amory.	This vessel was bound to New Orleans, with a cargo of coffee, &c. captured on the 21st day of December, 1804, by two French privateers, the Sans Soucit and Dolphin, carried into St. Jago de Cuba, and vessel and cargo there taken by the captain, without any trial whatsoever.	Vessel, - - 3,000 00	
				72,334 lbs. coffee, 18,085 50	
				Other cargo, - 1,200 00	
				Adventures, - 1,028 75	
					23,314 25
Schooner Polly, -	William Morris, -	Ebenezer Stocker, -	Bound from Newburyport to the West Indies, with provisions and dry goods; captured 15th December, 1803, by a French privateer schooner L'Hirondelle, Captain Gerawdeia, carried to St. Domingo, vessel and cargo condemned.	Vessel, - - 2,000 00	
				Cargo, - - 7,848 79	
				Adventures, - 2,000 00	
					11,848 79
Brig John, - -	Matthew P. Dole, -	John Pearson, - -	Bound to Jamaica, with lumber and provisions; captured on the 8th March, 1804, by a French privateer, called the Liberty, commanded by —— Cady, carried into St. Jago de Cuba, vessel and cargo there taken from the captain, without any trial whatsoever.	Vessel, - - 7,000 00	
				Cargo, - - 6,000 00	
				Adventures, - 500 00	
					13,500 00
Brig Joanna, -	Jerem'h Blanchard,	Joseph Sevier, - -	Bound from Norfolk to Jamaica; captured on 12th day of July last, in the Caucus passage, by a French privateer out of Baracoa, in the island of Cuba, called La Fortune, commanded by Ameling, owned by two merchants, residing at Baracoa, named Povo and Dubier, carried into Baracoa, robbed of her spare rigging, stores, and provisions, the captain's spy-glass, and the brig's boat; after detaining her eleven days, she was carried into an outport, five leagues to the eastward of Baracoa, by the privateersmen, and kept under a battery of two guns; the sixth day after, she was cut out by His Britannic Majesty's brig Hunter, and carried to Jamaica, condemned vessel, cargo, and freight, to a salvage of one-third.	One-third vessel, cargo and freight for salvage, estimated at, - - -	5,694 99
Schooner Peggy, -	John Denny, -	Ag. E. Wheelwright, -	Captured on her passage from St. Mary's to Newburyport, February, 1804, by a private armed schooner Sea Flower, commanded by Moses Mouson, carried into St. Jago de Cuba, the property distributed among the captors, without even the form of a trial. This vessel was loaded with provisions, bound to Cape François, then in possession of the French troops; but on arriving before that port, in December, 1803, was boarded and detained by the British squadron, at the time the Cape was evacuated, after which Captain Denny was permitted to proceed to any port in the island, St. Domingo excepted.	Vessel, - - $4,000 00	
				Cargo, - - 22,690 50	
					28,690 50
Ship Huntress, -	Baily Chase, -	Thomas M. Clark, Orlando B. Merrill, Baily Chase, and Stephen Bartlett.	This vessel sailed from Boston, 9th July last, on her first voyage bound to Rotterdam, with a cargo of sugar, coffee, tobacco, ashes, ginger, and New England rum; was captured on the 5th August, off the island of Showen, by His Britannic Majesty's frigate Aminthis, Captain Spanger, carried to Yarmouth, detained till 5th September, then liberated, without trial, on payment of the captor's expenses.	Captain's expenses, £229 15	
				30 days detention, expenses of the crew, &c. by estimation, - 270 00	
				£499 15 equal to	2,221 11

LIST OF LOSSES—Continued.

Name of the vessel.	Name of the master.	Name of the owner.	By whom captured or detained.	Value of property.	
Schooner Joseph, -	John Lurney, -	John Burrell, Ebenezer Gunneren, Elias Dudley, Michael Smith, David Ilsley, and Clement Starr.	Captured on her return from the West Indies, by a French privateer, called the Adet, John Saverneau, March 26, 1804, carried into the port of St. Jago de Cuba, and there destroyed. Captain, in his protest, says he was plundered of his clothes, and every article from his cabin; turned on shore with one of his people, without a dollar on which to subsist, and protests against the Spanish Government, (with due permission,) for permitting the privateers to conduct into port his vessel, and retain the same.	Vessel, - - $2,500 00 Cargo, - - 17,234 00	$19,734 00
Schooner Courier, -	William Williams,	Micajah Lunt and Anthony Knapp.	Captured on her passage from Bonairo to St. Thomas, and a market, (with her outward cargo) by His Britannic Majesty's ship of war Diana, Thomas James Maling, Esq. commander, and the Sufficient, Henry La Koche, Esq. commander, carried to Port Royal, Jamaica, the 8th April, 1805, condemned on suspicion of her being bound to Curaçoa, then said to be blockaded; cargo, fish, beef, brandy, gin, boards, shingles, and one hundred barrels naval stores.	Vessel, - - 2,000 00 Cargo and freight, 4,173 25 And - - 1,300 00	7,473 25
Ship Cicero, -	Isaac Adams, -	James Prince and Isaac Adams.	Detained by the French Government at Helvoetsluys, from December 26, 1802, to May 6, 1805, with her freight on board; which was afterwards forcibly taken out of the ship by an order from the French Government, who refused to pay for the detention of the ship, except for about two thousand dollars, leaving a balance due.	An adventure belonging to Francis Todd, - -	558 55
Ship Argo, -	George Warner, -	Daniel Richards and John B. Titcomb.	Sailed from Rotterdam, 13th April, for St. Lucar, with a cargo of wheat; captured on the 14th April, by His Britannic Majesty's ship Blazer, Lieutenant Henton, detained at the Downs, until 19th April, then liberated, without trial, on payment of the captor's expenses.	- - - -	7,000 00
				Captor's expenses, £42 13 4 Detention of the ship, estimated 67 10 0	
				£110 3 4 equal to	489 63
Schooner Union, -	Charles Friend,	Michael Smith, John Burrell, Ebenezer Gunnison, and Clemt. Starr.	Captured on her passage from Martinico for Newburyport, on the 4th of March, 1804, by His Britannic Majesty's ship Panderer, John Nash, Esq. carried into Dominico, and acquitted at a court of Vice Admiralty, in Antigua, but appealed for by the captors, and abandoned to them by the master.	Vessel, cargo, and freight, estimated at, - - -	13,549 99
Brig Robert, -	William Thomas, -	Benjamin Willis, -	Captured on her passage from Martinico, by the British armed commissioned schooner, Grand Turk, and condemned at a court of Vice Admiralty, at St. John, Antigua, July 9th, 1804, as good prize; the vessel carried out a cargo of provisions only, and was returning with produce.	Vessel, - - 4,000 00 Cargo, - - 10,472 34 Freight, - - 963 13	15,435 47
Schooner Vulcan, -	Thomas Harris, -	William Stackpole, and Benjamin Homer, of Boston.	This vessel was on her passage from Amsterdam to Boston, after a long and severe trial to get into port, put away in distress and arrived at Bermuda, where she was taken possession of, and her cargo libelled; several adventures, bona fide American property, condemned; some acquitted on payment of costs.	M. E. Rand's adventure, cost and charges, - 750 00 S. Sweetrer's, W. Woast's costs, 35 04 Mark Coffin's, - 58 33	823 37
Ship Ossipie, -	Samuel Chandler, -	Leonard Smith, and Nathaniel and William Smith.	Was captured on her passage from Guadaloupe, by the private armed sloop Rosalinda, Alexander Billington, commander, carried into the island of Nevis, and condemned by the Vice Admiralty court at Antigua. This vessel sailed from Newburyport for Embden, where she arrived the 30th July, 1804, cargo, sugar, coffee, &c. took on board, cargo of butter, cheese, &c. bricks, beer, wine, linens, &c. and sailed for the West Indies; arrived at Point Peter the 7th November, disposed of her cargo, and was proceeding with her return cargo when captured.	Vessel, - - 5,500 00 Cargo, - - 17,500 00 Freight, - - 3,200 00	26,200 00
				Total,	$283,377 22

COMMONWEALTH OF MASSACHUSETTS—*Port of Newburyport:*

By this public instrument of protest, be it known and made manifest, that, on this second day of December, in the year of our Lord one thousand eight hundred and five, and in the thirtieth year of the independence of the United States of America, personally came and appeared before me, Michael Hodge, Notary Public, by legal authority admitted and sworn, dwelling in the town of Newburyport, in the Commonwealth aforesaid, William Morris, master of the brig Lucretia, of Newburyport, William Kloot, mate of the said brig, who, being duly sworn according to law, did severally solemnly and sincerely depose, testify, and declare, that they sailed in the said brig Lucretia from Newburyport on the 24th day of August last past, laden with a cargo suitable for the West India market, and bound for the island of Martinico. That on the 20th day of September following, being then in latitude twenty-one degrees north, and longitude fifty-eight degrees west, they saw at five P. M. a brig bearing southeast, steering northwest; at half past five they fired a gun and were brought to, hailed, and ordered Captain Morris to veer round under his stern, and he would send on board his boat, which he accordingly did, and took Captain Morris out of the brig, and left a prize-master and one man on board the Lucretia; at about half past six P. M. they again sent their boat on board with four more men, armed with pistols and cutlasses; they went immediately below, and began to break open every thing in their way, in search, as they said, for naval stores, though it evidently appeared plunder was their object. They robbed the brig of all her new canvass, all her candles, pump nails, locks, and gimlets; all the beans, coffee, and tea, and all the cabin stores: they broke open the medicine chest, and took several things out of it: they went down into the run, broke open several boxes of sweet oil, and broke a number of the bottles, took half a tierce of bread, several buckets of potatoes, and the bucket. They also robbed the said William Morris, the master, of his watch, great coat, a new pair of boots, a new hat, and a pair of blue trowsers: they also robbed the mate, William Kloot, of twenty-three pair of shoes, twenty-four morocco skins, and one pair of trowsers, and the cooper of eighty pair of shoes, and all the people's clothing they could find. That at about ten o'clock, they took William Gilbert, one of the Lucretia's hands, and tied him up to the main rigging: they presented a pistol to the said mate, and declared that if he offered to move, or to speak, they would blow his brains out: they twice went with the plunder they took, and returned the third time, and Captain Morris with them, it being then about eleven o'clock, bringing with them clubs instead of their weapons as before; that they began plundering again, and on the people's entreating them to leave their clothing, they began to beat them with their clubs, and three of the people were most inhumanly beaten; that they struck Captain Morris twice with their boat's tiller in his face for only requesting them to cease plundering them any more; that during all this time, they on board the armed brig kept up a constant firing with their musketry. That at about midnight, they permitted the Lucretia to proceed on her voyage. That the brig which abused and plundered them carried eighteen or twenty guns, from Africa bound to Jamaica; they told Captain Morris, the brig's name was the Andromeda, of London, commanded by Captain Carrol. Wherefore, the said William Morris, the master as aforesaid, doth require me, the said notary, to protest. I, the said notary, do, therefore, at the request aforesaid, and on behalf of the said William Morris, the master as aforesaid, and of the owner or owners, shippers, freighters, insurers, and all others in anywise concerned or interested in the said brig Lucretia, or her lading, as aforesaid, or of any part thereof, *solemnly protest* against the owners, captains, officers, and crew of the said brig Andromeda, for the robbery of the said brig Lucretia, by the boat's crew of the said Andromeda, as is particularly set forth in the body of this protest, and their abusive and inhuman conduct while on board the said Lucretia, for all losses, costs, charges, damages, and expenses whatsoever had, borne, suffered, and sustained, or to be had, borne, suffered, and sustained by the said master, owner or owners, shippers, freighters, insurers, and all others in anywise concerned or interested in the said Lucretia, or her lading, as aforesaid, or any part thereof, for or by reason of the matters and things as aforesaid. Thus done and protested at Newburyport, in the Commonwealth aforesaid.

In faith and testimony whereof, as well the said William Morris, and William Kloot, the deponents, as I, the said notary, have to these presents subscribed our names. And the said notary have hereunto set my hand, and affixed my notarial seal, at Newburyport aforesaid, the day, month, and year aforesaid.

WILLIAM MORRIS,
WILLIAM KLOOT.

M. HODGE, *Notary Public.*

COMMONWEALTH OF MASSACHUSETTS—*Essex*, ss:

Be it known, that the foregoing, on this sheet, is a true copy of a certain protest, entered of record in the office of me, the aforesaid Michael Hodge, as notary public as aforesaid.

In testimony whereof, I have hereunto set my hand, and affixed my notarial seal, at Newburyport aforesaid, this fifth day of December, in the year of our Lord one thousand eight hundred and five.

M. HODGE, *Notary Public.*

CHARLESTON, SOUTH CAROLINA, *June* 12, 1805.

To the honorable James Madison, Esquire, Secretary of State of the United States. The memorial of the President and Directors of the South Carolina Insurance Company, and of the merchants and others interested in the commerce of the city of Charleston, respectfully showeth:

That your memorialists are deeply affected by the recent capture, at the very entrance of this port, of the American ship *Two Friends*, by a French privateer. This event has excited, among all classes of citizens, the strongest sensations, not only because the said ship was captured without any color of pretence, within sight of land, but because she is our only regular London trader, and had on board a full supply of spring and summer goods. The distress and anxiety occasioned by these circumstances are greatly enhanced from our having been hitherto deprived of our spring supplies, and from an anticipation of the consequences justly to be apprehended from a continuance of similar outrages, should not the most prompt and effectual measures be adopted for the protection and security of our commercial interests. Your memorialists are authorized to add (although the fact be not detailed in the protest) that it appears, from undoubted authority, that the magnitude of the prize was the sole inducement of the abovementioned capture, the captors having said that they would release the Two Friends, in the event of their falling in with any other valuable prize, which might be more worthy of their notice.

This most extraordinary capture, in direct violation of our treaty with France, (as appears by the accompanying documents,) has already been followed by events no less alarming, our harbor being at this moment completely blockaded by three French privateers, (and more are daily expected,) which examine all vessels coming in and going out of this port, and either detain or release them, according as their value excites the cupidity of the cruisers.

This degrading state of our harbor has necessarily raised the premiums of insurance, thus forcing additional sums from the pockets of our citizens, has advanced the price of every commodity, and created a distressing stagnation of our exports; for the merchants, not receiving their goods from abroad, are incapacitated from purchasing the produce of the country. Among these deplorable effects of the defenceless and humiliating condition of our commerce may be, moreover, enumerated the immense loss of duties, those in the ship Two Friends alone being estimated by the collector at forty-five thousand dollars.

Your memorialists have the best reasons for believing that this early success, experienced by these French privateers, will immediately allure others in swarms to our coast and bar, to the total ruin of private mercantile concerns, and the most fatal defalcation of the public revenue. Your memorialists have no less ground for apprehending that British cruisers, availing themselves of the absence of domestic protection, will, under the color of expelling the French, assume and occupy their ground, and either retain us in the same degraded state, harassing our vessels by searches and detention, or subject us to the disgraceful and mortifying obligations of gratitude for alien succor and relief.

Your memorialists are the more alarmed at these depredations because much valuable property is still expected this summer from other quarters than London, and considerable importations will be looked for in the fall, for our winter supplies; and should there not be an early and effectual check to these aggressions; should our fall importations be also interrupted, the calamities of the last year, produced by the hurricane and other causes, in which this city has largely participated, would be aggravated to such an extent as to eventuate in general ruin. And these just alarms and apprehensions of your memorialists are heightened by the well known circumstance of many of the cruisers which infest our shores, belonging to St. Jago de Cuba and Baracoa, in which receptacles our vessels and their cargoes, with the knowledge of the Government of Cuba, are instantly sold without any condemnation whatever, or even the formality of a trial, thereby precluding every future possibility of redress.

Your memorialists avail themselves of this occasion to notice a late decision of the district court within this State, grounded on an act of Congress, whereby the territorial jurisdiction of the United States is limited to the short distance of three miles, or a marine league from the coasts or shores, which by the said court is construed to mean three miles from the land; consequently, the middle channel of our bar, being more than three miles distant from the nearest land, is pronounced by judicial authority to be without the jurisdiction of the United States—the very entrance of our harbor, in full sight of the city, where vessels are frequently obliged to anchor while waiting for a tide, and with a pilot on board, is, by our own tribunals, acknowledged to be without the protection of our Government!!

Your memorialists refrain from commenting on the pernicious effects of a system of policy, so pregnant with dishonor and ruin to the trade and navigation of the United States at large, but more particularly to those of Charleston, from the geography of whose shores, and peculiar local situation of whose bar and harbor, every vessel, in her ingress and egress, is thus subjected to search, detention, or seizure, and content ourselves with a bare statement of the above grievances, superadded to so many others, not doubting that the President will take the same into consideration, and being duly impressed with the necessity of some early remedial arrangement, either of a legislative or diplomatic nature, will recur to such as may appear most conducive to the desired end.

Your memorialists, having thus exhibited but an imperfect view of their ruinous, unprotected and degraded situation, rely with confidence on the prompt interposition of the President, to obtain, by representations to the ministers of France, and of Spain, (in the event of the Two Friends being carried to a Spanish port) restitution of the said ship and her cargo, and to cause a stop to be put to similar spoliations; and your memorialists further most earnestly solicit some immediate and effectual naval protection for our harbor and shores, together with such other measures as the national councils in their wisdom may deem expedient, as well for prevention of the renewal of the outrages we have sustained, as for the permanent safety and protection of our commercial and navigating rights and interests.

THOMAS CORBETT, *President of the South Carolina Insurance Company, and 106 others.*

Memorial of the Merchants and Traders of the city of Baltimore to the President of the United States, and the Senate and House of Representatives of the United States of America, in Congress assembled.

Your memorialists beg leave, respectfully, to submit to your consideration the following statement and reflections produced by the situation of our public affairs, in a high degree critical and perilous, and peculiarly affecting the commerce of their country.

In the early part of the late war between Great Britain and France, the former undertook to prohibit neutral nations from all trade whatsoever with the colonies of the latter. This exorbitant pretension was not long persisted in. It was soon qualified in favor of a direct trade between the United States and these colonies, and some years afterwards was further relaxed in favor of European neutrals. The United States being thus admitted, by the express acknowledgment of Great Britain, to a direct trade, without limit, between their own ports and the colonies of the opposite belligerents, another trade naturally and necessarily grew out of it, or rather formed one of its principal objects and inducements. The surplus colonial produce beyond our own consumption, imported here, was to be carried elsewhere for a market; and it was accordingly carried to Europe, sometimes by the original importer, sometimes by other American merchants, either by the vessels in which the importation was made, or in others. In the course of this traffic, it was understood to be the sense of Great Britain, and was explicitly declared by her courts of prize, that, although she had not expressly allowed to the merchants of the United States, by the letter of her relaxations, an immediate trade between the colonies of her enemies and the markets of Europe, a circuitous trade to Europe, in the production of these colonies, was unexceptionable; and that nothing more was necessary to make it so, than that the continuity of the voyage should be broken by an entry and payment of duties, and the landing of the colonial cargo in the United States. During the greater part of the late war, and the first years of the present, this trade was securely prosecuted by our merchants in the form which Great Britain had thus thought fit to give to it.

The modification of a traffic, in itself entitled to be free, was submitted to, on our part, without repining, because it presented a clear and definite rule of conduct, which, although unauthorized in the light of a restriction, was not greatly inconvenient in its practical operation; and your memorialists entertained a confident hope, that while, on the one hand, they sought no change of system by which the assumption of Great Britain to impose terms, however mild in their character and effect, upon their lawful commerce, should be repelled; on the other hand, it would not be desired, that the state of things which Great Britain had herself prescribed, and which use and habit had rendered familiar and intelligible to all, should be disturbed by oppressive innovations; far less that these innovations should, by a tyrannical retrospection, be made to justify the seizure and confiscation of their property, committed to the high seas, under the protection of the existing rule, and without warning of the intended change.

In this, their just hope, your memorialists have been fatally disappointed. Their vessels and effects, to a large amount, have lately been captured by the commissioned cruisers of Great Britain, upon the foundation of new principles, suddenly invented, and applied to this habitual traffic, and suggested and promulgated, for the first time, by sentences of condemnation; by which unavoidable ignorance has been considered as criminal, and an honorable confidence in the justice of a friendly nation pursued with penalty and forfeiture.

Your memorialists are in no situation to state the precise nature of the rules to which their most important interests have thus been sacrificed: and it is not the least of their complaints against them, that they are undefined, and undefinable, equivocal in their form, and the fit instruments of oppression by reason of their ambiguity.

Your memorialists know that the circumstances which have heretofore been admitted, to give legality to their trade, in colonial productions, with their European friends, protect it no longer. But they have not yet been told, and are not soon likely to learn, what other circumstances will be suffered to produce that consequence. It is supposed to have been judicially declared, in general, that a voyage undertaken for the purpose of bringing into the United States the produce of the belligerent colonies, purchased by American citizens, shall, if it appears to be intended that this produce shall ultimately go on to Europe, and an attempt is actually made to re-export and send it thither, be considered, on account of that intention, as a direct voyage to Europe, and therefore illegal, notwithstanding any temporary interruption or termination of it in the United States.

Your memorialists will not here stop to inquire upon what grounds of law or reason, the same act is held to be legal, when commenced with one intention, and illegal, when undertaken with another. But they object, in the strongest terms, against this new criterion of legality, because of its inevitable tendency to injustice, because of its peculiar capacity to embarrass, with seizure, and to ruin, with confiscation, the whole of our trade with Europe in the surplus of our colonial importations.

The inquiry which the late system indicated was short and simple, and precluded error on all sides; but the new refinement substitutes in its place a vast field of speculation, overshadowed with doubt and uncertainty, and of which the faint and shifting boundaries can never be distinctly known.

Intention, as to the object of our colonial voyages, may be inferred from numerous circumstances, more or less conclusive. To anticipate them all is obviously impracticable; and, of course, to guard against the inference in

this respect, which British captors and British courts may be disposed to draw, will be impossible. Our property is therefore menaced by a great and formidable danger which there are no means of eluding; for, even if it should chance to escape the condemnation which this pernicious novelty prepares for it, the wound inflicted upon our commerce by arrestations on suspicion, and detentions for adjudication, will be deep and fatal. The efforts of our merchants will be checked and discouraged by more than ordinary inquisitions; our best concerted enterprises broken up, without the hope of retribution, or even reimbursement for actual costs, upon the footing of an intention arbitrarily imputed; and the only alternative which will be presented to our choice will be, either to refrain at once from a traffic which enriches our country while it benefits ourselves, or to see it wasted, and in the end destroyed, by a noxious scheme of maritime depredation.

Your memorialists are the more alarmed by this departure from a plain and settled rule, in favor of a pliant and mysterious doctrine, so eminently suited to the accomplishment of the worst purposes of commercial jealousy, because the injurious and vexatious qualities of the substituted rule must have been known to those who introduced it, and because, if these qualities did not recommend it to adoption, it is difficult to conceive why it was adopted at all. If it is meant that our trade to Europe shall, notwithstanding this rule, be allowed to continue without being subjected to extraordinary difficulties, operating as actual reductions and mischievous restraints; if it is meant that a few facts, known and comprehended, shall, as heretofore, form a standard by which the lawfulness of our European voyages may be unequivocally ascertained; if a wide range has not been designed for the inquiry after intention, and a real effect expected from that inquiry; if, in a word, the late regulation has not been supposed to be capable of bearing on our trade, in a manner new and important, we should hardly have now been called upon to remonstrate against a change. It is not pretended that the rule now enforced against us is levelled against any practice to which we may be supposed to have lent ourselves, of disguising as our own the property of the enemies of Great Britain. That is not its object; and if it were, we are enabled to assert, solemnly and confidently, that our conduct has afforded no ground for the injurious suspicion which such an object would imply. The view is professedly to regulate and affect our traffic in articles fairly purchased by us from others, and if the consequences to that traffic were not intended to be serious and extensive, and permanent, your memorialists search in vain for the motive by which a state, in amity with our own, and, moreover, connected with it by the ties of common interest, to which many considerations seem to give peculiar strength, has been induced to indulge in a paroxysm of capricious aggression upon our rights, by which it dishonors itself without promoting any of those great interests for which an enlightened nation may fairly be solicitous, and which only a steady regard for justice can ultimately secure. When we see a powerful state in possession of a commerce, of which the world affords no examples, endeavoring to interpolate into the laws of nations casuistical niceties and wayward distinctions, which forbid a citizen of another independent commercial country to export from that country what unquestionably belongs to him, only because he imported it himself, and yet allow him to sell a right of exporting it to another; which prohibit an end because it arises out of one intention, but permit it when it arises out of two; which, dividing an act into stages, search into the mind for a correspondent division of it in the contemplation of its author, and determine its innocence or criminality accordingly; which, not denying that the property acquired in an authorized traffic, by neutral nations from belligerents, may become incorporated into the national stock, and under the shelter of its neutral character, thus super-induced, and still preserved, be afterwards transported to every quarter of the globe, reject the only epoch which can distinctly mark that incorporation, and point out none other in its place; which, proposing to fix with accuracy and precision the line of demarcation, beyond which neutrals are trespassers upon the wide domain of belligerent rights, involves every thing in darkness and confusion: there can be but one opinion as to the purpose which all this is to accomplish.

Your memorialists have endeavored, with all that attention, which their natural anxiety was calculated to produce, to ascertain the various shapes which the doctrine in question is likely to assume in practice, but they have found it impossible to conjecture in what way, consistently with this doctrine, the excess of our imports from the belligerent colonies can find its way to foreign markets. The landing of the cargo, and a compliance with all the forms and sanctions, upon which our revenue depends, will not so terminate the voyage from the colonies, as that the articles may be *immediately* re-exported to Europe by the original importer. But if they cannot be exported immediately, what lapse of time will give them a title to be sent abroad, and if not by the original importer, how is he to devolve upon another a power which he has not himself? And if by a sale he can communicate the power, by what evidence is the transfer to be manifested, so as to furnish an answer to the ready accusation of fraud and evasion? In proportion as this doctrine has developed itself, it has been found necessary to invent plausible qualifications, tending to conceal its real character from observation. It has accordingly been surmised, that, notwithstanding the obstacles which it provides, against the re-exportation of a colonial cargo, by the importer, such a re-exportation may, perhaps, be lawful. Attempts on his part to sell in the United States, without effect, (which must often happen,) may, it is supposed, be sufficient to save him from the peril of the rule. But, admitting it to be certain, instead of being barely *possible*, that these attempts would form any thing like security against final condemnation, it is still most material to ask how they are to afford protection against seizure? By what documents they can be proved to the satisfaction of those, to whom interest suggests doubts, and whom impunity encourages to act upon them? The formal transactions of the custom house once deserted as a criterion, the cargo must be followed, through private transfers, into the warehouses of individual merchants; and when proofs have been prepared, with the utmost regularity, to establish these transfers, or the other facts which may be deemed to be equivalent, they are still liable to be suspected, and will be suspected, as fictitious and colorable, and capture will be the consequence. For the loss and damage which capture brings along with it, British courts of prize grant no adequate indemnity. Redress to *any* extent is difficult; to a *competent* extent, impossible. And even the costs which an iniquitous seizure compels a neutral merchant to incur, in the defence of his violated rights, before their own tribunals, are seldom decreed, and never paid.

Your memorialists have thus far complained only of the recent abandonment, by Great Britain, of a known rule, by which the oppressive character of an important principle of her maritime code has heretofore been greatly mitigated. But they now beg leave to enter their solemn protest against the principle itself, as an arbitrary and unfounded pretension, by which the just liberty of neutral commerce is impaired and abridged, and may be wholly destroyed.

The reasons upon which Great Britain assumes to herself a right to interdict to the independent nations of the earth a commercial intercourse with the colonies of her enemies, (out of the relaxation of which pretended right has arisen the distinction, in her courts, between an American trade, from the colonies to the United States, and from the same colonies to Europe,) will, we are confidently persuaded, be repelled with firmness and effect by our Government.

It is said by the advocates of this high belligerent claim, that neutral nations have no right to carry on with either of the parties at war any other trade than they have actually enjoyed in time of peace. This position forms the basis upon which Great Britain has heretofore rested her supposed title, to prevent altogether, or to modify at her discretion, the interposition of neutrals in the colony trade of her adversaries.

But, if we are called upon to admit the truth of this position, it seems reasonable that the converse of it should also be admitted. That war should not be allowed to disturb the customary trade of neutrals in peace; that the peace traffic should, in every view, be held to be the measure of the war traffic; and that, as on the one hand there can be no enlargement, on the other there shall be no restriction. What, however, is the fact? The first moment of hostilities annihilates the commerce of the nations at peace, in articles deemed contraband of war; the property of the belligerents can no longer be carried in neutral ships; they are subject to visitation on the high seas, to harassing and vexatious search, to detention for judicial inquiry, and to the peril of unjust confiscation: they are shut out from their usual markets, not only by military enterprises against particular places, carried on with a view to their reduction, but by a vast system of blockade, affecting and closing up the entire ports of a whole nation: such have been the recent effects of an European war upon the trade of this neutral country; and the prospect of the future affords no consolation for that of the past. The triumphant fleets of one of the contending Powers cover the ocean; the navy

of her enemies has fallen before her; the communication by sea with France, and Spain, and Holland, seems to depend on her will, and she asserts a right to destroy it at her pleasure: she forbids us from transporting in our vessels, as in peace we could, the property of her enemies; enforces against us a rigorous list of contraband; dams up the great channels of our ordinary trade; abridges, trammels, and obstructs what she permits us to prosecute, and then refers us to our *accustomed traffic in time of peace*, for the criterion of our commercial rights, in order to justify the consummation of that ruin with which our lawful commerce is menaced by her maxims and her conduct.

This principle, therefore, cannot be a sound one; it wants uniformity and consistency; is partial, unequal, and delusive: it makes every thing bend to the rights of war, while it affects to look back to, and to recognise, the state of things in peace, as the foundation and the measure of the rights of neutrals. Professing to respect the established and habitual trade of the nations at peace, it affords no shadow of security for any part of it: professing to be an equitable standard for the ascertainment of neutral rights, it deprives them of all body and substance, and leaves them only a plausible and unreal appearance of magnitude and importance: it delivers them over, in a word, to the mercy of the States at war, as objects of legitimate hostility; and while it seems to define, does, in fact, extinguish them. Such is the faithful picture of the theory, and practical operation of this doctrine.

But, independent of the considerations thus arising out of the immediate interference of belligerent rights and belligerent conduct with the freedom of neutral trade, by which the fallacy of the appeal to the precise state of our peace trade, as limiting the nature and extent of our trade in war, is sufficiently manifested, there are other considerations which satisfactorily prove the utter inadmissibility of this principle.

It is impossible that war, among the primary Powers of Europe, should not, in an endless variety of shapes, materially affect the whole civilized world. Its operation upon the prices of labor and commodities; upon the value of money; upon exchange; upon the rates of freight and insurance; is great and important. But it does much more than all this. It imposes upon commerce in the gross, and its details, a new character: gives to it a new direction, and places it upon new foundations. It abolishes one class of demands; creates, or revives others; and diminishes, or augments the rest. And, while the wants of mankind are infinitely varied by its powerful agency, both in object and degree, the modes and sources of supply, and the means of payment, are infinitely varied also.

To prescribe to neutral trade thus irresistibly influenced, and changed, and moulded by this imperious agent, a fixed and unalterable station would be to say, that it shall remain the same, when not to vary is impossible: and to require, since change is unavoidable, that it shall submit to the ruinous retrenchments, and modifications, which war produces, and yet refrain from indemnifying itself by the fair advantages, which war offers to it as an equivalent, cannot be warranted by any rule of reason or equity, or by any law to which the great community of nations owes respect and obedience.

When we examine the conduct of the maritime powers of Europe, in all the wars in which they have been engaged for upwards of a century, we find, that each of them has, occasionally, departed from its schemes of colonial monopoly; relaxed its navigation laws, and otherwise admitted neutrals, for a longer, or a shorter space, as circumstances required, to modes of trade, from which they were generally excluded.

This universal practice, this constant and invariable usage, for a long series of years, would seem to have established among the European States a sort of customary law upon the subject of it, from which no single power could be at liberty to depart, in search of a questionable theory at variance with it. Great Britain is known to suspend, in war, and on account of war, her famous act of navigation, to which she is supposed to owe her maritime greatness, and which, as the palladium of her power, she holds inviolable in peace; and her colonies are frequently thrown open, and neutrals invited to supply them, when she cannot supply them herself. She makes treaties in the midst of war, (she made such a treaty with us,) by which neutrals are received into a participation of an extensive traffic, to which before they had no title. And can she be suffered to object, that the same, or analogous, acts are unlawful in her enemies; or that, when neutrals avail themselves of similar concessions made by her opponents, they are liable to punishment, as for a criminal intrusion into an irregular and prohibited commerce?

The weight of this consideration has been felt by the advocates of this doctrine, and it has, accordingly, been attempted to evade it by a distinction, which admits the legality of all such relaxations in war, of the general, commercial or colonial systems of the belligerents, as do not arise out of the predominance of the enemy's force, or out of any necessity resulting from it.

It is apparent, however, that such relaxations, whether dictated by the actual ascertained predominance of the enemy's force, or not, do arise out of the state of war, and are almost universally produced and compelled by it; that they are intended as reliefs against evils which war has brought along with it, and that the opposite belligerent has just as much right to insist, that these evils shall not be removed by neutral aid or interposition, as if they were produced by the general preponderance of her own power, upon the land, or upon the sea, or by the general success of her arms. In the one case, as completely as in the other, the interference of the neutral lightens the pressure of war; increases the capacity to bear its calamities, or the power to inflict them; and supplies the means of comfort and of strength. In both cases, the practical effect is the same, and the legal consequences should be the same also.

But whence are we to derive the conclusion of fact, upon which this extraordinary distinction is made to turn? How are we to determine, with precision and certainty, the exact cause which opens to us the ports of a nation at war, to analyze the various circumstances of which, perhaps, the concession may be the combined effect; and to assign to each the just portion of influence, to which it has a claim? How easy it is to deceive ourselves, on a subject of this kind, Great Britain will herself instruct us, by a recent example. Her courts of prize have insisted, that, during the war, which ended in the peace of Amiens, France was compelled to open the ports of her colonies, by a necessity, created and imposed by the naval prowess of her enemies. And yet these ports were opened in February, 1793, when France and her maritime adversaries had not measured their strength in a single conflict; when no naval enterprise had been undertaken by the latter, far less crowned with success; when the lists were not even entered, and when the superiority, afterwards acquired by Great Britain in particular, was yet a problem; when the spirit of the French nation and Government was lifted up to an unexampled height by the enthusiasm of the day, and by the splendid achievements by which their armies had recently conquered Savoy, the country of Nice, Worms, and other places on the Rhine, the Austrian low countries, and Liege. It should seem to be next to impossible to contend that a concession made by France to neutrals, on the subjeect of her colony trade, at such a period of exultation and triumph, was "compelled by the prevalence of Britsh arms," that it was "the fruit of British victories," or the result of "British conquest," that it arose out of the predominance of the enemy's force, that it was produced by "that sort of necessity, which springs from the impossibility of otherwise providing against the urgency of distress, inflicted by the hand of a superior enemy," and that "it was a signal of defeat and depression." It would seem to be impossible to say of a traffic, so derived, "that it could obtain, or did obtain, by no other title, than the success of the one belligerent against the other, and at the expense of that very belligerent, under whose success the neutral sets up his title." Yet all these things have been solemnly said, and maintained, and have even been made the foundation of acts, by which the property of our citizens has been wrested from their hands. It cannot be believed that the laws of nations have entrusted to a belligerent, the power of harassing the trade, and confiscating the ships, and merchandise of peaceable and friendly nations, upon grounds so vague, indefinite, and equivocal. Of all law, *certainty* is the best feature; and no rule can be otherwise than unjust and despotic, of which the sense and the application are and must be ambiguous. A *siege*, or *blockade*, presents an intelligible standard, by which it may always be known, that no lawful trade can be carried on with the places against which either has been instituted. But, the suggestions upon which this new belligerent encroachment, having all the effect of a siege or blockade, is founded, are absolutely incapable of a distinct form, either for the purpose of warning to neutrals, or as the basis of a judicial sentence. The neutral merchant finds that, in fact, the colonial ports of the parties to the war are thrown open to him, by the Powers to which they belong; and he sees no hostile squadrons to shut them against him. Is he to pause before he ventures to exercise his natural right, to trade with those who are willing to trade with him, until he has inquired and determined *why* these ports have been thus made free to receive him? To such a complicated and delicate discussion no nation has a right to call him. It is enough that an actual blockade can be set on foot to close these ports, and that they may be made the object of direct efforts, for conquest or occlusion, if the

enemy's force is, in truth, so decidedly predominant as it is pretended to be. And if it is not predominant to that point and to that extent, there can be no cause for ascribing to it an effect, to which it is physically incompetent, or for allowing it to do that constructively, which it cannot do, and has not done, actually. The pernicious qualities of this doctrine are enhanced and aggravated, as from its nature might be expected, by the fact, that Great Britain gives no notice of the time when, or the circumstances in which, she means to apply and enforce it. Her orders of the 6th November, 1793, by which the seas were swept of our vessels and effects, were, for the first time, announced by the ships of war and privateers, by which they were carried into execution. The late decisions of her courts, which are in the true spirit of this doctrine, and are calculated to restore it, in practice, to that high tone of severity which milder decisions had almost concealed from the world, came upon us by surprise; and the captures, of which the Dutch complained, in the seven years' war, were preceded by no warning. Thus is this principle most rapacious and oppressive in all its bearings. Harsh and mysterious in itself, it has always been, and ever must be used, to betray neutral merchants into a trade supposed to be lawful, and then to give them up to pillage and to ruin. Compared with this principle, which violence and artifice may equally claim for their own, the exploded doctrine of *constructive blockade*, by which belligerents, for a time, insulted and plundered the states at peace, is innocent and harmless. That doctrine had something of certainty belonging to it, and made safety at least *possible*. But there can be no security while a malignant and deceitful principle, like this, hangs over us. It is just what the belligerent chooses to make it—lurking, unseen, and unfelt—or visible, active, and noxious. It may come abroad when least expected; and the moment of confidence may be the moment of destruction. It may sleep for a time, but no man knows when it is to awake, to shed its baleful influence upon the commerce of the world. It clothes itself, from season to season, in what are called *relaxations*, but again, without any previous intimation to the deluded citizens of neutral powers, these relaxations are suddenly laid aside, either in the whole, or in part, and the work of confiscation commences. Nearly ten months of the late war had elapsed before it announced itself at all, and when it did so, it was in its most formidable shape, and in its fullest power and expansion. In a few weeks it was seen to lose more than half its substance and character, and before the conclusion of the war was scarcely perceptible. With the opening of the present war, it re-appeared in its mildest form, which it is again abandoning for another, more consonant to its spirit. Such are its capricious fluctuations, that no commercial undertaking, which it can in any way affect, can be considered as otherwise than precarious, whatever may be the avowed state of the principle at the time of its commencement.

It has been said that, by embarking in the colony trade of either of the belligerents, neutral nations, in some sort, interpose in the war, since they assist and serve the belligerent in whose trade they so embark. It is a sufficient answer to this observation, that the same course of reasoning would prove that neutrals ought to discontinue all trade whatsoever with the parties at war. A continuance of their *accustomed peace trade* assists and serves the belligerent, with whom it is continued; and if this effect were sufficient to make a trade unneutral and illegal, the best established and most useful traffic would, of course, become so. But Great Britain supplies us with another answer to this notion, that our interference in the trade of the colonies of her enemies is unlawful, *because they are benefited by it*. It is known that the same trade is, and long has been, carried on by British subjects; and your memorialists feel themselves bound to state, that according to authentic information lately received, the Government of Great Britain does, at this moment, grant licenses to neutral vessels taking in a proportion of their cargoes there, to proceed on trading voyages to the colonies of Spain, from which she would exclude us, upon the condition that the return cargoes shall be carried to Great Britain to swell the gains of her merchants, and to give her a monopoly of the commerce of the world. This great belligerent right, then, upon which so much has been supposed to depend, sinks into an article of barter. It is used, not as a hostile instrument, wielded by a warlike state, by which her enemies are to be wounded, or their colonies subdued, but as the selfish means of commercial aggrandizement, to the impoverishment and ruin of her friends: as an engine by which Great Britain is to be lifted up to a vast height of prosperity, and the trade of neutrals crippled, and crushed, and destroyed. Such acts are a most intelligible commentary upon the principle in question. They show that it is a hollow and fallacious principle, susceptible of the worst abuse, and incapable of a just and honorable application. They show that in the hands of a great maritime state, it is not, in its ostensible character of a weapon of hostility that it is prized, but rather as one of the means of establishing an unbounded monopoly, by which every enterprise, calculated to promote national wealth and power, shall be made to begin and end in Great Britain alone. Such acts may well be considered as pronouncing the condemnation of the principle against which we contend, as withdrawing from it the only pretext upon which it is possible to rest it.

Great Britain does not pretend that this principle has any warrant in the opinions of writers on public law. She does not pretend, and cannot pretend, that it derives any countenance from the conduct of other nations. She is confessedly solitary in the use of this invention, by which rapacity is systematized, and a state of neutrality and war are made substantially the same. In this absence of all other authority, her courts have made an appeal to her own early example for the justification of her own recent practice. Your memorialists join in that appeal, as affording the most conclusive and authoritative reprobation of the practice which it is intended to support by it.

It would be easy to show, by an examination of the different treaties to which Great Britain has been a party from times long past, that this doctrine is a modern usurpation. It would be equally easy to show, that during the greater part of the last century her statesmen and lawyers uniformly disavowed it, either expressly or tacitly. But it is to a review of *judicial* examples, of all others the most weighty and solemn, that your memorialists propose to confine themselves.

In the war of 1744, in which Great Britain had the power, if she had thought fit to exert it, to exclude the neutral states from the colony trade of France and Spain, her high court of appeals decided that the trade was lawful, and released such vessels as had been engaged in it.

In the war which soon followed the peace of Aix la Chapelle, Great Britain is supposed to have first acted upon the pretension, that such a trade was unlawful, as being shut against neutrals in peace. And it is certain, that during the whole of that war, her courts of prize did condemn all neutral vessels taken in the prosecution of that trade, together with their cargoes, whether French or neutral. These condemnations, however, proceeded upon peculiar grounds. In the seven years' war, France did not throw open to neutrals the traffic of her colonies. She established no free ports in the east, or in the west, with which foreign vessels could be permitted to trade, either generally, or occasionally, *as such*. Her first practice was simply to grant *special licenses* to particular neutral vessels, principally Dutch, and commonly chartered by Frenchmen, to make, under the usual restrictions, particular trading voyages to the colonies. These licenses furnished the British courts with a peculiar reason for condemning vessels sailing under them, viz. "that they became in virtue of them the *adopted or naturalized vessels of France.*"

As soon as it was known that this effect was imputed to these licences they were discontinued, or pretended to be so; but the discontinuance, whether real or supposed, produced no change in the conduct of Great Britain; for neutral vessels, employed in this trade, were captured and condemned as before. The grounds upon which they continued to be so captured and condemned, may best be collected from the reasons subjoined to the printed cases, in the prize causes, decided by the High Court of Admiralty, (in which Sir Thomas Salisbury at that time presided,) and by the lords commissioners of appeals, between 1757 and 1760.

In the case of the America, (which was a Dutch ship, bound from St. Domingo to Holland, with the produce of that island, belonging to French subjects, by whom the vessel had been chartered,) the reason stated in the printed case is, "that the ship must be looked upon as a French ship, (coming from St. Domingo,) for by the laws of France no foreign ship can trade in the French West Indies."

In the case of the Snip, the reason (assigned by Sir George Hays, and Mr. Pratt, afterwards Lord Camden) is, "that the Snip (though once the property of Dutchmen) being employed in carrying provisions to, and goods from, a French colony, thereby became a French ship, and as such was justly condemned."

It is obvious that the reason, in the case of the America, proceeds upon a presumption, that, as the trade was, by the standing laws of France, even up to that moment, confined to French ships, any ship found employed in it must

be a French ship. The reason, in the other case, does not rest upon this idle presumption, but takes another ground; for it states, that, by the reason of the trade in which the vessel was employed, she became a French vessel.

It is manifest that this is no other than the first idea of adoption or naturalization, accommodated to the change attempted to be introduced into the state of things, by the actual or pretended discontinuance of the special licenses. What, then, is the amount of the doctrine of the seven years' war, in the utmost extent which it is possible to ascribe to it? It is in substance no more than this, that as France did not, at any period of that war, abandon, or in any degree suspend, the principle of colonial monopoly, or the system arising out of it, a neutral vessel found in the prosecution of the trade, which, according to that principle and that system, still continuing in force, could only be a French trade and open to French vessels, either became, or was legally to be presumed to be a French vessel. It cannot be necessary to show, that this doctrine differs essentially from the principle of the present day: but even if were otherwise, the practice of that war, whatever it might be, was undoubtedly contrary to that of the war of 1744, and, as contrasted with it, will not be considered, by those who have at all attended to the history of these two periods, as entitled to any peculiar veneration. The effects of that practice were almost wholly confined to the Dutch, who had rendered themselves extremely obnoxious to Great Britain, by the selfish and pusillanimous policy, as it was falsely called, which enabled them, during the seven years' war, to profit of the troubles of the rest of Europe.

In the war of 1744, the neutrality of the Dutch, while it continued, had in it nothing of complaisance to France; they furnished from, the commencement of hostilities, on account of the pragmatick sanction, succors to the confederates, declared openly, after a time, in favor of the Queen of Hungary; and finally determined upon and prepared for war, by sea and land. Great Britain, of course, had no inducement, in that war, to hunt after any hostile principle, by the operation of which the trade of the Dutch might be harassed, or the advantage of their neutral position, while it lasted, defeated. In the war of 1756, she had this inducement in its utmost strength. Independent of the commercial rivalry existing between the two nations, the Dutch had excited the undisguised resentment of Great Britain, by declining to furnish against France the succors stipulated by treaty; by constantly supplying France with naval and warlike stores, through the medium of a trade systematically pursued by the people, and countenanced by the Government; by granting to France, early in 1757, a free passage through Namur and Maestricht, for the provisions, ammunition, and artillery, belonging to the army, destined to act against the territories of Prussia, in the neighborhood of the low countries; and by the indifference with which they saw Nieuport and Ostend put into the hands of France, by the court of Vienna, which Great Britain represented to be contrary to the barrier treaty and the treaty of Utrecht. Without entering into the sufficiency of these grounds of dissatisfaction, which undoubtedly had a great influence on the conduct of Great Britain towards the Dutch, from 1757 until the peace of 1763, it is manifest, that this very dissatisfaction, little short of a disposition to open war, and frequently on the eve of producing it, takes away, in a considerable degree, from the authority of any practice to which it may be supposed to have led, as tending to establish a rule of the public law of Europe. It may not be improper to observe too, that the station occupied by Great Britain, in the seven years' war, (as proud a one as any country ever did occupy) compared with that of the other European powers, was not exactly calculated to make the measures, which her resentments against Holland, or her views against France, might dictate, peculiarly respectful to the general rights of neutrals. In the north, Russia and Sweden were engaged in the confederacy against Prussia, and were, of course, entitled to no consideration in this respect. The Government of Sweden was, besides, weak and impotent. Denmark, it is true, took no part in the war, but she did not suffer by the practice in question. Besides, all these powers combined would have been as nothing against the naval strength of Great Britain in 1758. As to Spain, she could have no concern in the question, and, at length, became involved in the war on the side of France. Upon the whole, in the war of 1756 Great Britain had the power to be unjust, and irresistible temptations to abuse it. In that of 1744 her power was, perhaps, equally great, but every thing was favorable to equity and moderation. The example afforded on this subject, therefore, by the first war, has far better titles to respect, than that furnished by the last.

In the American war, the practice and decisions on this point followed those of the war of 1744.

The question first came before the lords of appeal, in January, 1782, in the Danish cases of the Tiger, Copenhagen, and others, captured in October, 1780, and condemned at St. Kitts, in December following. The grounds on which the captors relied for condemnation, in the Tiger, as set forth at the end of the respondent's printed case, were, "for that the ship, having been trading to Cape François, where none but French ships are allowed to carry on any traffic, and having been laden at the time of the capture, with the produce of the French part of the island of St. Domingo, put on board at Cape François, and both ship and cargo taken confessedly coming from thence, must (pursuant to precedents in the like cases in the last war) to all intents and purposes be deemed a ship and goods belonging to the French, or at least adopted and naturalized as such."

In the Copenhagen, the captor's reasons are thus given:

1st. Because it is allowed, that the ship was destined, with her cargo, to the island of Guadaloupe, and no other place.

2dly. Because it is contrary to the established rule of general law, to admit any neutral ship to go to, and trade at, a port belonging to a colony of the enemy, to which such neutral ship could not have freely traded in time of peace.

On the 22d of January, 1782, these causes came on for hearing before the lords of appeal, who decreed restitution in all of them: thus, in the most solemn and explicit manner disavowing and rejecting the pretended rules of the law of nations, upon which the captors relied; the first of which was literally borrowed from the doctrine of the war of 1756, and the last of which is that very rule on which Great Britain now relies.

It is true that, in these cases, the judgment of the lords was pronounced upon one shape only of the colony trade of France, as carried on by neutrals; that is to say, a trade between the colony of France and that of the country of the neutral shipper. But, as no distinction was supposed to exist, in point of principle, between the different modifications of the trade, and as the judgment went upon general grounds applicable to the entire subject, we shall not be thought to overrate its effect and extent, when we represent it as a complete rejection both of the doctrine of the seven years' war, and of that modern principle, by which it has been attempted to replace it. But, at any rate, the subsequent decrees of the same high tribunal did go that length. Without enumerating the cases of various descriptions, involving the legality of the trade in all its modes, which were favorably adjudged by the lords of appeal, after the American peace, it will be sufficient to mention the case of the Vervagting, decided by them in 1785 and 1786. This was the case of a Danish ship, laden with a cargo of dry goods and provisions, with which she was bound on a voyage from Marseilles to Martinique and Cape François, where she was to take in for Europe a return cargo of West India produce. The ship was not proceeded against, but the cargo, which was claimed for merchants of Ostend, was condemned as enemy's property, (as in truth it was,) by the Vice-admiralty of Antigua, subject to the payment of freight *pro rata itineris*, or rather for the whole of the outward voyage. On appeal, as to the cargo, the lords of appeal, on the 8th of March, 1785, reversed the condemnation, and ordered further proof of the property to be produced within three months. On the 28th March, 1786, no further proof having been exhibited, and the proctor for the claimants declaring, that he should exhibit none, the lords condemned the cargo, and on the same day reversed the decree below, giving freight *pro rata itineris*, (from which the neutral master had appealed,) and decreed freight generally, and the costs of the appeal.

It is impossible that a judicial opinion could go more conclusively to the whole question on the colony trade than this; for it not only disavows the pretended illegality of neutral interpositions in that trade, even directly between France and her colonies, (the most exceptionable form, it is said, in which that interposition could present itself,) it not only denies, that property engaged in such a trade is on that account liable to confiscation, (inasmuch as, after having reversed the condemnation of the cargo pronounced below, it proceeds afterwards to condemn it merely for want of further proof as to the property,) but it holds that the trade is so unquestionably lawful to neutrals, as not even to put in jeopardy the claim to freight for that part of the voyage which had not yet begun, and which the party had not yet put himself in a situation to begin. The force of this, and the other British decisions produced

by the American war, will not be avoided by suggesting that there was any thing peculiarly favorable in the time when, or the manner in which, France opened her colony trade to neutrals on that occasion. Something of that sort, however, has been said! We find the following language in a very learned opinion on this point: "It is certainly true, that in the last war (the American war) many decisions took place, which then pronounced, that such a trade between France and her colonies was not considered as an unneutral commerce; but under what circumstances? It was understood that France, in opening her colonies, during the war, declared, that this was not done with a temporary view relative to the war, but on a general permanent purpose of altering her colonial system, and of admitting foreign vessels universally and at all times, to a participation of that commerce; taking that to be the fact, (however suspicious its commencement might be, during the actual existence of a war,) there was no ground to say that neutrals were not carrying on a commerce as ordinary as any other in which they could be engaged; and therefore, in the case of the Vervagting, and in many other succeeding cases, the lords decreed payment of freight to the neutral ship owner. It is fit to be remembered, on this occasion, that the conduct of France evinced how little dependence can be placed upon explanations of measures adopted during the pressure of war; for hardly was the ratification of the peace signed, when she returned to her ancient system of colonial monopoly.

We answer to all this that to refer the decision of the lords in the Vervagting and other succeeding cases, to the reason here assigned, is to accuse that high tribunal of acting upon a confidence which has no example in a singularly incredible declaration, (if indeed such a declaration was ever made,) after the utter falsehood of it had been, as this learned opinion does itself inform us, unequivocally and notoriously ascertained.

We have seen that the *Vervagting* was decided by the lords, in 1785 and 1786, at least two years after France had, as we are told, "returned to her ancient system of colonial monopoly," and when of course the supposed assertion of an intended permanent abandonment of that system could not be permitted to produce any legal consequence.

We answer further, that if this alleged declaration was in fact made, (and we must be allowed to say, that we have found no trace of it out of the opinion above recited,) it never was put into such a formal and authentic shape as to be the fair subject of judicial notice.

It is not contained in the French arrêts of that day, where only it would be proper to look for it, and we are not referred to any other document proceeding from the Government of France in which it is said to appear. There does not, in a word, seem to have been any thing which an enlightened tribunal could be supposed capable of considering as a pledge on the part of France, that she had resolved upon, or even meditated, the extravagant change in her colonial system which, she is said, in this opinion, to have been understood to announce to the world. But even if the declaration in question was actually made, and that, too, with all possible solemnity, still it would be difficult to persuade any thinking man that the sincerity of such a declaration was, in any degree, confided in, or that any person, in any country, could regard it in any other light than as a mere artifice, that could give no right which would not equally well exist without it. Upon the whole, it is manifestly impracticable to rest the decisions of the lords of appeal, in and after the American war, upon any dependence placed on this declaration, of which there is no evidence that it ever was made, which, it is certain, was not authentically or formally made; which, however made, was not, and could not, be believed at any time, far less in 1785 and 1786, when its falsehood had been unquestionably proved by the public and undisguised conduct of its supposed author in direct opposition to it. That Sir James Marriot, who sat in the High Court of Admiralty of Great Britain, during the greater part of the late war, did not consider these decisions as standing upon this ground is evident; for, notwithstanding that, in the war of 1756, he was the most zealous, and perhaps able, advocate for the condemnation of the Dutch ships engaged in the colony trade of France, yet, upon the breaking out of the late war, he relied upon the decisions in the American war, as authoritatively settling the legality of that trade, and decreed accordingly.

If, as a more plausible answer to these decisions, considered in the light of authorities, than that which we have just examined, it should be said they ought rather to be viewed as reluctant sacrifices to policy, or even to necessity, under circumstances of singular difficulty and peril, than as an expression of the deliberate opinion of the lords of appeal, or the Government of Great Britain; on the matter of right it might, perhaps, be sufficient to reply, that if the armed neutrality, coupled with the situation of Great Britain as a party to the war, did in any degree compel these decisions, we might also expect to find, at the same era, some relaxation on the part of that country relative to the doctrine of contraband, upon which the convention of the armed neutrality contained the most direct stipulations, which the northern Powers were particularly interested to enforce. Yet such was not the fact. But in addition to this and other considerations of a similar description, it is natural to inquire why it happened, that, if the lords of appeal were satisfied that Great Britain possessed the right in question, they recorded and gave to the world a series of decisions against it, founded, not upon British orders of council, gratuitously relaxing what was still asserted to be the strict right, (as in the late war,) but upon general principles of public law. However prudence might have required, (although there is no reason to believe it did require,) an abstinence, on the part of Great Britain, from the extreme exercise of the right she had been supposed to claim, still it could not be necessary to give, to the mere forbearance of a claim, the stamp and character of a formal admission, that the claim itself was illegal and unjust. In the late war, as often as the British Government wished to concede and relax, from whatever motive, on the subject of the colony trade of her opponents, an order of council was resorted to, setting forth the nature of the concession, or relaxation, upon which the courts of prize were afterwards to found their sentences; and, undoubtedly, sentences so passed cannot, in any fair reasoning, be considered as deciding more, than that the order of council is obligatory on the courts whose sentences they are. But the decrees of the lords of appeal, in and after the American war, are not of this description; since there existed no order of council on the subject of them, and of course, they are, and ought to be, of the highest weight and authority against Great Britain, on the questions involved in, and adjudged by, them.

This solemn renunciation of the principle in question, in the face of the whole world, by her highest tribunal in matters of prize, reiterated in a succession of decrees, down to the year 1786, and afterwards, is powerfully confirmed by the acquiescence of Great Britain, during the first most important and active period of the late war, in the free and unlimited prosecution by neutrals, of the whole colony trade of France; she did, indeed, at last prohibit that trade by an instruction unprecedented in the annals of maritime depredation; but the revival of her discarded rule was characterized with such circumstances of iniquity and violence, as rather to heighten, by the effect of contrast, the veneration of mankind for the past justice of her tribunals.

The world has not forgotten the instruction to which we allude, or the enormities by which its true character was developed. Produced in mystery, at a moment when universal confidence in the integrity of her Government had brought upon the ocean a prey of vast value and importance; sent abroad to the different naval stations, with such studied secrecy that would almost seem to have been intended to make an experiment how far law and honor could be outraged by a nation, proverbial for respecting both, the heralds by whom it was first announced were the commanders of her commissioned cruisers, who at the same instant carried it into effect with every circumstance of aggravation, if of such an act there can be an aggravation. Upon such conduct there was but one sentiment. It was condemned by reason and justice. It was condemned by that law which flows from and is founded upon them; it was condemned, and will for ever continue to be condemned, by the universal voice of the civilized world. Great Britain has made amends, with the good faith which belongs to her councils, for that act of injustice and oppression; and your memorialists have a strong confidence, that the late departure from the usual course of her policy will be followed by a like disposition to atonement and reparation. The relations which subsist between Great Britain and the United States rest upon the basis of reciprocal interests, and your memorialists see in those interests, as well as in the justice of the British Government, and the firmness of our own, the best reasons to expect a satisfactory answer to their complaints, and a speedy abandonment of that system, by which they have been lately harassed and alarmed.

Your memorialists will not trespass upon your time with a recital of the various acts, by which our coasts, and even our ports and harbors, have been converted into scenes of violence and depredation; by which the security of our trade and property has been impaired, the rights of our territory invaded, the honor of our country humiliated and

insulted, and our gallant countrymen oppressed and persecuted. They feel it to be unnecessary to ask that the force of the nation should be employed in repelling and chastising the lawless freebooters, who have dared to spread their ravages, even beyond the seas, which form the principal theatre of their piratical exertions, and to infest our shores with their irregular and ferocious hostility.

These are outrages which have pressed themselves, in a peculiar manner, upon the notice of our Government, and cannot have failed to excite its indignation, and a correspondent disposition to prevent and redress them.

Such is the view which our memorialists have taken, in this anxious crisis of our public affairs, of subjects which appear to them, in an alarming degree, to affect their country and its commerce, and to involve high questions of national honor and interest, of public law, and individual rights, which imperiously demand discussion and adjustment. They do not presume to point out the measures which these great subjects may be supposed to call for. The means of redress for the past, and security for the future, are respectfully and confidently submitted to your wisdom; but your memorialists cannot forbear to indulge a hope, which they would abandon with deep reluctance, that they may yet be found in amicable explanations, with those who have ventured to inflict wrongs upon us, and to advance unjust pretensions to our prejudice.

ROBERT GILMOR, *and twenty five others.*

BALTIMORE, *January* 21, 1806.

Representation of the Merchants of Norfolk.

NORFOLK, *December* 3, 1805.

SIR:

I have been selected by the merchants of this place, to forward to you memorials upon the cases of spoliation committed by the belligerent Powers on their commerce; in consequence of which, I have the honor to address you, and to forward memorials with copies of documents accompanying, in the following cases:

1. Conway and For. Whittle, ship Eliza, John Evans, master.
2. John Granbery, sloop George, Reynolds, master.
3. Donaldson, Thorburn & Co., ship Charles Carter, Tompkins, master.
4. James Dykes & Co, schooner Iris, Samuel Pearson, master.
5. Edward Chamberlain, brig Nancy, John Christy, master.
6. Alexander Leckie, brig Catharine, John Seward, master.
7. Moses Myers, ship Argus, E. Chamberlain, master.
8. Moses Myers, schooner Adeline, Nathaniel Strong, master.
9. Richard Drummond, schooner Favorite, Fletcher, master.
10. John Burke, schooner Two Brothers, Canby, master.

I am directed to state that the originals in each case are lodged with me, or will be subject to my order, provided they are considered by you as requisite, and if they should be so considered, that they will be forwarded whenever you direct them. There are, I am informed, sundry other cases, but the owners either have not received protests from the masters, or have neglected to send them to me; as I receive them I shall do myself the honor to transmit them to your Department.

I have the honor to be, with consideration and respect, sir, your obedient servant,

WILLIAM PENNOCK.

The Hon. JAMES MADISON, *Secretary of State, &c.*

From Mr. Gore to Mr. Madison.

BOSTON, *November* 18, 1805.

SIR:

The ship Indus, David Myrick, master, was taken by His Britannic Majesty's ship the Cambrian, Captain John P. Beresford, in latitude thirty-one degrees thirty minutes north, and longitude sixty-one degrees fifty-six minutes west, and sent to Halifax, where she, and all the property on board, belonging to the owners, master, and supercargo, were condemned, on the ground, as is said, of the illegality of the trade which she was prosecuting at the time of the capture. An appeal has been claimed, and will be duly prosecuted, before the lords commissioners of appeal, in Great Britain, by the insurers, to whom the said ship and cargo have been abandoned. These insurers consist of four companies, in the town of Boston, incorporated under the names of the Massachusetts Fire and Marine Insurance, the Suffolk Insurance, the Boston Marine Insurance, and the New England Insurance, who are not only interested in the above decision, as it relates to the particular case in which it was rendered, but are deeply concerned on account of insurances made by them on vessels and cargoes that may be embraced, as they fear, by rules and principles said to have been adopted in the case of the Indus. These fears derive but too much weight from decisions that have taken place in London, condemning property for being in a commerce always by them understood to be lawful, not only from their own sense of the law of nations, but also from the assent of Great Britain, discovered by her former practice, and by principles advanced by her judges in support of such decrees.

The amount of property withheld, and ultimately depending on the decisions of the high court of appeals, in the case of the Indus, is sufficient, of itself, to demand their serious attention; but when combined with the effect of principles, supposed to have been applied in this instance, they are apprehensive of further and still greater injuries to their own property, and that of their fellow citizens in this quarter of the country; and these losses, should they be realized, would be encountered in the prosecution of a trade in which they felt themselves as unoffending against the rights of others—as secure from the interruption of the power that now molests them, as in coasting voyages between different parts of the United States.

They hope, therefore, not to be thought intrusive in asking of the Government its interference, through their minister at the court of London, or otherwise, as the President, in his wisdom, may judge proper, to protect their commercial rights, and to obtain redress of the particular injury of which they complain. They have even felt it a duty, due from them to the Government of their country, to apprize those entrusted with the administration of its concerns, of events, so injurious in themselves, and pregnant with consequences so momentous to their individual property and the general prosperity of the country. Such reflections have influenced these several companies to request me to present you a statement of the case of the Indus, for the inspection of the Government, and the purposes above alluded to; and also to subjoin some of the reasons which have occasioned the security with which they have hazarded their property on voyages now pretended to be unlawful.

In the summer of 1804, Messrs. David Sears and Jonathan Chapman, native citizens of the United States, and residents in Boston, owned a ship called the Indus, which they fitted out for a voyage to India. They put on board her sixty-three thousand six hundred and forty dollars, and three sets of exchange, drawn by themselves, on Messrs. John Hodshon and Son, of Amsterdam, at ninety days' sight, for twenty-five thousand three hundred guilders, which amount of specie and bills they confided to Abishai Barnard, a native citizen of the United States, and supercargo. This ship and property, altogether owned by themselves, they despatched with orders to go to the isles of France and Bourbon, and, if able, to purchase a cargo there, so to invest the specie and bills, if not, to proceed to Batavia, for the same purpose; if not practicable there, to go on to Calcutta, and obtain a cargo, with which cargo, wherever procured, the said ship was directed to return to Boston, unless, before the vessel should quit the isle of France, or Batavia, a peace should take place in Europe, in which event she was ordered to proceed to Falmouth, in England, and to conform herself to the orders of her owners' correspondents in London. All the papers on board showed these facts; and such, and such only, was the property and destination of the vessel and her lading. In a memorandum relating to the purchase of the cargo, given to the supercargo, he was reminded not to forget to insert in the manifest, after the arrival of the vessel in the tide waters of Boston, the words "and Embden," viz:

from the isle of France, or Batavia, to Boston "and Embden," as this would not deprive the owners of the privilege of unloading wholly in Boston. The object of this request was, in case of peace, to avoid an expense and inconvenience which Mr. Sears, the principal owner of this ship and cargo, suffered at the last peace, viz: the unloading of the entire cargo of a vessel called the Arab, from India, in the port of Boston, which, under the then existing circumstances, viz: a state of peace, he inclined to send immediately to Europe, but which he would not have contemplated had not peace taken place, and which he did not anticipate when the vessel sailed from Boston, as he did not foresee a termination of the war: such being the construction put by the collector of the port of Boston and Charlestown, on the laws in force, when the vessel referred to arrived, and when the Indus sailed in 1804. The expense of unloading and reloading this vessel would have amounted to several thousand dollars; and in case of the law being at her arrival as when she sailed, and of a peace in Europe, and the owners sending her there, (in which event alone did they ever entertain the least intention of not closing the voyage in America,) this expense might have been saved.

With this property, and under these instructions, the Indus proceeded on her voyage to the isle of France: not being able to procure a cargo there, she went to Batavia, where she loaded with the proceeds of her specie and one set of her bills. In the prosecution of her voyage, from Batavia to Boston, the ship was so damaged by storms, that she was obliged to put into the isle of France, where the vessel was condemned as no longer seaworthy; the cargo was taken out, a new vessel purchased by the supercargo, which he named the Indus; and such of the articles as were on board the former Indus, and not damaged, were re-shipped in the new Indus; these articles, together with some tea, taken on freight for certain citizens of Boston, there to be landed, composed her entire cargo. With this property, she was within a few days, sail of her destined port of Boston, in the latitude and longitude aforesaid, when she was captured by the Cambrian, and sent to Halifax and condemned, as before mentioned.

The assumed ground of condemnation was, as the underwriters are informed, that the direction to insert the words "and Embden," after the arrival of the vessel in the port of Boston, disclosed an intention in the owners to continue the voyage to Europe, whereas, the only object was to reserve to themselves the right to obviate any objection from the custom-house here, to her proceeding thither, in the event of a peace between the present belligerents.

This is manifest from the testimony of the owners, and is confirmed by their instructions to the conductors of this voyage, as to its destination, in case of a peace before they quitted India. On this contingency only were they to proceed otherwise than to Boston. The reason why Mr. Sears directed the words "and Embden" to be inserted, is obvious from what he suffered in the case of the Arab, as related by himself and the collector of the customs; and that it was only in the event of peace that he contemplated sending to Europe the vessel and cargo to which his memorandum referred, is confirmed by his former practice and course of trade, viz: during the last ten years he has been engaged in voyages to India, and likewise in shipping the produce of the East and West Indies to Europe: and in no case, during the existence of war, has he sent to Europe articles imported by himself in the same vessel in which they were brought from India. Further, in the case of the ship Lydia, which arrived from India at Boston, in the summer of 1804, and on board which vessel there was the like instruction as in the Indus, which instruction was complied with by the master; yet, as the war continued, on her arrival at Boston, he sold the whole cargo to a merchant of this town, and also that of the Indus, in the voyage preceding the one in which she was lost, wherein the like precaution was also taken, and for the like purpose; but as it was war when she arrived, the voyage terminated here. Thus, sir, in this case, there exists the most plenary evidence, that the voyage which the Indus was performing, when captured, was direct from Batavia to Boston, there to terminate. A trade perfectly legal, not only in the understanding of the owners, but so acknowledged, admitted, and declared by Great Britain, in her practice, for ten years past, in her instructions to her cruisers, in the decrees of her courts, and in the rules and principles advanced by her judges in promulgating their decrees.

The principle understood to be assumed by Great Britain is, that, in time of war, a trade carried on between two independent nations, one neutral and the other belligerent, is unlawful in the neutral, if the same trade was not allowed and practised in time of peace. This principle, though assumed by Great Britain, is now, and always has been, resisted as unsound, by every other nation. She always assumes as a fact, that the trade with a colony has always been confined, exclusively, to ships of the parent country. In virtue, therefore, of this assumption of principle and fact, she deems unlawful and derogatory to her rights, the trade of a neutral with the colonies of her enemies. However, in the last war, she so far modified her principle, as to assent to the lawfulness of the voyage of a neutral, if direct between the ports of the neutral and the colony of the enemy; and also a trade in such colonial articles from the country of the neutral to any other country, even to the parent country of such colony, provided such articles were imported, *bona fide*, for the use of the neutral, and there purchased, or afterwards shipped by himself; and also in articles, the produce of the parent kingdom, from the neutral state to the colony of that metropolitan kingdom, provided the exporting and importing were *bona fide* as in the other case. But this modification she always affected to consider as a relaxation of her strict rights, and from this consideration assumed greater authorities to interfere with the permitted trade, as she would say of neutrals.*

The underwriters have therefore thought it important to examine how far the doctrine is sanctioned by the law of nations, and the grounds on which it is supposed to rest are conformed to, or contravened by, the practice of the belligerents themselves.

This principle was first brought forward in the war of 1756, and was then attempted to be supported on the doctrines advanced by Bynkershock. You, sir, to whom the writings of this eminent civilian are doubtless familiar, must be aware, that the rule laid down by him is brought forward to a very different purpose; and from the manner in which he treats on the rights of neutrals, and the historical fact quoted from Livy, to illustrate and sanction the principle asserted, shows that it can by no means warrant the proceedings which it has been attempted to justify; and that there is no analogy between the case cited and that of the mere peaceable trade of a neutral with a belligerent, in articles not contraband of war, nor to places under blockade.

His general position is, that whatever nations had the power and faculty to do in time of peace, they have the right to do in time of war; except that they have not a right to carry to either of two enemies articles contraband of war, or to trade to blockaded places, because this would be to intermeddle in the war.

The author before cited is the principal, if not the only one, whose opinions are adduced, as capable of affording support, or in any way bearing upon this doctrine. An authority, however, to interrupt the trade of a neutral in war, which he was not free to carry on in peace, is assumed as a legitimate consequence of his acknowledged rights. The law of nations not only prescribes rules for the conduct, and supports the rights of nations at war, but also contains regulations and principles by which the rights of such as remain at peace are protected and defined.

The intercourse between independent nations must exclusively rest on the laws which such nations may choose to establish. This is a natural consequence of the equality and independence of nations. Each may make such commercial and other internal regulations as it thinks proper. It may open its whole trade to all foreign nations, or admit them only to a part; it may indulge one nation in such a commerce, and not others; it may admit them at one time, and refuse them at another; it may restrict its trade to certain parts of its dominions, and refuse the entrance of strangers into others. In this respect it has a right to consult only its own convenience, and whatever it shall choose to admit to others, may be enjoyed by them without consulting a third Power. Great Britain acts upon this principle: at one time she executes her navigation law with strictness; at other times she relaxes most of its regulations, according to the estimate she forms of advantage or disadvantage to be derived from its execution or relaxation; neither does she allow the competence of any foreign Power to call in question her right so to do. In time of peace she compels a strict adherence to the principles and letter of her navigation act: in time of war she suspends most of its provisions, and to this she is doubtless induced by the paramount interest of manning her navy, whereby she is enabled to employ a much greater number of seamen in her own defence, and to destroy the commerce of her foes.

* Polly Lasky. Robinson's Admiralty Reports, page 361. Immanuel Robinson, page 186, particularly 203.

In consequence of a superiority derived, in some degree, from this relaxation, England is rendered an entrepot for receiving and supplying all the products of the world; and after reaping a considerable revenue from the merchandise thus introduced, she furnishes not only the continent of Europe generally, but her own enemy, with such articles as are wanted, many of which she prevents his receiving in the ordinary course.

The other nations of Europe possessing foreign colonies, and influenced by motives of convenience, certainly not by considerations of a higher nature than actuate Great Britain, find their advantage in a similar change of their commercial systems.

The mere circumstance that the innocent property of a neutral is engaged in a trade permitted now, though prohibited at a former period, is in itself perfectly innocent, and does not seem capable of interfering with the rights, or justifying the complaints of a third Power.

The ordinary policy of a nation may be to encourage the manufacture or growth of a certain article within its own dominions, and for this end may prohibit or restrict the importation of the like articles from other countries. Does the repeal or suspension of such restriction confer any right to impede the transportation, by a third, of the article, the prohibition whereof is suspended? Because the corn laws of a nation operate three years in five, as a prohibition to the importation of all corn, can it be inferred that a friendly Power should abstain from carrying its surplus corn to market? Has any belligerent a right to stop the corn owned by neutral merchants on the way to its enemy, whose crops have failed, and prohibitory laws have been repealed? The simple state of the case, that the trade, though illegal in peace, is legal in war, decides the question.

Recourse is therefore had to another principle, in order to render that unlawful which, on every ground of the equality and independence of nations, is lawful.

The belligerent has a right to distress the person and property of his enemy, and thereby compel a submission to his demand, and for this purpose he may use all the means in his power.

By interrupting the trade of neutrals which is opened to them in war, and was prohibited in peace, the belligerent distresses his enemy, lessens his revenue, and prevents the exercise of his commercial capital and the employment of his merchants, and deprives him of the enjoyment of those articles which administer to his comfort and convenience; therefore such interruption is lawful.

An obvious answer to this reasoning is, that it proves too much, and is founded on a principle so comprehensive as to embrace all trade between neutrals and a nation at war. If it distress a nation to interrupt that commerce, which has become lawful since the war, it would distress him much more to cut off all trade, that which was allowed in time of peace, as well as that which was not; and the same reason which is used to authorize an interruption of the one would as well justify the other. Indeed, we have several times seen the like doctrine extended this length in the heat of contest; but no instance has occurred of an attempt to vindicate it in time of peace: for the legality of a trade in innocent articles, to a place not blockaded, and the right of the neutral to carry it on, depends entirely on the laws of the two countries between which, and by whose inhabitants it is prosecuted, and in no degree on the consent of the belligerent. If this argument of distress, combined with that of an unaccustomed trade, should be admitted in all its latitude, no trade with belligerents would be legal to neutrals. The enemies of Great Britain would be disposed to attribute much weight to a consideration of the peculiar advantages which a Power constituted as hers may be supposed to derive, and such evils as she may be presumed to prevent by the relaxation of her commercial system. A continental Power may derive some accommodation and some convenience from relaxing her commercial restrictions; but nothing essential to her safety, nothing, as was demonstrated in the last war, materially affecting the great objects of the contest. She might obtain the articles of East and West India produce a little cheaper by these means, than if compelled to procure them by her own ships, or through the medium of her enemy; for it is a circumstance which very much impairs the argument of distressing the foe, that in modern wars it is the practice of commercial nations, notwithstanding they respectively capture each other's property, to open their ports for the exchange of their merchandise, by the assistance of neutrals, and in this way afford the succor they mutually need. It will, however, be said that it is not the trade between neutral countries and the metropolitan dominions of Europe which is deemed illegal, but the trade of neutrals with their colonies. It is not easy to perceive the grounds on which this distinction rests, but without complaining of an exceptionable rule, because the practice under it is not as extensive as its principle might be supposed to warrant, it may be examined in the case to which it is applied.

The argument of distressing the enemy is adduced to vindicate the interruption of the trade of neutrals with enemies' colonies. This distress can be inflicted in two ways: by depriving the colony of the necessary supplies, or the parent country of the colony productions. To supply the enemies' colonies is now considered legal, provided it be done from the neutral country; and also to furnish the parent country with the produce of the colony, provided it be done from the neutral country. The agument, therefore, of distress is narrowed down to a mere trifle; to the addition of a fraction in the price of the article supplied to the parent country; for, so far as respects the supply of the colony and the finding a market for its produce, and the arguments flowing from thence, these, surely the most plausible on the score of inflicting distress, are utterly abandoned. But further, the same commercial spirit which has been before noticed, leads the great nations of Europe themselves to contribute to those very supplies, the depriving the enemy whereof is alleged as a justification for interrupting the trade of neutrals. Not only a trade in Europe, but a regular and authorized trade, to the extent of every necessary and almost every other supply, was carried on during the last war between the British and Spanish colonies; and instances have again and again occurred, and before the close of the late war ceased to be considered as extraordinary, where the cargoes of neutral vessels bound to the Spanish colonies were seized by the British, and condemned in the Vice-admiralty courts, on pretence that the trade was illegal; and the articles thus stopped and made prize of, under the plea of distressing the enemy, were shipped on board a Spanish or British vessel supplied with a British license, and sent to the original port of their destination. Surely such a mode of distressing the enemy may be more properly denominated distressing the neutral, for the purpose of supplying the enemy at the exclusive profit of the belligerent.

Such, sir, are some of the observations which these gentlemen make on the difference between the practice and avowed principles of belligerents, and the unavoidable consequences of such principles, and which satisfy their minds that, according to the practice of belligerents themselves, there is no foundation for the arguments raised on pretence of distressing the enemy, and that interrupting a trade in war, because not exercised in peace, is inconsistent with the equality and independence of nations, and an infringement of their perfect rights. It is also evident, that the wants and interests of all nations at war, even of those who possess the most powerful and commercial military navy, require them to contradict in their own practice those principles which are avowed in justification of the injuries they inflict on neutrals.

To support this doctrine, it is also necessary to assume as true, that all trade and intercourse between the colonies of the different European Powers and other countries, have been constantly and uniformly interdicted in time of peace, and that such colonies depended exclusively on the metropolitan kingdom for supplies of every kind. That nothing could be received by or from them, but through the mother country; except when the overpowering force of the public enemy had prevented all such communication. This supposed exclusive trade, so confidently assumed, will, on examination, be found subject to many exceptions. It is well known that some of the British West India colonies, during the commotion which existed in England in consequence of the disagreement between Charles the First and his Parliament, exported their produce to Europe by Dutch ships, manned with Dutch seamen, and that the navigation act originated in the double view of punishing some of these colonies, who had discovered an attachment to the cause of defeated royalty, and of curtailing the means enjoyed by the Dutch of increasing their wealth, influence, and power. An intercourse has always been admitted; at some times very restrained; at others more extended, as suited the caprice of the Governors, or as the necessity of the colonies required.

Until a period subsequent to the treaty of Utrecht, France seems to have paid no attention to her West India colonies. Previous to that time, they do not appear to have enjoyed any constant correspondence or direct intercourse with the mother country; and at all times, as well as before, since the independence of the continental colonies of Great Britain, a direct trade has existed between the colonies of France and those of Great Britain in the

West Indies, and also with the settlements on the continent of North America, more or less limited, as real or pretended convenience demanded.

Great Britain, prior to the independence of the United States, had less occasion to admit the entry of vessels and merchandise from, or the export of, the produce of her colonies to any other than her own dominions: yet instances are not wanting of the relaxation of her navigation act for both purposes, and in the year 1739 a bill passed the Parliament, allowing the sugar colonies, for a limited time, to export their produce to foreign ports. In fact, colonies depending on other countries for their supplies, and at a distance from their parent country, must, at times, admit the intercourse of foreigners, or suffer the greatest impoverishment and distress. It will not be denied, that the British provinces in the West Indies depend, in a great measure, if not altogether, on the United States, for their corn. True it is, that the shipment is generally made in the British vessels; but should the United States deem it for their interest, to insist on its being transported thither in American ships, it is not certain that the convenience, not to say the necessities of the colonies, would not render an acquiescence advisable. The fact is, in regard to the colonies in the West Indies, whether belonging to France or Great Britain, that the monopoly has not been, and, in the nature of things, never can be very strict, constant, and exclusive. The United States always have enjoyed, and without hazarding much, one may pronounce with confidence, that they always must enjoy a direct intercourse with their colonies, however adverse to the dispositions or supposed interest of the parent countries in Europe. Thus stands the fact of an accustomed trade in time of peace as relates to the West Indies. In regard to the East Indies, it is certain that the vessels of the United States have always gone freely to the British settlements there, and it is believed that the vessels of our country were the first to export sugars from Bengal, and that their exportations have augmented immensely the culture of that article in that country. To many of the Dutch settlements our vessels have gone with but little interruption; and to some of these, and to the French possessions, more especially to the isles of France and Bourbon, the trade of the United States has been constant, uninterrupted, and increasing, ever since the year 1784. It is difficult then, sir, for these gentlemen to conceive how the doctrine of the fact assumed by Great Britain can be supported by the law of nations, or reconciled to the truth.

Moreover, Great Britain professes that the decisions of her admiralty courts are always regulated by the law of nations; that they do not bend to particular circumstances, nor are guided by the orders or instructions of the Government. The principles of this law are immutable; being founded on truth and justice, they are ever the same. Now it appears from the practice of Great Britain herself, that in the war of 1744, and in that which was concluded in 1783, whether the trade was an accustomed one in time of peace, made no part of the discussion, nor was it pretended that the trade not having been prosecuted in peace, subjected the vessel or cargo to forfeiture in war. It seems more like the offspring of her pre-eminent power on the ocean in the two wars of 1756, and that which lately ended, than the legitimate doctrine of right and justice. In the war of 1756 Dutch vessels, by special license from France, were permitted to export the produce of the French colonies. These were captured and condemned, on the ground that by adoption they had become French vessels. Afterwards the property was carried to Monte Christi, and exported thence in Dutch vessels. Particular trades and special privileges were also allowed by France, to vessels belonging to citizens of Amsterdam, as a gratification for their peculiar exertions to induce the stadtholder to take part with France against Great Britain. Vessels and their cargoes, so circumstanced, were captured and condemned by the British, and this principle was then brought forward to justify their conduct, as covering in their courts all the cases by a rule as extensive as was the power and cupidity of their cruisers on the sea.

In the war for the independence of America, this principle, set up for the first time in that which preceded it, and contrary to former practice, was abandoned. This is exemplified in the following case, viz: a vessel bound from Marseilles to Martinico and back again, was taken on the outward voyage; the Vice-admiralty court at Antigua gave half freight. On appeal, the lords of appeal gave the whole. It is said, in answer to this, that France opened her colonies, and though it was during the existence of war, yet it was the profession of keeping them always so, but was afterwards found delusive. The lords of appeal, however, in the case of the Danish vessel, could not have acted upon such grounds: for their decision was in 1786, three years after the peace, and after it was manifest, if any doubt had before existed, that the general opening of the trade between the colonies and the mother country to foreigners, was a temporary expedient, and dependent on the duration of the war. The claim before them was merely equitable, being for freight of that part of the voyage which had not been performed, and to obtain which, the party claiming is bound to show that he has offended no law, and interfered with no rights of the belligerent.

What renders the conduct of Great Britain peculiarly injurious to the merchants of our country at this time is the extension of this offensive doctrine, contrary to her own express and public declaration of the law during the last war: for it was then declared, that the importation from an enemy's colony to the country to which the ship belonged, and the subsequent exportation, was lawful; and so of property, the produce of the parent country, going from the United States to the colony—Vide cases of Immanuel and Polly, in Robinson's Admiralty Reports, before cited. Whereas, property going from the United States, the produce of an enemy's country, to her colony, although bona fide imported and landed in the United States, and exported on the sole account and risk of the American merchant, is now taken and condemned on the ground that the same person and vessel imported and exported the same articles; and thus, by an arbitrary interpretation of the intention of the merchant, the second voyage is adjudged to be a continuance of the first. If this new and extraordinary doctrine of continuity is maintained on the part of Great Britain, and acquiesced in by the United States, a very large property, now afloat, may be subject to condemnation, and it must follow that an extensive trade, which has been carried on with great advantage by the United States for these twelve years, and admitted to be lawful, will be totally annihilated.

The Indus and cargo have been condemned on the mere possibility that the same might go to Europe from Boston in case of a peace, in which event Great Britain could pretend to no authority to question the voyage she should make.

Now, to adopt a principle of dubious right in its own nature, and then to extend such principle to a further restriction of the trade of the neutral, without notice, is spreading a snare to entrap the property and defeat the acknowledged rights to which he is entitled.

Such are its effects, both on the individual owners of this property, as well as on the underwriters. For Mr. Sears and Mr. Chapman, in planning this voyage, and, indeed, in every one they ever prosecuted, have endeavored to ascertain what the law authorized them to do, as that law was understood and practised by the belligerents, and for this purpose they examined the orders to the British cruisers, the adjudications in the British courts during the last war, and conceived themselves clearly within even the narrowest limits to which Great Britain professed to circumscribe the trade of neutrals. The underwriters, also, have been uniformly guided, in insuring property, by the rules declared and promulgated by the belligerents themselves. In the present case they considered that, according to the clearest evidence of those rules, they incurred no risk from British cruisers.

Should, then, Great Britain undertake to presume that the law would authorize the interruption of such a trade, these gentlemen cannot bring themselves to believe that, under even such impressions of her rights, she would so far forget what is due to her former understanding of the law, and to the encouragement given to such a commerce, as, without notice of her altered sentiments, to seize and confiscate the property of those who had so conformed their voyages to rules pronounced by herself.

I have the honor to be, &c.

C. GORE.

The Hon. JAMES MADISON, Esq., *Secretary of State.*

BOSTON, *November* 26, 1805.

SIR:

Since making the statement herewith enclosed, the underwriters find themselves called upon to represent a new cause of complaint, founded on a still further extension of the principle before remarked on, and which is now made the ground of condemning property going to Europe merely because it is imported into the United States, and

exported by the same person, although it has been landed and subjected to the payment of duties here, and was transporting in another vessel and belonging to different owners.

It is the case of property, belonging to the same Mr. Sears, who shipped sundry goods (some of them imported by himself in various vessels, and others purchased here) on board the George Washington, captain Porter, a general freighting ship bound for Amsterdam from Boston.

That vessel has been captured, and the property imported and thus exported, has been condemned in London. This is also abandoned to the underwriters.

This proceeding of the British has been so unforeseen and unexpected by even the most prudent and circumspect, that very serious and general consequences are to be apprehended in this part of the community.

Should the facts related in the statement of the case of the Indus, or of the George Washington now mentioned, require any further verification than what accompanies these papers, and you will please to notify me thereof, I will endeavor to supply the same.

I have the honor to be, &c.

JAMES MADISON, Esq. C. GORE.

MARINE INSURANCE OFFICE, NEW YORK, *May* 15, 1805.

SIR:

On the trial of several vessels, taken on their voyage from this port to Curacoa, the enclosed certificate from Admiral Duckworth was adduced as evidence of the blockade of that island, and had, without doubt, great influence in their condemnation. It is proper to say that no such blockade was ever promulgated or known here; neither was it, as is usual in such cases, communicated to the masters of these vessels; but, on the contrary, they were taken possession of and sent to Jamaica, and there condemned as "enemy's property." As our public offices are deeply interested in these decisions, it becomes necessary for us to know whether this communication was ever made to our Government, and, if so, in what light it was received or considered, for on this will our success on the appeals depend; and, that you may have a correct view of the business, we cover you the masters' protests of the five vessels wherein we are more immediately concerned, from which the facts herein stated will appear, and on which we request your advice and opinion for our government in accepting or rejecting some overtures made us by the captors; and on this subject it is proper to add, that, when successful in an appeal, we sustain great injury from the sale or valuation of property. This arises from forced sales, or appraisement of goods not adapted to the market, and is a subject well worth the attention of the Government. We will illustrate this grievance by a recent case. A vessel worth seven thousand dollars was lately sold in Jamaica for one thousand; of course, our recovery is limited to this sum.

We are, with great respect, sir, the Marine Insurance Company of New York, by

W. NEILSON, *President.*

JAMES MADISON, Esq.

Certificate of the blockade of Curacoa, filed July 30, 1804.

This is to certify whom it may concern, that I, Sir John Thomas Duckworth, knight of the bath, vice-admiral of the blue squadron, and commander-in-chief of His Majesty's ships and vessels employed at Jamaica, Bahama Islands, and seas adjacent, deeming it for the good of the King's service, and for the annoyance of the enemy, did direct the port of Amsterdam, in the island of Curacoa, to be blockaded by part of the naval force under my orders; and that notification of such blockade be transmitted to the British minister in America, and to the governors of the Danish and Swedish islands, also of Curacoa, and other Spanish ports, on the 2d day of March, 1804. And I do further certify, that the receipt of the said notification is acknowledged by the British minister, and that it was communicated by him to the Government of the United States of America in the month of April following.

Given under my hand, on board His Majesty's ship Shark, in Port Royal harbor, this 30th day of July, 1804.

UNITED STATES OF AMERICA, *State of New York, ss:*

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, a notary public in and for the State of New York, by letters patent, under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that, on the day of the date hereof, personally came and appeared before me, the said notary, at the city of New York, Abraham S. Hallett, of the city of New York, merchant, one of the society of the people called Quakers, the person named in the annexed affirmation, who, being by me duly affirmed according to law, did declare and affirm, that the contents of the said affirmation subscribed by him were true.

Whereof an attestation being required, I have granted this under my notarial firm and seal. Done at the city of New York, in the said State of New York, the fourth day of May, in the year one thousand eight hundred and five.

E. W. LAIGHT, *Not. Pub.*

UNITED STATES OF AMERICA, *City of New York, ss:*

Abraham S. Hallett, of the city of New York, merchant, being duly affirmed according to law, saith, that the annexed instrument of writing is a true and accurate copy of the protest which this affirmant received from Jamaica, and that John Bell, the master therein mentioned, is not at present in the city of New York; and he further saith, that he was the true and lawful owner of the brig Bulah Maria, and of her general cargo, on her late voyage: and that no person whatever, being a subject or subjects of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian republics, or inhabiting any of the territories of France, or of the United Provinces, or the said republics, nor their factors or agents, nor any other enemies of the crown of Great Britain, had, at the time of the capture of the said vessel, any right, title, or interest, either directly or indirectly, in and to the said brig the Bulah Maria, her tackle, apparel, and furniture, or in or to the cargo before mentioned, or any part thereof; but that the said brig Bulah Maria, her tackle, furniture, ammunition, and apparel, and her general cargo, did, at the time of the sailing of the said vessel from New York, and at the time of the capture thereof, belong to this affirmant, and would have so belonged to him in case the said vessel had arrived in safety at Curacoa, her port of destination, and until the same had been there sold and disposed of, for and on the account and benefit of this affirmant: and this affirmant further saith, that he was not, at the time of the shipping of the cargo on board of the said vessel, or at any time after, nor is he at present, engaged in any partnership in any house of trade belonging to any person or persons enemies of the crown of Great Britain, residing within any of the territories of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian republics: and he further saith, that he is a natural born citizen of the United States of America, and was, at the time of the sailing of the said vessel on the voyage before mentioned, and still is, a resident of the city of New York: and this affirmant further saith, that, when he despatched the said vessel on the voyage aforesaid, he did not know that the said island of Curacoa was in a state of blockade.

ABRAHAM S. HALLETT.

Affirmed, the 4th May, 1805, before me,

E. W. LAIGHT, *Not. Pub.*

JAMAICA, *ss:*

John Bell, at present of the city and parish of Kingston, in the county of Surry, in the said island, master mariner, late master of a certain brig or vessel called the Bulah Maria, and Samuel Sargeant, at present of the said city and parish of Kingston, and apprentice to the said John Bell, and lately employed in that capacity on board the said brig, being duly sworn on the Holy Evangelists of Almighty God, severally and respectively make oath and say, that, on or about the 25th day of November last past, they, these deponents, sailed in and on board the brig Bulah Maria, from the port of New York, in the United States of North America, the said brig being cleared out and bound for the island of Curacoa, with a cargo on board her, consisting of provisions and a few other articles, consigned to Mr. Joseph Foulke, a resident merchant at the said island of Curacoa: and these deponents further severally make oath and say, that, in the prosecution of the said voyage, to wit, on or about the 15th day of December now last past, the said brig was brought to and boarded by His Majesty's sloop of war King Fisher, the captain whereof examined the said brig's papers, and then suffered her to proceed on her said voyage: and these deponents further severally make oath and say, that, on the 19th day of the said month of December, the said brig Bulah Maria, then being under the lee of the island of Bonaire, was brought to and boarded by a small schooner, a tender, as these deponents believe, to His Britannic Majesty's ship of war Franchise, and afterwards boarded by a boat belonging to the said ship of war Franchise, the officer in which took this deponent, the said John Bell, and all his crew, (except the said Samuel Sargeant,) out of the said brig, together with the said brig's papers, and carried them on board the said ship of war Franchise; and this deponent, the said John Bell, for himself further saith, that, after he, this deponent, had delivered up his papers to the honorable John Murray, Esquire, captain of the Franchise, he ordered this deponent to return on board the said brig, informing him, at the same time, that he should examine his papers as of the next day; and, after keeping the brig two days beating after the ship, he then sent an officer, together with —— Hall, one of the crew of the said brig, on board, with directions to the officer who had the charge of the said brig, to take her down to Jamaica, having previous thereto taken from on board the said brig six barrels of flour, four barrels of apples, two or three hundred bunches of onions, some candles, and sundry other articles: and this deponent, the said John Bell, further saith, that, after the arrival of the said brig at Port Royal, in the island of Jamaica aforesaid, which was on the 24th day of the said month of December, sundry quantities of apples, onions, and cheese were taken out of the said brig, and, after her arrival at the port of Kingston, in the said island, sundry articles of her cargo were in like manner taken thereout by the persons having the charge thereof, or by their privity or permission: and this deponent, the said John Bell, further saith, that, since his arrival in this island, he hath been informed that the said brig and cargo were captured on the ground of an intentional breach of blockade: and this deponent, the said John Bell, also saith, that the said brig and cargo were proceeded against in the court of vice-admiralty of the island of Jamaica aforesaid, and that he, this deponent, caused a claim to be put in for the same, on behalf of the respective owners thereof; but the said brig and cargo (except the private adventures of this deponent and the mate of the said brig) have been by the said court condemned and confiscated: and these deponents severally further say, that all the persons composing the crew of the said brig Bulah Maria, except these deponents and the said —— Hall, were detained, and kept on board the said ship Franchise, which said ship is not arrived in this island, to the knowledge or belief of these deponents: and lastly, these deponents, the said John Bell, for himself saith, that, upon the arrival of the said Bulah Maria in this island, the said Hall went away from the said brig, and this deponent hath never seen or heard any thing of him since; by reason whereof, and of the aforesaid detention of the mate and the rest of the crew of the said brig, this deponent is deprived of the benefit of the testimony of any of his said crew, except his apprentice, the said deponent Samuel Sargeant, herein before named.

JOHN BELL.
SAMUEL SARGEANT.

Sworn before me, this 16th day of January, 1805,

WM. SAVAGE, *Magistrate.*

UNITED STATES OF AMERICA, *State of New York, ss:*

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, a public notary in and for the State of New York, by letters patent, under the great seal of the said State, duly commissioned and sworn; and in and by the said letters patent invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths, to any person or persons," do hereby certify, that, on the day and date hereof, before me, the said notary at the city of New York, personally came and appeared, Abraham S. Hallett, of the said city, merchant, and one of the society of people called Quakers, the person named in the annexed affirmation, who, in my presence, subscribed the same, and being by me duly affirmed, according to law, did declare and affirm, that the contents of the same were true.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the fourth day of May, in the year one thousand eight hundred and five.

E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss:*

Hezekiah Pinkham, at present of the city and parish of Kingston, in the county of Surry, and island aforesaid, master mariner, late master on board the schooner Favorite, from New York, in the United States of America, and Charles Coffin, also at present of the city and parish of Kingston aforesaid, mariner, mate on board the said schooner, being respectively duly sworn on the Holy Evangelists of the Almighty God, severally make oath and say, that, on Monday the 8th of October, now last past, the said schooner Favorite sailed from New York, aforesaid, with a cargo on board, consisting of flour, corn, Indian meal, spermaceti candles, tobacco, butter, and other articles, the property of, and belonging to, Abraham S. Hallett, of the said city of New York, merchant, destined to the island of Curacoa, and consigned to Mr. Joseph Foulke, a resident merchant; and also, having on board two private adventures, the property of, and belonging to, Gilbert Shotwell and Charles Evers, clerks in the said mercantile house of the said Abraham S. Hallett. And these deponents severally make oath and say, that they continued on their said voyage without meeting with any material occurrence, and at ten o'clock A. M. on Thursday, the first day of the month of November, now last past, they made the island of Antigua, bearing southwest by south, distant nine leagues, and on Friday, the ninth day of the said month of November, they made the island of Bonaire, bearing north by east, distant about three leagues; shortly after which, the said schooner was brought to by His Britannic Majesty's ship of war Diana, Thomas James Maling, Esq. commander, and His Britannic Majesty's sloop of war Pelican, John Marshall, Esq. commander, and afterwards made prize of by them, on the ground, as they informed these deponents, that the said schooner was destined to a blockaded port, and thereupon the said schooner was sent down to Port Royal, in this island, for adjudication, where the said schooner arrived, on the 21st day of the said month of November; and these deponents further severally make oath and say, that shortly after the arrival of the said schooner in Port Royal aforesaid, the said Thomas James Maling and John Marshall, on behalf of themselves, their officers, seamen and mariners, instituted a suit in the vice-admiralty court of the said island against the said schooner, and cargo on board her; and this deponent, the said Hezekiah Pinkham, having caused a claim to be filed to the said schooner and cargo, and private adventures on board her, on behalf of their respective owners thereof, the same came to be heard, at the court of vice-admiralty held in this city and parish of Kingston aforesaid, on Monday the 17th of November, now instant, when his honor the judge of the said court was pleased to condemn the said schooner Favorite and cargo, and clerks' adventures; but from which said sentence this deponent's counsel prayed leave to appeal, and which was granted in the usual form.

HEZEKIAH PINKHAM,
CHARLES COFFIN.

Sworn before me, this 19th day of November, 1804,

WILLIAM SAVAGE.

UNITED STATES OF AMERICA, *City of New York, ss:*

Abraham S. Hallett, of the city of New York, merchant, being duly affirmed, according to law, saith, that the annexed instrument of writing is a true and accurate copy of the protest which this affirmant received from Jamaica, and that Hezekiah Pinkham, the master of the schooner Favorite therein mentioned, is not at present in the city of New York, to the knowledge of this affirmant; and he further saith, that he was the true and lawful owner of the schooner Favorite, and of her general cargo, on her late voyage, and that no person or persons whatever, being a subject of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian republics, or inhabiting within any of the territories of France, of the United Provinces, or the said republics, nor their factors or agents, nor any other enemies of the crown of Great Britain, had at the time of the capture of the said vessel, any right, title, or interest either directly in and to the said schooner the Favorite, her tackle, apparel, and furniture, or in or to the cargo before mentioned, or any part thereof; but that the said schooner the Favorite, her tackle, apparel, and furniture, and her general cargo, did at the time of the sailing of the said vessel from New York, and at the time of the capture thereof, belong to this affirmant, and would so have belonged to him, in case the said vessel had arrived at Curacoa, her port of destination, and until the same had there been sold anddisposed of for, and on the account and benefit of the affirmant: and this affirmant further saith, that he was not, at the time of shipping the cargo, on board of the said vessel, or at any time after, nor is he at this present time engaged in any partnership in any house of trade belonging to any person or persons enemies of the crown of Great Britain, residing within any of the territories of France, or of the United Provinces, or the Batavian, Italian, or Ligurian republics; and he further saith, that he is a natural born citizen of the United States of America, and was at the time of the sailing of the said vessel on the voyage before mentioned, and still is a resident of the city of New York: and this affirmant further saith, that when he despatched the said vessel on the voyage aforesaid, he did not know that the said island of Curacoa was in a state of blockade.

ABRAHAM S. HALLETT.

Affirmed this 4th May, 1805, before me,

E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, *State of New York, ss.*

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments, in writing, and to administer any oath, or oaths, to any person or persons, do hereby certify, that the writing hereunto annexed is a true and accurate copy of a protest signed Thomas Brown, and purporting to be sworn to by George Kinkead, which said protest appears to me, the said notary, to be an original instrument, which said copy, hereunto annexed, I, the said notary, have this day duly collated with the said original protest, and find the same to be, in all respects, a true and accurate copy of the said original.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the ninth day of May, in the year one thou sand eight hundred and five.

E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss.*

Thomas Brown, late of Perth Amboy, in the county of Middlesex, in the State of New Jersey, in North America, a native citizen of the United States of America, but at present in the city and parish of Kingston, in the county of Surry, and in the island of Jamaica, mariner, late master of the American schooner Bethia, belonging to James Parker, Joseph March, and Cortlandt L. Parker, of Perth Amboy, aforesaid, merchants, and native citizens of the United States aforesaid, being duly sworn, solemnly maketh oath and deposeth, that the said schooner Bethia, under this deponent's command, sailed from the port of Perth Amboy, aforesaid, about the second day of December, last past, being in the year of our Lord one thousand eight hundred and four, bound to the island of Curacoa, with a cargo of provisions, the property of the said James Parker, Joseph Marsh, and Cortlandt L. Parker. That he proceeded on his said intended voyage, without any material occurrences, and without meeting with any interruption, until the 22d day of said month of December, when being off the said island of Curacoa, the said schooner was boarded, and forcibly taken possession of by an officer and seamen from His Britannic Majesty's ship of war La Franchise, the honorable John Murray, Esq. commander, who took out of the said schooner the Bethia the mate and all the crew. And this deponent further saith, that the said schooner Bethia, then under the command of a prize-master and four English seamen, continued in company with the said ship La Franchise, until 6 P. M. on the same day, when the prize master bore away for the island of Jamaica, aforesaid, by order of the said honorable John Murray, Esq. and arrived in Kingston, aforesaid, on the 28th day of said month of December; the said schooner being much damaged in her sails and rigging by the inattention of the prize-master. And this deponent further maketh oath and saith that the agents of the said ship La Franchise, having proceeded against the said schooner Bethia and cargo in the court of Vice-admiralty, in the said island, for an intentional breach of blockade, this deponent caused a claim to be put in for the same, on behalf of the aforesaid owners. That on the 12th day of January, instant, the same came on to be heard, when his honor, the judge of the said court, was pleased to condemn the said schooner and cargo, as prize to His Britannic Majesty's said ship of war La Franchise.

THOMAS BROWN.

Sworn before me this —— day of January, 1805.

GEORGE KINKEAD.

UNITED STATES OF AMERICA, *State of New York, ss.*

By this public instrument, be it known to all whom the same doth or may concern, that I, Edward W. Laight, a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn, and in and by the said letters patent invested with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths, to any person or persons, do hereby certify, that, on the day of the date hereof, before me the said notary, at the city of New York, personally came and appeared Jaques Ruden and Israel Benjamin Jacobs, who in my presence then and there respectively subscribed the affidavits hereunto annexed, and each being by me duly sworn deposed and said that the contents of the affidavit by him were true.

Whereof an attestation being required, I have granted this under my notarial firm and seal.

Done at the city of New York, in the said State of New York, the 9th day of May, in the year one thousand eight hundred and five.

E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, *City of New York, ss.*

Jaques Ruden, of the city of New York, merchant, being duly sworn, saith, that he was the true and lawful owner of the American schooner the Performance, Isaiah Smart, master, her tackle, apparel, and furniture, and of the general cargo laden on board her at New York, the tenth of December, one thousand eight hundred and four, the said schooner then lying in the harbor of New York, and bound on a voyage to Curacoa. And this deponent further saith, that no person or persons whatever, being a subject or subjects, citizen or citizens of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian republics, their factors or agents, nor

any other enemies of the crown of Great Britain, had, at the time of the shipping of the said cargo, or at the time of the capture of the said schooner, any right, title, or interest, either directly or indirectly, in and to the said schooner, her tackle, apparel, and furniture, or to her cargo, so laden on board of her by this deponent as aforesaid, or to any part thereof; but that the said schooner and her cargo aforesaid, did, at the time of the departure of the said vessel on the voyage aforesaid, and at the time of her capture, belong to this deponent, and would so have belonged to him had she arrived in safety at Curacoa, the port of destination. And this deponent further saith, that he is a citizen of the United States of America, and was, at the time of the shipping of the said cargo, and still is, a resident of the city of New York.

JAQUES RUDEN.

Sworn this 9th day of May, 1805, before me,

E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss.*

Isaiah Smart, at present of the city and parish of Kingston, in the county of Surry, in the said island, master mariner, master of a certain schooner or vessel called the Performance, Israel Benjamin Jacobs, at present of the said city and parish of Kingston, late supercargo on board of the said schooner, Benjamin Remington, at present of the same place, mariner, the mate of the said schooner, and Zachariah Rhodes, at present also of the same place, mariner, a seaman on board of the said schooner, being duly sworn on the Holy Evangelists of Almighty God, severally and respectively make oath and say, that, on or about the 13th day of December now last past, they, these deponents, respectively departed and sailed, in and on board the said schooner or vessel, called the Performance, from the port of New York, in the United States of North America, cleared out for and bound to the island of Curacoa, with a cargo consisting of provisions and a few bales of dry goods, the property of Jaques Ruden of the city of New York, merchant, consigned to this deponent, the said Israel Benjamin Jacobs, for sales and returns. And these deponents further severally make oath and say, that after their departure from New York, as aforesaid, they proceeded on their voyage for and towards Curacoa aforesaid, without any thing material happening, (except meeting with several gales of wind) until about six o'clock in the morning of the 4th day of January last, when they had come in sight of the island of Bonaire, which was at that time bearing south southwest, and distant about three leagues; and these deponents say, that they made all sail, and run down with the said schooner close under the northwest point of the said island of Bonaire, making the best of their way for Curacoa; and that about nine o'clock in the morning of the said last mentioned day, a sail, which afterwards proved to be His Britannic Majesty's ship Franchise, commanded by the honorable John Murray, Esq. was descried from the said schooner, to the eastward, close under the said island of Bonaire, which sail immediately bore down for the said schooner: and these deponents further severally say, that the said schooner continued to make all sail for Curacoa, and the said ship Franchise chased the said schooner, firing frequently at her, till about 11 o'clock on the same day, when the peak of the said island of Bonaire bearing east northeast, three or four leagues distant, and the platform at Curacoa bearing southwest, and the said ship Franchise drawing near, the said schooner hove to for her to come up, which she did in a short time afterwards, and a boat was then sent from her on board the said schooner, with orders for these deponents, the said Isaiah Smart, Israel Benjamin Jacobs, and Benjamin Remington, to go on board the said ship Franchise; and these deponents, the said Isaiah Smart, Israel Benjamin Jacobs, and Benjamin Remington, for themselves, respectively, further severally say, that, in pursuance of the aforesaid orders, did go on board the Franchise, carrying with them all the papers belonging to the said schooner and her cargo, and that the honorable John Murray, Esq. the commander of the said ship, afterwards (and without warning off the said schooner from entering Curacoa,) took possession of the said schooner, and sent on board of her a prize-master and crew, from the Franchise, (together with these deponents,) with orders to proceed with the said schooner for the island of Jamaica aforesaid, where she arrived on the 9th day of the said month of January last. And these deponents further severally say, that since the arrival of the said schooner in this island, she hath been, together with her cargo, proceeded against in the court of vice-admiralty of the said island; and these deponents, the said Isaiah Smart, and Israel Benjamin Jacobs, caused a claim to be interposed for the same; but the said schooner and her cargo (except the private adventures of these deponents, the said Isaiah Smart and Benjamin Remington) have been by the said court condemned and confiscated as good and lawful prize to His Britannic Majesty's said ship Franchise, on the ground, as these deponents are informed, and believe, of an intentional breach of blockade.

ISAIAH SMART.
ISRAEL B. JACOBS.
BENJAMIN REMINGTON.
ZACHARIAH RHODES.

Sworn before me this 11th day of February, 1805, WILLIAM SAVAGE, *Magistrate.*

UNITED STATES OF AMERICA, *City of New York, ss.*

Israel Benjamin Jacobs, at present in the city of New York, merchant, being duly sworn, deposeth and saith, that he was the supercargo of the schooner Performance, on her late voyage, and that the foregoing is a true and accurate copy of the original protest made at Jamaica; and that the facts therein set forth are true in all respects.

I. B. JACOBS.

Sworn this 9th day of May, 1805, before me, E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, *City of New York, ss:*

Thomas Stagg, Jun. of the city of New York, merchant, being duly sworn, deposeth and saith, that he, together with Thomas Snell and Peter Stagg, likewise of the city of New York, merchants, were the true and lawful owners of the brig Lapwing, Lemuel Bourne, master, on her late voyage to Curacoa, and of the cargo on board of the said vessel, and that no person or persons whatever, being a subject or subjects, citizen or citizens of France, or of the United Provinces, or of the Batavian, Italian, or Ligurian republics, or inhabiting within the territory of France or the United Provinces, or of the Italian, Batavian, or Ligurian republics, their factors or agents, or any other enemies of the crown of Great Britain, had, either directly or indirectly, any right, title, or interest in the said brig the Lapwing or her cargo, or any part thereof, at the time of her sailing from New York, on her late voyage, or at the time of her capture, but that the said vessel and her cargo belonged to this deponent and the said Thomas Snell and Peter Stagg, and would so have continued to have belonged to them, had the said vessel arrived in safety at her port of destination, and until the said cargo had there been sold and disposed of, for and on account of this deponent and the said Thomas Snell and Peter Stagg; and this deponent further saith, that he was not, nor were the said Thomas Snell and Peter Stagg, or either of them, at the time of the sailing of the said vessel on the voyage aforesaid, or at any time after, nor are they, or either of them, at this present time, engaged in any partnership in any house of trade belonging to any person or persons enemies of the crown of Great Britain, residing within any of the territories of France, of the United Provinces, or of the Batavian, Italian, or Ligurian republics. And he further saith, that he is a natural born citizen of the United States of America, and that the said Thomas Snell and Peter Stagg are likewise natural born citizens of the United States, and that he, this deponent, and the said Thomas Snell and Peter Stagg were, at the time of the shipping of the cargo on board of the said vessel, in the voyage aforesaid, and still are residents in the city of New York, carrying on trade under the firm of Snell, Stagg, and Co.; and this deponent further saith, that he did not know at the time of sailing of the vessel on the voyage aforesaid, that the island of Curacoa was in a state of blockade. And this deponent further saith, that the annexed instrument of writing is a true and accurate copy of the protest received by this deponent from Jamaica.

THOMAS STAGG, JUN.

Sworn this 10th day of May, 1805, before me, E. W. LAIGHT, *Notary Public.*

UNITED STATES OF AMERICA, *City of New York, ss:*

I, Edward W. Laight, a public notary for the State of New York, do hereby certify, that on the 10th day of May, in the year of our Lord one thousand eight hundred and five, personally appeared before me Thomas Stagg Jun. the persons named in and who subscribed the aforegoing affidavit, and was by me duly sworn to the contents o the affidavit by him before subscribing.

Quod Attestor,

E. W. LAIGHT, *Notary Public.*

JAMAICA, *ss:*

Lemuel Bourne, at present of the city and parish of Kingston, in the county of Surry, in the said island, and master mariner, late master of the brig Lapwing, from New York in the United States of America, and Charles Selden, also at present of the city and parish of Kingston aforesaid, mariner, late mate on board of the said brig, being respectively duly sworn on the Holy Evangelists of Almighty God, severally make oath and say, that, on the 28th of October now last past, the said brig Lapwing sailed from New York aforesaid, with a cargo on board of her consisting of dry goods, cheese, claret, flour, provisions and lumber, the property of, and belonging to Messrs. Snell, Stagg, and Co. of the said city of New York, merchants and co-partners, destined for the island of Curacoa, and consigned to a Mr. Joseph Foulke, merchant there; and these deponents further severally make oath and say, that they did not speak with any vessel, nor meet with any material occurrence during their voyage, save only that the said brig Lapwing was very leaky from the commencement of her voyage, and continued so until the time of her capture, as hereinafter is mentioned, insomuch as to render it necessary to pump every quarter of an hour. And these deponents further severally make oath and say, that, at eight o'clock A. M. on Monday, the 12th day of November, now last past, they saw the island of Bonaire, and at two o'clock P. M. on the last mentioned day, when off the east end of Curacoa, the brig was captured by His Britannic Majesty's ship of war Diana, Thomas James Maling, Esq. commander, and sloop Pelican, John Marshall, Esq. commander, on the pretence, as they informed these deponents, that the said brig was bound to a blockaded port. And these deponents further severally make oath and say, that the said John Marshall took this deponent, Lemuel Bourne, and the whole of the crew, except this deponent, Charles Selden, and one sick man, out of the said brig Lapwing, on board the said sloop Pelican, and ordered the said brig Lapwing down to this island for adjudication. And these deponents further severally make oath and say, that the said brig Lapwing arrived in the harbor of Port Royal, in the said island of Jamaica, on the 21st day of the said month of November, and shortly after the said Thomas James Maling and John Marshall, on behalf of themselves and their officers, seamen, marines, and mariners, instituted a suit in the Vice-admiralty court of the said island against the said brig Lapwing and the cargo on board her; and this deponent, the said Lemuel Bourne, further saith, that having caused a claim to be filed in the said court, to the said brig's cargo, on behalf of the said Messrs. Snell, Stagg, and Co. the owners thereof, the same came on to be heard at the city and parish of Kingston aforesaid, on Monday the 17th day of December now instant, when his honor the judge of the said court was pleased to condemn the said brig and cargo, from which said sentence this deponent's counsel prayed leave to appeal, and which was granted in the usual terms.

LEMUEL BOURNE.
CHARLES SELDEN.

Sworn before me, this 19th December, 1804,

WILLIAM SAVAGE, *Magistrate.*

BRITISH CAPTURES.

Schooner Charlotte, Masterton.

Insured for B. Dupoy, 19th October 1803, from Cape Francois to New York.
On cargo, $11,000 at four and a half per cent. - - - - - - - - - $10,780

This cargo consisted solely of coffee, purchased and received from the French Government for the outward cargo sold to them, and it was at all times the true and *bona fide* property of B. Dupoy the assured.

This vessel sailed from Cape Francois 19th October, 1803, and on the same day, going out of the harbor, was taken by the British frigate Æolus, then lying there, and by Commodore Loring, of the British M. W., ordered for Jamaica. On the 24th, at midnight, captured by a French privateer commanded by one John Madelean, who carried them to St. Jago de Cuba. The captain applied to the Governor for redress, but none was afforded; the most part of the cargo taken out of the vessel, and the remainder offered for sale.

Schooner Independence, James Taylor.

Insured for B. Dupoy 25th October, 1803, from New York to Cape Francois.
If forbid entering Cape Francois, to proceed to any other port in the West Indies, not blockaded.

Vessel, - - - - - - - - - - - - - - - -	$2,200
Cargo, - - - - - - - - - - - - - - - -	3,300
	$5,574

Particulars of cargo: twelve casks of claret, pork, beef, flour, lard, cheese, sweet oil, soap, candles, onions, and empty bags. This vessel was within three leagues of the harbor of Cape François on the 16th November, 1803, His Britannic Majesty's sloop of war La Blanche and three others cruising off the harbor, and his register endorsed by Captain Mudge of the La Blanche not to enter said harbor, or go within three leagues of it; if he did, he should take possession of said schooner. In half an hour after the captain returned on board, a boat from the Bellerophon took charge of and ordered the schooner Independence for Jamaica, and she arrived there the 26th November. This vessel was condemned in Jamaica, and the cost to the owners enormous.

Ship Mercury, Speck.

Insured for John Juhel 24th July, 1804, from Martinique to New York.
In cargo, - - - - - - - - - - - - - - - $10,000

Cargo, two hundred and seventeen hogsheads clayed, six hogsheads Muscovado, and one tierce brown, sugar. This vessel was captured 11th September, 1804, by the Galatea frigate, Heathcote, carried to Antigua, and there condemned on the 7th October, 1804.

This vessel was a fine French ship, purchased in Martinique by Archibald A. Cock for account of his master, John Juhel of New York. A. A. Cock had been sent to Martinique to collect debts chiefly arising from cargoes sent there while under the British Government, due the said John Juhel, to receive consignments of cargoes from him, to make contracts for sugar and coffee, and to pay for the same from proceeds of the outward cargoes, and make returns to New York.

So far as can be collected from the papers, it appears that A. A. Cock was considered as domiciled at Martinique, and consequently affects the property of his master, a citizen of the United States, but is generally condemned as enemy's property.

Schooner Nancy, Hurd.

Insured for John Juhel, 5th March, 1804, from New York to Martinique, and, if ordered away by a British cruiser, to proceed to St. Thomas, and from thence to New York, warranted American property, in cargo eight thousand five hundred dollars, - - - - - - - - - - - $8,527

Cargo of this vessel sugar and coffee. This vessel arrived at Martinique without interruption, and, on the homeward voyage was captured on the 29th April, 1804, by the frigate Boston, Captain Douglas, sent to and condemned at Halifax, for a breach of blockade at Martinique, notwithstanding the orders to Commodore Hood respecting the blockade of Martinique and Guadaloupe.

An appeal is preferred to the lords in England.

Brig Jefferson, J. Crocker.

Insured for Ignatius P. Longchamp, 28th June 1804, from Bordeaux to New York.

Vessel, - - - - - - - - - - - - - -	$4,000
Cargo, - - - - - - - - - - - - - -	12,000
	$16,000

Cargo consisted of wines, brandy, and some other articles. This vessel was purchased in France with property left there by him and for his sole account. The cargo also purchased from the same means, the amount left in France in debts due Mr. Longchamp, as appears from sundry documents.

This vessel was captured off the Hook, on the 26th July, by the Cambrian and Leander, ordered for Halifax, the vessel and cargo condemned the 24th September, 1804.

This is a flagrant act of injustice. The only cause for condemnation, we can discover, is that Mr. Longchamp had been in France in the last three years, and that his brother was a conscript in the French service.

Mr. J. P. Longchamp is a native of Avignon.

An appeal is preferred to the lords in England.

Ship John, Patterson, from New Orleans to Bordeaux.

Insured for Joseph Thibaud, 13th March, 1805.
Cargo $4,000, - - - - - - - - - - - - - $4,000

The John sailed from the Balize on the 28th February, 1805, with a load of cotton, sugar, indigo, logwood, and mahogany; on the 30th of the same month, in latitude 36° 40′ north, longitude 64° 00′ west, was captured by the Cambrian, M. W. Captain Beresford, and ordered to Halifax. The ship is condemned on the ground that Mr. Carricabara, the former owner, a French citizen, never duly authorized Mr. Thibaud to make sale of the *ship*. The fact is, that Mr. Thibaud, the agent of Carricabara, did endeavor to sell the ship, but could not effect it: finally he becomes himself the purchaser, and the amount passed to the credit of Mr. Carricabara. Afterwards Mr. Thibaud sold a moiety of said ship to a Mr. Ignatius Longchamp, and gave him a bill of sale therefor.

The above cargo is condemned merely because it does not appear to the vice-admiralty court at Halifax, what property Mr. Thibaud had at New Orleans to make the purchase.

Ship John, Patterson.

Insured from New Orleans to Bordeaux for Joseph Thibaud.
Cargo $11,800, - - - - - - - - - - - - - $11,800

On sugar and indigo, the property of Mr. P. Lanusse, of New Orleans.
This property is reserved for further proof.

Schooner Araminta, Smith.

Insured for J. P. Durand 31st July, 1824, at and from Cayenne to New York.
Cargo $12,000, - - - - - - - - - - - - - $12,000

Cargo consisting of rocoa, cotton, cocoa, and palm oil. This vessel sailed from Cayenne on the 18th July, 1804, and, on the 15th August following, was captured within four leagues of the light-house of Sandy Hook by the Leander, B. M. W. Skeene, commander, and ordered for Halifax, where they arrived on the 27th of the same month.

The Araminta's cargo was condemned at Halifax on the ground (so far as we can collect) that Mr. Durand did not account for the means of purchase, and that the outward cargo, belonging to another person, was contraband of war.

Ship Manhattan.

Insured for Frederick and Philip Rhinelander, the 14th June, 1804, from New York to Batavia, one other port in India, and back to New York.
In vessel $40,000 valued at that sum, - - - - - - - - - - - $40,000

This vessel was chartered for a voyage to Batavia and back by Messrs. Minturn and Champlin, of New York, a cargo was purchased at Batavia, for their account, consisting of sugar, coffee, indigo, cotton yarn, and spices. On the return was captured by the British armed brig Busy, Captain ——, carried to Bermuda, where, after much trouble, delay, and expense, the vessel was restored, as was the cargo also; but the captors appeal from the sentence, as it appears, merely for the purpose of creating profits from commission to the friends of the captors in Bermuda. The sole cause of capture, so far as can be learned, was that a Dutch passenger was on board from the Cape of Good Hope.

Ship Penman, Coffin.

Insured for Byrd and Barron 19th November, 1804, at and from Batavia to Muskat, and back to Batavia, vessel and cargo $22,000 - - - - - - - - - - - - - $22,000

This vessel sailed on a voyage from New York to Antwerp, thence to India. The voyage insured was an intermediate one, on which she was captured, as sailing contrary to the British instructions of 1803.

The Penman was captured, on the 4th October, by His Britannic Majesty's ship Tremendous, John Osborne, and carried to Columbo, in the island of Ceylon, and there condemned on the 31st December, 1804, as having carried, and, at the time of the capture, carrying on an illicit trade between the Batavian republic, her colonies in the East Indies, and of the colonies of her allies.

Schooner Fairplay, Robins.

Insured for P. A. Cammann 10th October, 1805, from New York to Curacoa; if blockaded, to proceed to a port that is not. Vessel, freight, and cargo, $15,690, - - - - - - - - - $15,690

The schooner Fairplay sailed from New York in October, 1804, and was captured on the 7th November following by His Majesty's ship Diana, and ordered for Jamacia. The capture was made on the pretence of the blockade of Curacoa.

The Fairplay was afterwards retaken by the mate, carried to Carthagena, and the property said to be left in the hands of the Spanish Government whether any or what part will be recovered is uncertain.

Brig Joseph, Winship.

Insured for A. Kirkpatrick 23d April, 1805, from St. Pierre's, Martinique, to New York. Cargo $13,000 $13,000

This vessel was captured on the 11th July by a British ship of war, and carried to Tortola, and the cargo condemned on account that the outward cargo was contraband of war.

Ship Mary, Knight.

Insured for Henry Cheriot, 15th March, 1805, from Martinique to New York.
Cargo twenty thousand dollars, warranted that the outward cargo did not consist of articles contraband of war, - - - - - - - - - - - - - - - - - - $20,000

This was a cargo of sugar, the property of Mr. Cheriot.

The Mary was captured on the 26th April, by His Britannic Majesty's ship Ostry, Captain Clinch, and carried to Antigua. The vessel is dismissed, but the cargo detained for proof, on suspicion of being French property. The costs in the island of Antigua are shamefully enormous.

Ship John, Patterson.

Insured for Francis Phillippon, 4th March, 1805, from New Orleans to Bordeaux.
Cargo, - - - - - - - - - - - - - - - - $10,000

This cargo consisted of two hundred and fifty boxes Havana sugar. The sugar the property of a Mr. —— Phillippon, resident at New Orleans, and, like Mr. Lauresse's property, is reserved for further proof.

Ship Enterprise, Thompson.

Insured for Joseph Thibaud, 9th September, 1805, from Bordeaux to New York.
Cargo, - - - - - - - - - - - - - - - - $12,000

This vessel is captured and sent into Halifax; the cargo landed and detained for further proof.

Ship Hamilton, Masterton.

Insured for Labouisse & Co. 31st August, and 3d September, 1805, from Bordeaux to New York.
Cargo, - - - - - - - - - - - - - - - - $12,000

This vessel was captured by the British brig Busy, Captain Byam, on the 18th September last, about fifty miles from Sandy Hook light-house, sent to Halifax, the cargo detained for further proof.

The Enterprise and Hamilton are two only of several vessels lately sent to Halifax, the proof required it is difficult, and in some cases impracticable, to furnish, and it is a question whether it ought to be submitted to. I subjoin a copy of a letter from Mr. Solicitor Stewart to Mr. Michael Wallace, the agent of the assured at Halifax. It fully details the sentiments of Judge Croke.

Copy of Mr. Stewart's letter to Mr. Wallace.

HALIFAX, *November* 8, 1805.

DEAR SIR:

As the interlocutory decree of the court of vice-admiralty, in the cases of the ships Enterprise, Eugenia, Zulima, and Hamilton, will necessarily affect all other neutral ships engaged in the same trade, and as it is a decree that may lead to a final decision of infinite importance, I have thought fit, for the information of our American friends, to trouble you with a few lines on this subject.

These several ships and their respective cargoes were charged, generally, in the allegation of the King's advocate, to be enemies' property, and various grounds were adopted in support of the allegation. Among the number was a point of national law which the counsel for the captors thought fit to raise, upon very loose information afforded by letters found on board the ships, of a late decree of the Government of France, respecting the importation of goods of British growth or manufacture. It appeared by a number of these letters that certificates of origin, as they were termed, had been carried to France by these several ships, for the purpose of proving the growth and manufacture of their outward cargoes. It appeared also, that unless those certificates had been produced at Bordeaux, the vessels and their cargoes would, in all probability, have been condemned by the French Government, under the decree before mentioned. And it further appeared that the produce of the French colonies, of which the outward cargoes of those ships chiefly consisted, was exempted from duties on the production of the certificates.

Upon these facts it was contended on the part of the captors, that a trade carried on to France by neutrals, under the decree in question, was an unusual course of trade, submitted to for the advantage of the enemy. That the certificates of origin were obtained conformably to that decree, and favored the views of the enemy by rejecting all goods of British growth or manufacture, and by entitling the neutral to the same exemption or reduction of duties, that would be granted to a Frenchman; and that such commerce was unneutral upon the general ground of avowed partiality to the known enemy of Great Britain.

On the part of the claimants, it was answered by their advocates, that the information afforded of the decree, as well as of the certificates of origin, and the duties in question, was extremely garbled and incorrect. That taking the facts, however, for granted, it did not appear that the course of trade was any other than that to which neutrals had been entitled by the law of nations for ages past. That the French Government had a right to impose any restrictions whatever in its own trade, and to admit neutrals to a participation of it upon such terms as a regard for its own interest would naturally dictate; that the decree which directed the certificates of origin was of late date, and it was impossible yet to ascertain what would be the conduct of neutrals with respect to it; but that if they should still continue to carry on their commerce with France, under the restrictions imposed by that decree, they would have a complete right by the law of nations so to do, and would by no means be guilty of that gross partiality which amounts to unneutral conduct.

The judge, however, was very much inclined to adopt, in his decree, the arguments of the King's advocate, and laid much stress upon the course of trade being unusual, and of its having been resorted to by the enemy, in consequence of our naval superiority. He admitted the certificate of origin would not of itself have been sufficient cause of condemnation, and that a decision to this effect had been given by our courts at the close of the last war. But he observed that the decree in question might imposecerta in restrictions and limitations which, if complied with, would create a breach of neutrality; that if neutrals, who were favoring the commerce of France, were allowed the same privileges with Frenchmen, by an exemption from duties or otherwise, he could not but consider them in the

same light with the subjects of France; and on that account he was desirous of ascertaining in what respect the course of trade *now* carried on with the French ports in the mother country differed from the former and customary line of commerce. He, therefore, directed further proof to be produced to the following points:

1. Of what colony or country the outward cargoes were the growth, produce, or manufacture.
2. Under what certificates the same were admitted to entry in the ports of France, and whether liable to foreign or reduced duties.
3. What are the French laws on this subject, and what limitations are imposed on return cargoes.

The judge, concerning the different interests in the cargoes, observed, that he should require from every claimant a notarial copy of the original letter or order, by virtue of which the goods from France were shipped on neutral account, and that all letters of correspondence, bills of lading, and invoices which concern such shipments, or notarial copies of them, must be produced to the court, verified by the attestation of clerks or other indifferent persons. This proof should be accompanied by the test affidavit, as it is called, of the party himself, swearing to his notarial character, and fully stating his right to the property claimed by him, and the funds by which he acquired it. It should conclude with the usual averment, that no enemy of Great Britain has any concern in the goods; that they were at the time they were shipped, and at the time of the capture, and would now be if restored, the sole and exclusive property of the claimant.

The judgments of professional gentlemen in the States can surely supply any further direction that may be necessary on the point of property.

You will, no doubt, write to your several correspondents by this opportunity, and I have only to request you will assure those gentlemen of the best having been done for them, and that they shall have a continuance of my exertions.

I am, &c.

JAMES STEWART.

Ship Belisarius, Holmes, from New York to Bordeaux.

Insured for J. P. Longchamp, 12th June, 1805.	
On cargo,	$3,030
F. Huguet,	775
E. Stevens,	8,500
Ditto, freight,	1,500
	$13,805

This vessel was captured by the British, and carried into England; the property detained for further proof. This vessel and part of the cargo belongs to General Stevens, nor is there a doubt (so far as I can learn) but that the property is all American.

Brig Little Cornelia, from New York for Amsterdam.

Insured for J. Arden, the 6th, 13th, and 23d August, 1805.	
On vessel,	$4,500
On cargo of sugar,	13,000
On logwood,	750
On freight,	2,500
	$20,750

This vessel is sent into a port in England for adjudication; particulars not yet known. The property that of Mr. Arden, of this city; the sugars imported from Martinique, by him landed, and the duties secured here.

Ship Cicero.

Insured for Gouverneur and Kemble, the 13th August, and 2d September, 1805.	
On cargo of Havana sugars,	$26,420

This vessel is also sent into England, no particulars known. The sugars the property of Messrs. Gouverneur and Kemble.

Total amount of British captures,	$288,946

FRENCH CAPTURES, &c.

Brig Hector, of New York, Thomas Harding.

Insured for William Armstrong, Jun. 28th June, 1804.	
September 9, 1804, paid a total loss on several invoices:	
Provisions and lumber,	$4,091 50
Ditto, another policy of provisions,	142 10
Ditto, on freight,	2,009 00
	$6,242 60

Taken by two French privateers on the 23d July, and finally carried to Baracoa, in Cuba.

NOTE.—This property was British, in an American vessel. Protest sent to the Secretary of State's office, July 5, 1805.

Schooner Eagle, Thomas Barber.

Insured for John Troop, from New York to Jamaica, on the cargo, and to Jamaica back, on the vessel.	
September 10, 1804, paid total loss on vessel,	$2,450
Cargo, provisions, and lumber,	5,684
	$8,134

NOTE.—This vessel, as well as cargo, were owned by John Troop, a citizen of the United States, and resident in New York, captured on the 17th June, 1804, by the French privateer schooner Sansculotte, Rolly, and carried to Baracoa. Protest sent to the Secretary of State's office, 5th July, 1805.

Schooner Polly, John Biglay.

Insured for John Troop from New York to Montego Bay, Jamaica.	
October 22, 1804, paid a total loss on cargo	$4,214

This was a cargo of provisions, shipped by John Troop for his own account.

Captured by a French privateer on 13th July, 1804. Protest sent to the Secretary of State's office, 5th July, 1805.

Brig Twins, Crowe.

Insured by Thomas Buchanan, 20th February and 11th March, 1805.

On vessel paid total loss	$8,000
Freight do.	2,000
Cargo do.	10,595
	$20,595

From New York to Jamaica.

This vessel was owned by Thomas Buchanan, of New York. The cargo was on account of British planters in Jamaica, and vessel and cargo captured by three French privateers on the 11th April last, and carried to Baracoa, in Cuba.

Protest sent to the Secretary of State's office, 5th July, 1805.

Copy of a letter to the honorable Secretary of State.

OFFICE OF THE UNITED INSURANCE COMPANY,
NEW YORK, *5th July*, 1805.

SIR:

In behalf of the United Insurance Company, in the city of New York, I have the honor to transmit you an account of captures, illegally made by certain French privateers, of property insured by the said company. We have no reason to believe that the property was ever condemned by any competent tribunal; on the contrary, we apprehend the same was converted to the private use of the captors, without the form of a judicial proceeding.

Captures of a similar nature having frequently occurred, the United Insurance Company have felt it their duty to transmit to the Government of the United States a correct statement of the circumstances accompanying the violation of our neutral commerce, and a full detail of the facts will be found in the enclosed documents.

They confide in the wisdom and justice of Government to adopt all necessary measures for their indemnity for past injuries, and their security against future ones of a similar nature.

I have the honor, &c.

JOHN DELAFIELD,
President United Insurance Company.

LIST OF CAPTURES.

Brig Hector, of New York, Thomas Harding, from New York to Jamaica.

William Armstrong, jun. Sept. 9, 1804, paid total loss on several invoices:

Provisions and lumber,	$4,091 50
Do. another policy, provisions,	142 10
Do. on freight,	2,009 00
	$6,242 60

Taken by two French privateers on the 23d of July, aud finally carried to Baracoa, in Cuba.

NOTE.—This property was British in an American vessel.

Schooner Eagle, Thomas Barber.

New York to Jamaica on the cargo, and to Jamaica and back again on the vessel.

John Troop. Sept. 10, 1804, paid a total loss on vessel,	$2,450
On cargo, provisions and lumber,	5,684
	$8,134

Ship Andromache, Heckle.

Insured for Thomas Buchanan, 15th and 29th August, 1804, from New York to Jamaica.

Cargo belonging to persons resident in Jamaica,	$8,900
Ditto, Ditto,	475
Freight,	3,000
Vessel,	8,000
	$20,375

The Andromache was captured on the 5th October, 1804, by the French privateer Democrat, Jerome, commander; and, on the 9th of the same month, wss re-captured by the British S. W. La Sagesse, carried to Jamaica, and the property in vessel and cargo released on paying a salvage of one eighth per cent. and charges.

Ship Almy, Crowe.

Insured for Thomas Buchanan, 3d July, 1805, from New York to Falmouth, Jamaica, cargo belonging to persons resident in Jamaica, $12,435 00

Total amount of French captures, $72,215 60

The Almy was captured on the 26th June, by the French privateer schooner La Confiance, Captain La Paze, and carried to Baracoa, in Cuba; arrived there 28th June.

SPANISH CAPTURES, &c.

Brig Success, Brum.

Insured for George Barnwall, from Jamaica to New York, 30th July, 1805; cargo ten puncheons rum, $630

The Success was captured on the 13th July, 1805, by a Spanish galley, belonging to the Havana, called La Bonne Union, commanded by Captain Cæsar, and manned with thirty or forty Spaniards and Frenchmen, with one Irishman, who served as an interpreter. That three days after the said capture, said Captain Brum, the passengers, eight in number, and the people of the said brig, were all ordered below, and the hatches shut upon them;

in this situation they were kept through the night. In the morning, the crew of the galley prepared their knives and cutlasses and clubs, opened the forecastle and called for the captain. That this appearer, with the view of preserving the captain's life, stepped forward and ascended to the deck; that the crew of the galley, with their instruments of slaughter, having arranged themselves in two ranks, compelled the seamen of the said brig to run the gantlet, while each gave him a blow or a stab as he passed. That Captain Brum and his passengers and crew, were all, in succession, taken from the hold, and treated with the same horrid cruelty, excepting five French passengers. That an English gentleman, by the name of Smith, who was one of the passengers, was beaten with such severity that he sprang into the long boat and broke his ancle in two places; that the mate of said brig, two English passengers, and two seamen, were put in irons on board the galley, and three days afterwards sent ashore at Congaboutee, about one hundred and eighty miles from Havana, and the said brig and remainder of the crew were sent to Campeachy; and it is stated that the property is in the hands of the Government, subject to the orders of the owners.

PHILADELPHIA, *December* 10, 1805.

SIR:

Among the numerous captures of American vessels, lately made by British cruisers, the circumstances attending four vessels, taken on their passage from Bordeaux, (three for New York, the other for this place,) has particularly attracted the attention of the merchants and insurance companies of this place, where the property has been principally insured.

Those vessels, carried cargoes from the United Statesto Bordeaux, and were returning with articles, the manufacture or growth of France, partly the proceeds of the goods they carried out, and partly purchased with their funds. The vessels and their cargoes were libelled in the vice-admiralty court at Halifax, and are held for further proof.

By a letter received from the proctor of the claimants, (a copy of which accompanies this,) it appears that the King's advocate advanced on the trial principles new and extraordinary, which were favorably received by the judge, who has called for proofs that have never been required on any former occasion. Such proofs, as have been usual, have actually been sent forward, but strong doubts exist whether the others called for, if obtainable, ought to be adduced. Wishing to act with due circumspection in an affair which may involve important consequences, it has been deemed advisable to submit the case, with such observations as have occurred to us, to the Department of State, that we may benefit of any advice or opinion you may favor us with.

The proofs required by the judge, which to us appear exceptionable, are:

1. Of what colony or country the outward cargo was the growth, produce, or manufacture.

2. Under what certificates were the same admitted to entry in the ports of France, and whether liable to foreign or reduced duties.

3. What are the French laws on this subject, and what limitations are imposed on return cargoes.

We consider the first as exceptionable, inasmuch as it has not been heretofore required; it has been held under former decisions of the British courts that return cargoes are not questionable on account of the outward one, except the latter consisted of articles contraband of war. In the last order of the British King, the exception is confined to the product of articles contraband of war: the embarrassment which the establishing this as a principle would occasion, is too obvious to require explanation.

"2. Under what certificate were the same admitted to entry in the ports of France, and whether liable to foreign or reduced duties."

To this, besides the objection already stated, it seems utterly irreconcilable to the principles of justice, that the claimants should be called upon either to prove a negative, or furnish a cause of condemnation of their property. It was suggested by the judge in his reasoning that the permission of importing into France the produce of her colonies by neutrals, while those of the British dominions were excluded, was, of itself, a breach of neutrality, and if on reduced duties that would be an additional reason.

The fact (as respects those ships,) is, that they carried from the United States cargoes taken on freight, from various people, and consisting of articles, the produce of the United States, and of the French and Spanish colonies; the cargoes with which they were returning are not precisely the proceeds of the outward ones, nor all belonging to the same persons; it is, therefore, imposing upon the owners of the present one a most unreasonable task, and has this still further disadvantage that, if those proofs are furnished in cases in which they are attainable, in every instance in which that could not be done, it may be deemed a ground for condemnation; besides, it would be used for a precedent on all future occasions.

To the third there is no other objection, but that it puts upon the claimant a proof which, if material, ought to be adduced by the captors. If, as they contend, the laws of France, which provide for neutral commerce, are a ground of condemnation, the proof of the existence of such law in reason rests with the captors.

As the French laws are explained to us, they provide against the introduction into that kingdom of any goods or merchandise, the manufacture or growth of any of the dominions of Britain. And it is therefore required that all goods carried there should be accompanied with certificates, showing of what country they are the manufacture or growth, and such certificates are to be verified by the commercial agent of France at the port of their shipment, or his deputy; these are called certificates of origin, and are indispensable.

With respect to the reduced duties, we understand that there has existed in France, (many years previous to the revolution,) a regulation which provided that the exporters of goods from her colonies, by paying certain duties at the place of export, would be allowed an abatement on the duties, to which they would otherwise be liable on their introduction into France. When that law was decreed, French subjects *only* could export the products of her colonies to the mother country. Since the revolution the like provision has been extended to all persons exporting those products; but we are informed that it is embarrassed with so many provisions and difficulties that the abatement in France is seldom claimed, and much seldomer obtained. Some imperfect notices, extracted from letters found on board those ships, has probably suggested this inquiry, and not any certain knowledge of the law, or its effect on the goods in question.

To the latter part of the third proof required, it can be established that no condition is exacted from the exporters of goods from France to any neutral country.

In the present state of our commerce, the principles to which we have referred cannot be viewed by the merchants and underwriters of this city without extreme anxiety. Relying on the decisions which formerly took place in the British courts, the merchants of this country have risked property to an immense amount, much of which is now at hazard, and depending on the establishment of the principles which are the subject of this communication.

The time limited for exhibiting our proofs at Halifax expires on the 8th February. If you shall deem it necessary to favor us with any communication on the subject, it may be in time, and will be used in such way as you may advise.

We are, &c.

THOMAS FITZSIMONS,
President Delaware Insurance Company of Philadelphia.

JAMES S. COX,
President Insurance Company of Pennsylvania.

JOSEPH BALL,
President Insurance Company of Philadelphia.

CHARLES PETTIT,
President Insurance Company of North America.

JAMES MADISON, Esq. *Secretary of State.*

HALIFAX, *November* 8, 1805.

DEAR SIR:

As the interlocutory decree of the court of vice-admiralty in the cases of the Enterprise, Eugenia, Zulema, and Hamilton, will necessarily affect all the other ships engaged in the same trade; and as it is a decree which may lead to a final decision of infinite importance, I have thought it fit, for the information of our American friends, to trouble you with a few lines on the subject of it. These several ships, and their respective cargoes, were charged generally in the allegation of the King's advocate, to be enemy's property, and various grounds were adopted in support of the allegation. Among the number was a point of national law, which the counsel for the captors thought fit to raise, upon very loose information, afforded by letters found on board the ships, of a late decree of the Government of France respecting the importation of British goods or manufacture. It appeared, by a number of those letters, that certificates of origin, as they were termed, had been carried to France by these several ships, for the purpose of proving the growth and manufacture of their outward cargoes. It appeared, also, that unless these certificates had been produced at Bordeaux, the vessels and their cargoes would, in all probability, have been condemned by the French Government under the decree before mentioned; and it further appeared, that the produce of the French colonies, of which the outward cargoes of these ships chiefly consisted, was exempted from duties on the production of the certificates. Upon these facts, it was contended, on the part of the captors, that a trade carried on to France by neutrals, under the decree in question, was an unusual course of trade, submitted to for the advantage of the enemy; that the certificate of origin was obtained conformably to that decree, and favored the views of the enemy, by rejecting all goods of British growth and manufacture, and by entitling the neutral to the same exemption, or reduction of duties, that would be granted to a Frenchman; and that such commerce was unneutral, upon the general ground of avowed partiality to the known enemy of Great Britain.

On the part of the claimants it was answered by their advocates, that the information afforded of the decree, as well as of the certificate of origin, and the duties in question, was extremely garbled and incorrect; that taking the facts, however, for granted, it did not appear that the course of trade was any other than that to which neutrals had been entitled by the law of nations for ages past; that the French Government had a right to impose any restriction whatever upon its own trade, and to admit neutrals to a participation of it, upon such terms as a regard for its own interest would naturally dictate; that the decree which directed the certificate of origin was of late date, and it was impossible yet to ascertain what would be the conduct of neutrals with respect to it, but if they should still continue to carry on their commerce with France, under the restrictions imposed by that decree, they would have a complete right, by the law of nations, so to do, and would by no means be guilty of that gross partiality which amounts to unneutral conduct. At all events, supposing the greatest mischiefs to result to the British Government from such commerce, it was a subject for the consideration of the ministry, and could not be a ground of legal argument in a court of vice-admiralty.

The judge, however, was very much inclined to adopt, in his decree, the arguments of the King's advocate, and laid much stress upon the course of trade being unusual, and upon its having been resorted to by the enemy, in consequence of our naval superiority. He admitted that the certificate of origin would not, of itself, have been sufficient cause of condemnation, and that a decision to this effect had been given by our courts at the close of the last war; but he observed, that the decree in question might impose certain restrictions and limitations, which, if complied with, would create a breach of neutrality; that if neutrals, who were favoring the commerce of France, were allowed the same privileges with Frenchmen, by an exemption from duties, or otherwise, he could not but consider them in the same light with the subjects of France, and on that account he was desirous of ascertaining in what respect the course of trade now carried on with French ports, in the mother country, differed from the former and customary line of commerce. He, therefore, directed further proofs to be produced, to the following points: 1. Of what colony, or country, the outward cargoes were the growth, produce, or manufacture? 2. Under what certificates were the same admitted to entry into the ports of France, and whether liable to foreign or reduced duties? 3. What are the French laws upon this subject, and what limitations are imposed on return cargoes?

I should imagine that further proof might be obtained to these several points, by an application to the French minister in America for the law on the subject, and by applying to the custom house for the history of the outward cargoes. The judge, concerning the different interests in the cargoes, observed, that he should require from every claimant a notarial copy of the original letter, or order, by virtue of which the goods from France were shipped on neutral account, and that all letters of correspondence, bills of lading and invoices which concern each shipment, or notarial copies of them, must be produced to the court, verified by the attestation of clerks or other indifferent persons. This proof should be accompanied by the test affidavit, as it is called, of the party himself, swearing to his national character, and fully stating his right to the property claimed by him, and the funds by which he acquired it. It should conclude with the usual avowment, that no enemy of Great Britain has any concern in the goods; that they were, at the time they were shipped, and at the time of the capture, and would now be, if restored, the sole and exclusive property of the claimant. The judgments of professional gentlemen in the States, can supply any further directions that will be necessary upon the point of property. You will, no doubt, write to your several correspondents by this opportunity, and I have only to request that you will assure those gentlemen of the best having been done for them, and that they shall have a continuance of my exertions.

I am, &c.

JAMES STEWART.

JOHN BLACK, Esq. *of the house of Forsyth, Smith, & Co. Halifax.*

NEWPORT, R. I. *December* 7, 1805.

SIR:

Subjoined you have a list of American vessels insured by the Rhode Island Insurance Company, established at this place, which have been captured by some of the powers at war, and in consequence thereof abandoned to said company.

Schooner Polly of Newport: Owners John Bigley and Charles Cezzens, both of said Newport, burden of vessel about one hundred tons.

Circumstances of the capture:—On the 18th of June, 1803, she sailed from New York, bound on a voyage to Jamaica, and thence back to New York, with a cargo of lumber and provisions; vessel and cargo of the value of about five thousand dollars. On the 13th day of July following, on her outward passage, lat. 20° 20′ north, she was captured by a French privateer called the two friends, commanded by ——— Beson, if his name be rightly recollected. The master with his papers was taken and detained on board the privateer; the mate and crew put on board a boat and compelled to leave the schooner and provide for their safety as they might; fortunately they arrived safe to land. Captain Bigley was put on shore at Miaguiagua, S. W. part of Porto Rico, being first stripped of his papers, and the property about him.

The prize-master and men put on board the schooner, conducted her to Samana, in the island of Hispaniola. Vessel and cargo, according to information, were sold there by order of Government, and the proceeds deposited in the public treasury, to be paid over to the concern. The amount of these proceeds is not known; but report makes it a trifle compared to the value of the property. What or whether any process was instituted against her by the captors is not known, or whether they had any commission; it is supposed they had none. Owing to the difficulty and infrequency of the communication, it has not yet been in the power of the concern to obtain the proceeds.

Brig Orange, of Newport: owner, Thomas Dennis, of Newport; master, Stephen A. Wanton, of ditto; burden of the vessel about —— tons.

Circumstances of capture, &c.—On the 15th day of June, 1804, she sailed from Newport, bound on a voyage to Jamaica, and from thence back to Newport, with a cargo of dry and pickled fish, &c. valued at about eight thousand dollars. On the —— day of August, 1804, she was captured by a French privateer, called the ——— commanded by ——— and carried into Baracoa, and there disposed of by the captors, but in what manner is not known.

Schooner Sea Flower, of Newport: owner, John Clarke, of Newport; master, the same John Clarke; burden of the vessel about ninety-three tons.

Circumstances of capture.—On the 26th day of December, 1804, within one mile of the shore of the island of Cuba, and in sight of the Moro Castle, and bound to Havana, she was captured by a French privateer, called the Napoleon, and commanded by ——— master. Captain Clarke petitioned the Government at the Havana to have the property liberated, as being captured within that jurisdiction. Pending this petition, to avoid delay and expense, Captain Clarke made a compromise with the captors, by which he agreed to pay them nine hundred dollars, and they agreed to release the property: he paid the nine hundred dollars, and they executed the release, and the prize-master and Frenchmen quitted the vessel. Clarke then informed the Government of what had been done, produced the release, and requested the Spanish guard on board the Sea Flower might be withdrawn. The Spanish Government demurred from day to day, on one pretence and another, till at length one of the officers of the privateer presented a new petition, claiming the prize anew. Thereupon the Government immediately decreed, that the property should be delivered to the captors, upon their giving bonds to abide the decree of the French Government at St. Domingo. The agent of Clarke offered to take the property and deposit in court twenty-four thousand dollars to abide the decree at St. Domingo. This was refused, and bond of the captors was accepted for only eighteen thousand dollars; and the only security required to this bond was a mortgage of some land in a distant part of the island of Cuba. Whether any decree at St. Domingo has since been passed, we have not ascertained; but from the best information, we presume a decree has been passed; the information is contradictory. One report states that the vessel was acquitted, and the cargo condemned, another that both were condemned.

Schooner Ann and Harriott, of Newport: owners, Robert Stevens and Robert Rogers, of Newport; master, William Shearman, of Newport; burden of the vessel about ninety-three tons.

Circumstances of the capture, &c.—On the 17th of June, 1805, she was captured by a French privateer, called the Lucerne, on her passage to Jamaica; afterwards on the —— day of ——— 1805, she was recaptured by an English frigate of war, called the Diana, and commanded by —— Molony, and was sent into Jamaica, where vessel and cargo were libelled and sold for salvage: value of vessel and cargo about ten thousand dollars.

Brig Mary, of Newport: owner, Thomas Dennis, of Newport; master, John Davis, of ditto; burden of the vessel about one hundred tons.

Circumstances of the capture, &c.—On the 8th day of April, 1805, she sailed from Newport for Jamaica loaded with codfish, provisions, &c. that the 26th same month, she was captured by a French armed boat, whether commissioned or not unknown. The crew of the brig were forced into a boat, with some provisions, and driven off to seek their safety as they could. They got to one of the Bahama islands, the master was afterwards put on shore at one of the Bahama islands. The brig and cargo were carried to Baracoa, in the island of Cuba. No process whatever was instituted against the property, by the captors; they there embezzled the cargo and sold the vessel. The loss is about ten thousand dollars.

The office has an interest in the brig Rowena, Robinson Potter, master, condemned in England in the course of the summer past, but the circumstances of that case are not here detailed, as other offices, who have a greater interest in the same vessel, have already, or will represent them. The vouchers, in proof of the foregoing statements, will be forwarded, if necessary, with perfect confidence that these lawless depredations on our commerce will be properly felt and noticed by our Government. I am, &c.

SAMUEL VERNON, Jun. *President.*

Honorable James Madison, *Secretary of State.*

To the honorable James Madison, Esq. Secretary of State, for the United States.

Sir: Newport, R. I. *December* 11, 1805.

The Newport Insurance Company deem it their duty to exhibit to the Government, a statement of the losses they have sustained during the present war, by the depredations of the belligerent powers. Compared with its limited capital and enterprise, it is presumed there are few offices in the United States that have suffered more.

From the instances mentioned in the sequel, it may be collected, that since the 23d day of July, 1804, the aggregate of loss to the merchants and the country, by lawless captures, exceeds fifty-seven thousand dollars, and that the part thereof that falls to the share of this company exceeds thirty thousand dollars. The company conceive themselves to be justified in stating, that these losses arose from contingencies which no commercial intelligence could foresee, and upon which no commercial prudence was bound to calculate.

The losses they have to enumerate was sustained in the course of a legal accustomed and honestly neutral commerce, carried on by native American citizens, with American capitals, in American bottoms.

These losses may be arranged under two heads:

1st. Captures in the West Indies by piratical privateers, with real or pretended French commissions. The property plundered by these privateers has been uniformly taken into the ports of the island of Cuba, and there, with the connivance or under the protection of the Spanish Government, without any form of trial or pretence for legal condemnation, has been sold and distributed.

2d. Captures in the British channel by British armed vessels, in consequence of the new principle lately anounced by the courts of admiralty, viz: that in case a vessel has brought goods from the colony of a belligerent, although she brings them to the United States, and the owners there unlade them, pay the importation duties, finish the concerns of the old voyage, and select and undertake another, with the same vessel and goods, it shall not be deemed evidence of a new voyage, but, on the contrary, conclusive evidence of a continued and uninterrupted voyage from the colony of the belligerent.

Under the first head have occured the following cases:

No. 1. Brig Orange, S. A. Wanton, master; Thomas Dennis, of Newport, Rhode Island, merchant, owner, laden with fish and provisions, bound from Newport to Jamaica; vessel and cargo valued at $10,000, insured by the Newport Insurance Company, $4,000 on cargo.

Circumstances of capture, &c.—The Orange was taken on the 21st July, 1804, by the French privateer Voltigeuse, Captain Moisson, about six leagues from the island of St. Domingo. The officers and men were stripped of every thing, even to the clothes on their backs, and left entirely destitute. The property was taken to Baracoa, in the island of Cuba; no form of trial or condemnation was had. The cargo was distributed by the captors in their own way, and the vessel, it is believed, burnt.

No. 2. Brig Sally, Stephen Chase, master; Seth Hoard, owner, bound from Jamaica to the United States; vessel and cargo estimated at $4,000; insured by the Newport Insurance Company, $2,700.

Circumstances of capture, &c.—The captain, in his protest, declares that after being detained by an embargo at Falmouth, in Jamaica, he sailed from thence for Montego bay on the 28th of April, 1805; that he had been out about four hours when he was captured by a felucca within a mile of the shore. The captain of the felucca informed captain Chase he was a good prize, and that he had orders to *capture all American vessels* on the coast of Jamaica. The Sally was taken to Cape Coure, in the island of Cuba; no condemnation or form of trial was had, and Captain Chase, and three out of six of his men, after being stripped of their clothes, were ordered to take to their *boat*. They did so, and fortunately arrived at Montego bay on the 29th of the same month.

No. 3. Schooner American Lady, Enoch Toby, master: owned by Bowen and Ennis, of Newport, merchants, and others, cargo rum, &c. bound from Jamaica to the United States: value of vessel and cargo $4,000, insured by the Newport Insurance Company, $2,950.

Circumstances of capture, &c.—This vessel sailed on the 16th February, 1805, from Morant bay, south side of Jamaica, bound for Camden, State of North Carolina. On the 20th of the same month, being about five leagues distant from the Isle of Pines, she was brought to by a small privateer under French colors, mounting one swivel gun, and manned with about fifteen men, principally *Spaniards*. The vessel was taken possession of, carried to the Isle of Pines, the captain and men plundered and abused, and left on shore at this desert island without any means of subsistence except a dozen of biscuits and a bottle of rum. They would have perished there had it not been for the compassion of a Spaniard, the only inhabitant of the island. The captain and crew remained at this place until another French privateer arrived there, when they were taken at the request of Captain Toby, near Savannah La Mar, on the south side of Cuba, from whence they travelled to the Havana. The captain noted his protest with the American consul, who attended him to the Governor. Captain Toby explained to the Governor the ill treatment he had encountered; demanded a restoration of his vessel, which was *now within the Governor's jurisdiction* and the release of Moses Henly, a free black, one of his crew, who had left a wife and family in the United States, and who was in the greatest distress, as the captors were determined to sell him a slave for life. The Governor made little or no reply to Captain Toby's remonstrances or petitions. After waiting some time, finding himself unable to obtain redress, he was compelled to abandon the property, and return to the United States.

No. 4. Schooner Ann and Harriet, William Shearman, master, vessel and cargo valued at $10,400: vessel owned by Robert Rogers and Robert Stevens, and the cargo by John Mein, all of Newport, merchants, bound from the United States to Jamaica; $5,000 was insured by the Newport Insurance Company.

Circumstances of capture, &c.—This vessel was captured on the eighth of May last, by a French privateer, off Cape Maire, in the island of Cuba, and was ordered for St. Jago de Cuba, but upon being chased by the English ship of war Diana, she was run on shore by the *prize-master*. After considerable exertions, and throwing overboard a great part of her cargo, she was got off by the *English re-captors*, and taken by them to Kingston, Jamaica, where the vessel and the remainder of her cargo were sold under the process of the court of vice-admiralty there. The salvage of one eighth, which was awarded the re-captors, the destruction of part of the cargo, and the disadvantages under which the residue was sold, render this little less than a total loss.

These are the principal losses sustained by this company, arising from the piratical depredations of privateers in the West Indies.

In all these cases abandonments have been made to, and the sums insured paid by, this company.

Under the second head of loss, the two following important cases have occurred:

No. 1. The brig Rowena, Robinson Potter, master, voyage from Newport to Antwerp: vessel and cargo valued at $26,735, owned by Christopher Grant Champlin, Esq. for himself, in his own right, and as administrator of Christopher Champlin, Esq. deceased; sum insured by the Newport Insurance Company $15,000.

Circumstances of capture, grounds of condemnation, &c.—The owners of the Rowena had imported in her from Martinique a cargo of sugar and coffee. This cargo was legally landed, and the duties payable to the United States secured. The owners finding no advantageous domestic market for their coffee and sugar, made general inquiries into the state of the European market. They began to comtemplate generally an exportation; but whether that exportation would be to Copenhagen, Amsterdam, or Antwerp, or whether it was to be totally abandoned, was a matter in deliberation, and to be determined by the result of their inquiries. After a delay of some weeks it was ultimately decided to send the sugar and coffee to *Antwerp*. For this purpose a new voyage was concerted, a new crew hired, and a quantity of staves, the growth of our country, (and so expressly and minutely certified by the brig's papers,) was added to the original cargo. On the 6th of May last, the Rowena sailed from Newport, and on the 16th of June was captured off Ostend, by His Britannic Majesty's hired armed cutter the Griffin, commanded by Lieutenant Forbes. The alleged pretence of capture was a suspicion that the Rowena intended to violate the blockade of Ostend.

This pretence, however, totally unsupported by facts or by appearances, was speedily abandoned, and the sole question, at the trial, in the court of admiralty, was, whether the voyage was to be treated upon the footing, of one continued voyage from Martinique to Antwerp, *i. e.* from the colony of the *enemy* to the mother country. The judge, Sir William Scott, without entering into any discussion of the above question, or detailing at all the particular facts of this case, referred to his decision in a case immediately preceding, viz. the Enoch, Doane, master, and declared, as he did not see sufficient reasons to distinguish this from the case of the Enoch, it must meet the same fate. The case of the Enoch is, without doubt, in the possession of Government, and although, therefore, comment is unnecessary, and may be even deemed improper, yet we cannot forbear to remark, that the case of the Enoch is distinguishable from that of the Rowena in a very important particular. The Enoch, as Sir William Scott states, was under a charter party before she quitted Boston, to perform the voyage she did perform. Admitting a moment, for the purposes of argument, (what can never be admitted in fact, without the prostration of neutral rights, and the destruction of the commerce of the country,) that the newly announced principle of Great Britain is one deducible from the law of nations, and that its application was correct in the case of the Enoch, it by no means follows that its application was likewise correct in the case of the Rowena. There was no charter party in the latter case; there was nothing indicating a primary and preconceived intention, viz: at the outset, to go to Europe with the cargo procured in the West Indies. There existed nothing of which the case was first to be cleared, for the claimants to be entitled to the benefit of the rules of evidence, as laid down by the British courts. There was nothing, to speak in the language of those courts, to *shift the burden of proof*. But waiving any observations on a difference so obvious, it does seem somewhat extraordinary, that the sentence in the case of the Rowena should have been, in reality, one of *more* severity than the sentence in the *preceding* case; in that the property put on board at Boston was favorably considered and restored. In the case of the Rowena, staves of the growth of the United States, and put on board at Newport, were not restored, but included in the undistinguishing clause of condemnation, which, in its style of absurd formality, pronounces the ship and cargo to have belonged, at the time of the capture and seizure thereof, to enemies of the crown of Great Britain, and as such, or otherwise, liable to confiscation.

Besides the total loss, the company have paid $556, their proportion of $876, being the law costs attending the claim.

No. 2. Ship Hope, Robert Robinson, master; owners, George Champlin, Esq. Christopher Grant Champlin, Esq. as administrator of Christopher Champlin, Esq. *and the master:* voyage, from Newport to Amsterdam, value of ship and cargo, $108,631, insured by the Newport Insurance Company, $15,000.

Circumstances of the case, capture, &c.—The voyage in which this ship was engaged, previous to the one in which she was captured, was from Newport to Batavia. She sailed from Newport in February, 1804, and arrived at Batavia in the following May. Owing to the scarcity of produce, and the number of ships endeavoring to procure it, after selling a small quantity of iron, which made a part of her cargo, the captain proceeded wtih his ship and specie to Manilla; he there purchased a cargo of sugar and indigo, and sailed about the 20th of November, 1804, for Newport, where he arrived on the 12th of May, 1805. The cargo was landed and delivered, and the importation duties secured to be paid. After a lapse of about six weeks, the owners, not finding a sufficiently favorable market at home, concluded on a *new* voyage, to Amsterdam, for the purpose of re-exporting their sugar and indigo. The ship was, consequently, partially repaired, a *new* crew hired, and the sugar and indigo taken from *warehouses* and re-shipped. This ship sailed for Amsterdam on the 30th June, and was captured by His Britannic Majesty's hired armed cutter Swan, Lieutenant Cameron, and brought into Yarmouth, where, in consequence of the recess of the admiralty court, she was detained until the 12th of September, 1805, when, upon trial, the ship and cargo was *restored*, but without costs or damages. The condemnation was pressed, on the part of the captors, on the ground

of its being a cargo taken in at an enemy's colony, and after touching at America, having been brought on to the enemy's country in Europe, without breaking the *continuity* of the voyage by any *act done*. And in respect of this question, the judge declared there was *no evidence* that the *continuity* of the voyage was interrupted. The cargo of the Hope was purchased in Manilla, in time of profound peace between England and Spain. The ship sailed from Manilla three weeks before the declaration of war, by Spain, against Great Britain, which took place the 14th December, 1804, and about seven weeks before reprisals, on the part of Great Britain, yet still it was urged by the captors, that the cargo was purchased *in contemplation* of war, and the judge agreed, that, if that had been proved, it would have operated exactly the same effect as if actual hostilities had taken place; but, he said, as no proof appeared, and the fact being that war did not commence till after the vessel sailed, he thought it unlikely that Americans would speculate upon the subject. But supposing, says he, that it was an *importation* from *Manilla* to Amsterdam, *at this period*, it would have been an importation *perfectly legal*, and all transactions in America may be laid out of the question; yet, for being engaged in a voyage perfectly legal, after having had that voyage ruined by an illegal capture, the owners of the Hope were denied indemnity for damages sustained, and compelled to pay costs, expenses, and law charges, to the amount of two hundred and sixty pounds sterling, about forty pounds of which were exactions for light money, and Ramsgate and Dover harbor dues.

Such is the statement which this company, at the present juncture, has to make to the Government of the United States. The various protests, decrees, and other documentary evidence, confirmatory of this statement, shall be forwarded, when deemed necessary by Government.

The Newport Insurance Company have a hope and confidence, that the General Government, whose right it is to regulate, would feel it their duty to protect commerce; that means will be found, in the wisdom and energy of Government, to procure *speedy compensation* to the sufferers, and redress to the nation for its *violated* rights and dignity.

With sentiments of high respect, I remain, on behalf of said company, your obedient servant,

SAMUEL ELAM, *President*.

IN SENATE OF THE UNITED STATES, *February* 5, 1806.

The committee to whom was referred, on the 15th of January last, that part of the President's message which relates to the spoliation of our commerce on the high seas, and informs us of the new principles assumed by the British courts of admiralty, as a pretext for the condemnation of our vessels in their prize courts, respectfully report, for the consideration of the Senate, the following resolutions:

1. *Resolved*, That the capture and condemnation, under the orders of the British Government, and adjudication of their courts of admiralty, of American vessels and their cargoes, on the pretext of their being employed in a trade with the enemies of Great Britain, prohibited in time of peace, is an unprovoked aggression upon the property of the citizens of these United States, a violation of their neutral rights, and an encroachment upon their national independence.

2. *Resolved*, That the President of the United States be requested to demand and insist upon the restoration of the property of their citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace, and upon the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations, and to enter into such arrangements with the British Government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens, by amicable negotiation, that justice to which they are entitled.

3. *Resolved*, That it is expedient to prohibit by law the importation into the United States of any of the following goods, wares, or merchandise, being the growth, produce, or manufactures of the united kingdoms of Great Britain and Ireland, or the dependencies thereof, that is to say, woollens, linens, hats, nails, looking-glasses, rum, hard-wares, slate, salt, coal, boots, shoes, ribbons, silks, and plated and glass-wares. The said prohibition to commence from the —— day of ——, unless previously thereto equitable arrangements shall be made between the two Governments on the differences subsisting between them, and to continue until such arrangements shall be agreed upon and settled.

9th CONGRESS.] **No. 195.** [1st SESSION.

DENMARK—PETER LANDAIS.

REPORTED ON FEBRUARY 11, 1806.

The Committee of Claims, to whom was referred the memorial of Peter Landais, together with the report of the Secretary of State thereon, submit the following report:

Facts are detailed in the report of the Secretary of State, which, if they had been communicated to the Committee of Claims, when this case was under their consideration, at the last session of Congress, might have varied their decision. Your committee concur in opinion with the Secretary that the Government of Denmark must be liable to make restitution in the manner and upon the principles suggested in his report; and that it will be disposed to do so may be expected, not only from its love of justice, but also from its desire to emulate the equitable conduct of our own Government in relation to the subjects of that kingdom.

Claims to a large amount are exhibited against the United States by the accredited agents of Denmark, in favor of individuals of that nation, founded upon the alleged misconduct of our armed vessels. Without comparing these claims with the one now under consideration, it is sufficient to observe, that the Government of Denmark itself, and not its subordinate agents, directed those proceedings which form the ground of the present application. Complete satisfaction for the injury sustained by the memorialist ought in the opinion of your committee, to be obtained through the interference of the Executive authority; and the propriety and necessity of such an interference are enforced by the consideration that the United States have an immediate interest in the question, inasmuch as it appears, from authentic documents, that the crew of the frigate Alliance, on their return to America, mutinied against their commander; in consequence of which, the prize-money, to which they would otherwise have been entitled, amounting to a large sum, became exclusively the property of the United States. The attention of our Government, it is presumed, will be speedily turned towards this object; and as the claim of the memorialist is thus identified with that of the nation, he may confidently hope it will not be disregarded in any adjustment of mutual claims which may be the subject of negotiation between the two Governments.

To furnish an opportunity for such measures as the Executive may think proper to adopt in relation to the premises, your committee are of opinion that it is not expedient for Congress to act conclusively upon the subject at this time; but that legislative interposition should be withheld until the effect of negotiation can be fully ascertained. The following resolution is therefore respectfully offered to the House:

Resolved, That the further consideration of the memorial of Peter Landais, and the report of the Secretary of State thereon, be postponed indefinitely.

9th CONGRESS.] No. 196. [1st SESSION.

FRANCE.

COMMUNICATED TO THE SENATE, MARCH 5, 1806.

MARCH 5, 1806.

To the Senate of the United States:

According to the request of the Senate, expressed in their resolution of the 3d instant, I now transmit the extract of a letter from the Secretary of State to the minister plenipotentiary of the United States at Paris, the answer to that letter, and two letters from Henry Waddell, a citizen of the United States, relative to the interference of the said minister in the case of the ship New Jersey, and to the principles alleged to have been laid down by him on that occasion.

There are in the office of the Department of State several printed memorials in this case, by the agent of those interested in the ship, which are voluminous, and in French. If these be within the scope of the request of the Senate, the printed copies can be sent in immediately; but, if translations be necessary, some considerable time will be requisite for their execution. On this subject any further desire which the Senate shall think proper to express, shall be complied with.

TH: JEFFERSON.

DEPARTMENT OF STATE, *August* 25, 1805.

SIR:

It is represented by the parties interested in the ship New Jersey and cargo, for which indemnity is claimed under the late convention with France, that a disallowance of the claim is likely to proceed from an idea that insurers do not in such cases take the place of the insured.

As the convention has provided for its own exposition and execution, it has been thought best that these should be left, as much as possible, to their own course; and an interposition, of any kind, in the present instance, would be the rather declined as it cannot be guided by communications from yourself relative to the nature of the difficulties which have arisen. Yet, as the interest which the parties have at stake renders them particularly anxious and urgent on the occasion, and as it cannot be injurious, and may be agreeable, to yourself to know the sentiments of the President on the question whether the title of the insurers accrues to the insured, if that naked question be indeed the source of the difficulties, I am authorized to suggest, for your information, that he considers the general principle on which the question turns as supporting the claims of the American underwriters to the benefit of the convention where they have paid the loss of the original owners, citizens of the United States.

I have the honor to be, &c.

JAMES MADISON.

JOHN ARMSTRONG, Esq., *&c. &c.*

Extract of a letter from General Armstrong to the Secretary of State, dated

NOVEMBER 26, 1805.

I had the honor, within the last week, of receiving your letter of the 25th of August, expressing the solicitude of the parties interested in the ship New Jersey and cargo, "lest their claims should be rejected on the idea that the rights of the insured did not pass to the insurers;" and communicating, also, the opinion of the President, that "American underwriters, who had paid the loss to the original owners, citizens of the United States, were entitled to the benefits of the treaty of 1803."

In my next despatches I shall furnish you with documents from which you will see that the difficulties in this case have, in no stage of it, arisen from the causes to which they have been ascribed; that its admission by the American Board was long suspended under Colonel Mercer's objections, that "no evidence has been produced of the insolvency of the captors;" that its rejection by the Council General of Liquidations proceeded from the belief, that the "ship and cargo were partially or altogether British property, and from certain other causes." And that when this belief concerning the national character of the property was done away by the production of certain policies of insurance, which had been effected in different parts of the United States, (but which till then had been carefully kept out of sight,) the claim, so far from being opposed on the principle, that "the rights of the insured did not vest in the insurers," or, indeed, on any other principle, was, on my suggestion, sent back to the council, relieved from the first, and apparently, the principal objection; and left subject only to the "other causes," mentioned in the rejecting arrêt of the 28th of Frumaire. These "other causes" are fully exhibited in the report of the director of the fourth division, dated on the 15th Germinal, and may be digested into the following heads:

1st. That the judgment of the 17th Prairial, year 6, pronouncing the confiscation of the New Jersey and cargo is still subsisting; inasmuch as it has not been annulled by the decree of the Council of Prizes, which directs only the restitution of the sum deposited by the owners with General Haudeville.

2d. That the claimants have neglected to prosecute their appeal within six years after the captures were precluded, by the laws of France, from a right of appealing.

3d. That the New Jersey not having a rôle d'équipage, as provided by the treaty of 1778, was excluded from the provisions of the fourth article of the treaty of 1800.

4th. That the captain and agent of the privateer, not having been heard in their defence, nor even summoned to appear before the tribunal, the decree of the Council of Prizes was illegal.

5th. That no evidence having been produced of the abandonment of the ship and cargo to the underwriters, and the agents having even denied the right of either Government to question them with regard to an abandonment of the property; and having besides, acknowledged, that the original owners, or a part of them, had acquired the New Jersey by a new title; by yielding to the underwriters "un droit convenable de reprise dans le dépôt," it may be fairly inferred that the loss never was paid by the insurers, and that the receipts (which, by the way, do not correspond in number with the policies,) are merely fictitious.

6th. That were it in proof that the owners had abandoned, and that the underwriters had paid, still the claim of the latter could not be admitted; inasmuch, as it could not now be liquidated under the rules prescribed by the treaty, the American Commissioners having no longer an existence.

You will readily perceive that, in all this, there is not a single syllable pointed at the rights of insurers "who have paid the loss to the original owners." It only remains for me, therefore, to show that, in no after act, either of the council or of M. Marbois and myself, was the broad principle, which has given so much alarm to our underwriting citizens, or even the qualified one, to be found, in the President's opinion, adopted or applied to the case of the New Jersey. The report, of which I have already given you the substance, not having been agreed to by all the members of the council, and the liquidator general not choosing to decide the difference, transmitted the case a second time to the treasury, with a wish that M. Marbois and myself might determine it. We complied with this wish: we did determine it, and admitted it for its full proportion of the marginal fund. It is true that M. Marbois and I differed somewhat concerning this proportion. He would have given three hundred and thirty-three thousand francs, whereas, I thought that three hundred thousand were quite as many as fell to its share; and that you will think as I did, I have no doubt, when I inform you that there are claims amounting to more than three millions, as sound in point of principle, less objectionable in point of form, and better recommended by the pecuniary circumstances of the claimants, for which I have not yet got a single sous.

Copy of a letter from Henry Waddell to Messrs. Nicklin and Griffith, dated

PHILADELPHIA, *February* 24, 1806.

Agreeably to my promise, I now state in writing some circumstances with my ideas relative to the case of the New Jersey; at the same time, in substance, the observations made by me on the subject since my return to America; in the course of which, I submit to your candor how far they may appear hostile to you or your claim. As yet you have only the memoir of your agent in France, the object of which, no doubt, was to induce a belief on your part that the rejection of the claim was owing to the interference of the American minister, and thereby entitle you to a demand against the American Government; this, however, on an impartial consideration of the subject, will, I think, appear otherwise; and, I believe, you only require a correct statement of facts to remove the impressions made by that memoir.

No doubt can arise on the illegality of the capture, but it is supposed the arrangement made between your agent, Dr. Stephens, and General de Haudeville, materially changed the ground on which you originally stood, and much prejudiced your claim against the captors. It is also to be lamented, that you suffered the time limited by law to pass over without prosecuting the appeal, or complying with the formalities always considered indispensable in such cases; for in vain might M. Dupont say, that the law of the 4th Prairial, 6th year, corresponding to May, 1798, did not extend to the French colonies; with the same propriety you might have been referred by the French Government to the colony, where the capture and arrangement with General de Haudeville was made for payment. These facts I mention in no other view than to show that, where appeals are made and other legal formalities complied with, not only in prize causes but in every other, always have a preference, and on that ground was there no other; the American and French ministers might suppose they have granted you a large proportion in allowing your claim out of the Louisiana fund, three hundred thousand francs; and your agents must also have thought so, or I presume they would not have given a receipt in full, thereby debarring you from any further demand.

I am of opinion, nay, I speak with confidence, that our Government wished to give a preference to prize causes; but by the convention of 1803, the appropriations are left entirely to the French Government, who have generally preferred such claims as were embraced by the convention, for supplies made them by American merchants; this arrangement left a balance of the Louisiana fund, but not sufficient to satisfy all the prize causes; for, there are now on the dockets of the tribunal of prizes, many cases, although not positively decided on, the formalities relative to which, so far as they go, have at least been legally complied with; and it is a fact which ought not to escape attention, the New Jersey has been preferred and obtained judgment, when the others with more form have not.

The American minister has had a most difficult task to execute, for when he arrived in France there were not fourteen hundred thousand francs unappropriated, with demands against that sum for many millions; he, therefore, proposed that all cases should be liquidated by being placed on the same footing; but the French Government, by the convention, having reserved to itself the right of distributing the fund appropriated for the payment of American claims, he could only act in conjunction with the French minister of the public treasury, both of whom have invariably aimed at impartiality, in disposing of this small balance among the different claimants.

It is a very singular assertion of M. Dupont, that the French Government would have admitted the claim for the whole amount, for, had he supposed so, why not have returned, as he could, and had a right to the bureau of liquidation for a revision of the claim? but no, his doubts of receiving any thing are evident, from his own statement, particularly as the minister of the public treasury only thought of paying one-third, but afterwards, on reconsideration, was of opinion with General Armstrong, that three hundred thousand francs was a more equal proportion; and the sum has been paid under the impression only, that no sort of discrimination should be made between the owner and the underwriter; and, on this occasion, I take it upon myself to assert that General Armstrong acted under no other idea.

The letter said to be written by General Armstrong, I have understood, was communicated confidentially to your agents after having written a second, placing the claim on a better footing than it was originally; and as to the effect to which M. Dupont attaches so much importance, it never produced any; but, had any effect been produced by it, this was completely done away before your agents knew of its existence, therefore the publication of this letter in M. Dupont's pamphlet is too palpable not to be understood by every man who judges without prejudice. But let us suppose, for a moment, the French Government even contemplated paying the whole amount of your claim out of the Louisiana fund, which does not appear to have been the case, General Armstrong would have been extremely represensible had he assented to it, for it must have been almost to the entire exclusion of every other claimant.

When I left Paris, General Armstrong had been confined to his bed for some weeks, which accounts for his not taking notice of the publication in question; and although I disapproved of the letter, I am very certain it never did, in the slightest degree, injure your claim.

You have now, gentlemen, the impressions of my mind entirely free from prejudice, and I beg to avail myself of this opportunity of assuring you that, so far from ever discovering any thing hostile or unfriendly towards you, that I have uniformly, as often as your house has been the subject of conversation, spoken of it as among the most respectable of our country.

Henry Waddell to James Madison, Esq.

PHILADELPHIA, *February* 26, 1806.

SIR:

When in Washington, I mentioned to your excellency that my view of the case of the New Jersey was very different from the general representations on that subject, and since my arrival here, having given my opinion very freely to the same effect, Messrs. Nicklin and Griffith requested me to state, in writing, my ideas on the subject. I accordingly wrote them a letter, of which I enclose your excellency a copy. In so doing, I have, nor can have any other intention than to state facts which have been withheld or mutilated; but as I know the abuse I should incur by its publication, I merely enclose it for your excellency's satisfaction, until you receive more complete information on the subject from France.

I have the honor to be your excellency's most obedient, humble servant,

HENRY WADDELL.

9th CONGRESS.] No. 197. [1st SESSION.

AMERICAN SEAMEN IMPRESSED.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, MARCH 8, 1806.

DEPARTMENT OF STATE, *March* 5, 1806.

The Secretary of State, in compliance with the order of the House of Representatives of the 6th of January, directing him to lay before it "a return of the number of American seamen who have been impressed or detained by the ships of war or privateers of Great Britain, whose names have been reported to the Department of State since the statement was made to the House at the last session of Congress; mentioning the names of the persons impressed, with the names of the ships or vessels by which they were impressed, and the time of the impressment; together with any facts and circumstances, in relation to the same, which may have been reported to him; stating, also, the whole number of American seamen impressed, from the commencement of the present war in Europe, and including, in a separate column, the number of passengers, if any, who may have been taken out of the American vessels coming to the United States from Europe," has the honor to transmit, herewith, the names of nine hundred and thirteen persons who appear to have been impressed from American vessels, and whose names have been reported to the Department of State since the last statement was made to Congress; together with a discrimination in the particulars required by the order, except as hereafter mentioned.

The aggregate number of impressments into the British service, since the commencement of the present war in Europe, is found to be two thousand two hundred and seventy-three.

It is not easy to distinguish with accuracy how many of these persons were really not citizens of the United States; but the column of remarks, added to the list in lieu of this discrimination, will exhibit some ground for judging of the fact.

It has not been deemed necessary to make a separate column for impressed passengers, as this description of persons have been reported to be impressed but in the few cases subjoined.

It is proper to observe, that a small part only of the period since the last statement there was an agent for seamen for the Leeward islands at Jamaica; the gentleman who then held the charge having resigned it, and another who had been appointed to succeed him having declined accepting it. The agent appointed for Antigua having been absent from that island since his appointment in May last, no returns have been received from the Windward islands. From these circumstances, it is very probable that many impressments have been made in the West Indian seas, which, though of a recent date, are not included in the present report.

All which is respectfully submitted.

JAMES MADISON.

A statement of applications made to the British Government in cases of impressments, from 1st September, 1804, to 18th May, 1805, by George W. Erving, Esquire.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
Charles Pettingel, -	Not stated, -	Tiger, - -	This man is stated to have had a custom house protection, but no steps had been taken by the admiralty concerning him, on account of the Tiger's being on a foreign station.
John Thomson, -	Do. - -	Romney, - -	He had a custom house protection; but having been exchanged as an English prisoner in the West Indies, refused to be discharged.
George Mars, -	Do. - -	Neptune, - -	He had a custom house protection; but the vessel having sailed to a foreign station, no steps could be taken by the admiralty concerning him.
Thomas S. Pollock,	July 19, 1804,	Ganges, - -	This man had a custom house protection and a certified copy of his act of naturalization. He has been discharged.
Thomas Moody, -	June 23, "	Romney, - -	This man had a protection from Mr. Buckley, of Lisbon, but it was deemed insufficient. He was refused to be discharged.
John Cotrill, -	September 2, "	Enterprise, -	He had a protection from the consul at London. Having the appearance of an Irishman, and having served formerly on board a man of war, refused to be discharged. Since discharged.
John Maguire, -	Not stated, -	Amiable, - -	Has deserted. He had no proof of citizenship.
James White, -	July 18, 1804,	Hornet, - -	Discharged. He had a custom house protection.
John Gilmore, -	July 18, "	Do. - -	Do. do. do.
Benjamin Chaloner,	Not stated, -	Success, - -	Having no document to prove his citizenship, refused to be discharged.
Robert Oakes, -	1804, - -	Leda, - -	He had a protection. Having voluntarily entered, refused to be discharged.
John Harcum, -	Not stated, -	Mars, - -	Having no document to prove his citizenship, refused to be discharged.
Henry Stone, -	Do. - -	Enterprise, -	He had a protection. The result of the application was, that having no document whatever to prove his citizenship, refused to be discharged.
Charles King, -	Do. - -	Agamemnon, -	Appearing to be a British subject, with a false certificate, the description in which totally disagrees with his age and person, refused to be discharged.
Peter Thomson, -	Do. - -	Thrasher, - -	Answer: Does not appear on the books of the Thrasher.
Edward Steward, -	Do. - -	Do. - -	Having no document to prove his citizenship, refused to be discharged.
Jonathan Archer, -	August 1804,	Do. - -	Do. do. do. do.
George Warburton,	May 12, "	Endymion, -	This man had a custom house protection.
John Tucker, -	Not stated, -	Mars, - -	Having no document to prove his citizenship, refused to be discharged.
John M'Kaig, -	Do. - -	Salvador del Mundo	Does not appear on the books of the Salvador del Mundo.
John Ilsley, -	Do. - -	Eurydice, - -	No such person on the books of the Eurydice. Mr. Erving was possessed of the necessary proof of his citizenship.
James Millon, -	September 7, 1804,	Zealand, - -	Ordered to be discharged. He had a custom house protection.
Thomas Irwin, -	Not stated, -	Salvador del Mundo	
William Innis, -	September 9, 1804,	Ceres, - -	Having no document, and being, by his own confession, a native of Jamaica, refused to be discharged.
Daniel Brown, -	Not stated, -	Magicienne, -	Not having any document to prove his citizenship, refused to be discharged.
John or Thos. Howes,	August 31, 1804,	Ceres, - -	Does not appear on board the Ceres.
Daniel Ross, -	Not stated, -	Utrecht, - -	Having no document to prove his citizenship, refused to be discharged.
Thomas Morris, -	Do. - -	San Josef, - -	He had a protection. The answer of the admiralty was, that having no document to prove himself a citizen of America, refused to be discharged.
George Horne, -	August 24, 1804,	Petter, - -	He had no proof of citizenship.
George Watson, -	August 28, "	Biter, - -	He had a custom house protection; but the answer was the same as in the case of Thomas Morris.
John Lean or Lion,	April 20, "	Dreadnought, -	It was represented to the admiralty that this man was *compelled*, when impressed, to enter and receive the bounty. Having voluntarily entered for His Majesty's service, and having received the bounty, refused to be dismissed.
Henry Knight, -	May 4, "	Princess Charlotte,	Lost his protection when shipwrecked.
William Ackley or Ashley.	May, "	Egyptian, - -	Having voluntarily entered, and received the bounty, refused to be discharged.
Thomas Freeman, -	September, "	Agamemnon, -	Not answering the age and description in his certificate, refused to be discharged. Ordered to be discharged.
Hiram Candy or Kennedy.	November 17, 1803,	Montague, -	Discharged. He had a custom house protection.

STATEMENT—Continued.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
John Johnson, -	Not stated, -	Royal William, -	N. B. The protection detained from him on board the Royal William. Having no document to prove his citizenship, refused to be discharged.
James Walsh, -	January 10, 1804,	Blenheim, - -	Ordered to be discharged. He had a custom house protection.
Jonathan Emery, -	November 25, "	Do. - -	Ordered to be discharged.
John Taylor, -	July 14, "	Do. - -	Ordered to be discharged. He was the chief mate of the Nancy.
Geo. Kamat or Kennat	July 18, 1801,	Do. - -	Ordered to be discharged.
Joseph Wildman, -	October, 1803,	Do. - -	Having no document to prove his citizenship, refused to be discharged.
Benjamin Pass, -	Not stated, -	Terrible, - -	Having voluntarily entered, refused to be discharged.
James Manning, -	Do. - -	Do. - -	Do. do. do.
James Cothe or Cotrel	December, 1799,	Medway, - -	Having no document to prove his citizenship, refused to be discharged.
James Baker, -	Not stated, -	Agincourt, -	Do. do. do. do.
Francis Lemott, -	Do. - -	Gladiator, - -	Having been impressed for insulting the master of the vessel to which he belonged, refused to be discharged. He had a consular protection or certificate.
Andrew Anderson,	September 11, 1804,	Mercury, - -	Ordered to be discharged.
Henry Parker, -	August 3, "	Salvador del Mundo	Having voluntarily entered, refused to be discharged.
Andrew Tucker, -	Not stated, -	Do. - -	Ordered to be discharged. He had a custom house protection.
Thomas Harvey or Harney.	Do. - -	Cerberus, - -	Do. do. do.
Andrew Kuhn, -	Do. - -	Zealand or Ceres,	No such person to be found on board the Zealand.
John Johnson, -	August 13, 1804,	Do. - -	He had no proof of citizenship.
George Walker, -	Not stated, -	Glory, - -	Having no document to prove his citizenship, refused to be discharged.
Francis M. Migoer or Miligan.	Do. - -	Monkey, - -	Discharged. This man had a custom house protection.
Joseph Godfrey or Godsey.	Do. - -	Mars, - -	Having no document to prove his citizenship, refused to be discharged.
Peter Robinson, -	Do. - -	Biter.	
Ebenezer Compton,	September 13, 1804,	Amethyst, -	This man had a custom house protection.
James Edmonds, -	June 4, 1803,	Ulysses, - -	Discharged. He had a custom house protection. N. B. His protection was taken from him and detained by the officers of the Enterprise, into which he was first impressed.
John Smith, -	Not stated, -	L'Amiable, -	No such person on board the Amiable but the captain's servant, who voluntarily hired himself. Satisfied with the service, and refused to be discharged on that account.
Martin Colford, -	September 23, 1804,	Inflexible, -	He had a custom house protection.
John, alias Jas. Brown	Not stated, -	- - -	Ordered to be discharged. This man does not appear in Plymouth hospital, where he was stated to be.
John Johnson, -	Do. - -	Prince, - -	Having no document to prove his citizenship, refused to be discharged.
John Barry, -	Do. - -	Utrecht, - -	Having been taken out of a smuggling vessel, and since entered voluntarily, refused to be discharged.
Thomas Harvey, -	Do. - -	Enterprise, -	Appearing to be a British subject, and having no document prove to the contrary, refused to be discharged.
John Williams, -	September 16, 1804,	Tigress, - -	Having voluntarily entered, refused to be discharged.
Joseph Thompson, -	June 13, ,,	Windsor Castle, -	Documents. A protection from G. W. Erving, and a passport from the mayor of New York, while in the possession of Great Britain, being insufficient to prove his citizenship, refused to be discharged.
Daniel Johnson, -	Not stated, -	Prince, - -	Having no document to prove his citizenship, refused to be discharged.
John Plymouth, -	Do. - -	Do. - -	Is not to be found on board the Prince.
John Stewart, -	Do. - -	Ceres.	
Joseph Wills, -	Do. - -	Prince George, -	Having voluntarily entered and received the bounty, refused to be discharged.
John Johnson, -	Do. - -	Princess Orange, -	Having entered and received the bounty, refused to be discharged.

Daniel S. Martin,	Not stated,	Niobe,	Does not appear on board the Niobe.
George Woods,	Do.	Windsor Castle,	Having no document to prove his citizenship, refused to be discharged. He had a custom house protection.
William, alias Thomas Barnes.	Do.	Enterprise,	Was discharged from the service on proving himself an American. He had a protection.
William Jones,	Do.	Wolf,	He had a custom house protection.
Daniel Meredith,	1803,	Namur,	Having no document to prove his citizenship, refused to be discharged.
Ebenezer Pinkham,	September 24, 1804,	Hermes,	Has been discharged. He had a protection.
Samuel Matton,	Not stated,	Glory.	
John Grant,	Do.	Latona,	Having no document to prove his citizenship, refused to be discharged.
William Brown,	September 28, 1804,	Teaser,	Having served several years on board His Majesty's ships, refused to be discharged. He had a protection.
William Busby,	Not stated,	Romney,	Not to be found on board the Romney.
Daniel Dixon,	Do.	Agincourt,	Having no document to prove his citizenship, refused to be discharged.
Martin Hellet,	Do.	Melampus,	Having entered and received the bounty, refused to be discharged.
Jonathan (or John) Hackett.	Do.	Do.	Do. do. do.
John Owens,	Do.	St. Albans,	Do. do. do.
James M'Clackland,	Do.	Utite,	Do. do. do.
John Miller,	Do.	Thisbe,	Having no document to prove his citizenship, refused to be discharged.
Thomas Pennock,	August 12, 1804,	Terrible,	Do. do. do.
Edward Pipping,	Not stated,	Enterprise,	Do. do. do.
Joseph Pierson,	August 27, 1803,	Blenheim,	Do. do. do.
John Smith,	Not stated,	Sceptre,	The Sceptre being on a foreign station, their lordships cannot take any steps respecting him.
John Robinson,	Do.	Adamant,	Not having any document to prove his citizenship, refused to be discharged.
Peter Harris,	Do.	Dreadnought,	Having entered and received the bounty, refused to be discharged.
James Featherstone,	Do.	Terrible,	Having no document to prove his citizenship, refused to be discharged.
William Sculla,	Do.	Do.	Having no document to prove his citizenship, refused to be discharged. He is stated to have had a protection.
William Mines,	October 3, 1804,	Enterprise,	Do. do. do. do. do.
Charles Robinson,	September 19, 1804,	Phœnix,	Document, protection from S. Sterrett, notary public, Baltimore, being insufficient to prove his citizenship, refused to be discharged.
William James,	Not stated,	Zealand,	Ordered to be discharged.
Henry Weeks,	October 12, 1804,	Enterprise.	
Francis Thompson,	Not stated,	Plantagenet,	Having voluntarily entered, refused to be discharged.
John Hathaway,	July 22, 1803,	Leyden or Polyphemus.	Ordered to be discharged, if he answers the description in his certificate.
John Downey,	October 4, 1804,	Tromp,	Having no document to prove his citizenship, and having entered His Majesty's service, refused to be discharged.
Philip Ford, alias Caroline.	October 17, "	Enterprise,	Not having any document to prove his citizenship, refused to be discharged.
John Brack, alias Brock.	Not stated,	Emerald,	Refused to be discharged.
William Godfrey,	October 20, 1804,	Enterprise,	Not having any document to prove his citizenship, refused to be discharged. It was represented to the admiralty that this man was entered on the Comet's rôle d'équipage.
Joseph Williams,	Not stated,	Prince George,	Having voluntarily entered and received bounty, refused to be discharged.
William Wilson,	October 2, 1804,	Alonzo,	Having no sufficient document to prove his citizenship, refused to be discharged. He had a protection from a notary public.
John King,	Not stated,	Nimrod,	The Nimrod having gone to a foreign station, no steps can be taken respecting this man. Certificate from the American consul at Rotterdam, of his citizenship, was in his possession.
George Wood,	Not stated,	Salvador del Mundo	
George Slater,	Do.	Urania,	Has been discharged. He had a protection.
Daniel Hearn,	Do.	Do.	The document being insufficient to prove his citizenship, refused to be discharged. He had a protection from the consul at Bordeaux.
William Buskell,	Do.	Do.	Has been discharged. He had a protection from the custom house.
John Clements,	Do.	Prince,	Having voluntarily entered and received the bounty, refused to be discharged.
Benjamin Hunt,	Do.	Sussex,	Having no document to prove his citizenship, refused to be discharged. He had a protection.
William Wilson,	Do.	Blenheim,	No such person on board the Blenheim.
John Dunn,	Do.	Zealand,	N. B. His protection detained from him by Captain Richbell, of the Enterprise receiving ship. This application was made, requesting that it might be returned.

STATEMENT—Continued.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
Alexander Black,	Not stated,	Ariadne,	Having entered for the service, refused to be discharged.
Urquhar Fogerty,	Do.	Inconstant,	Ordered to be discharged.
John Hyde,	Do.	San Ysidro,	Documents taken from him on board the San Ysidro, where he is detained as a prisoner of war. Having been released from a French prison, on condition of serving in His Majesty's navy, refused to be discharged.
William Harvey,	Do.	Windsor Castle,	Has been discharged. He had a protection.
William Moultry,	Do.	Terrible,	Having entered and received the bounty, refused to be discharged.
John King,	Do.	Africaine,	Having no document to prove his citizenship, refused to be discharged. He had lost his protection.
John M'Gee,	Do.	Prince,	Having no document to prove his citizenship, refused to be discharged.
Charles Lymburg,	March 1, 1801,	Courageux.	
James Robinson,	Not stated,	Prince,	This man left the United States prior to the commencement of the war. Having no document to prove his citizenship, refused to be discharged.
Thomas Southeck,	Do.	Salvador del Mundo	Having no document to prove his citizenship, refused to be discharged.
Elias Wood,	April, 1804,	Inconstant,	Ordered to be discharged. He had a custom house protection.
Samuel Lockwood,	Not stated,	Atlas,	The Atlas having sailed to a foreign station, their lordships cannot at present take any steps respecting him.
John Norberry,	1804,	El Caro.	
Abraham Hodson,	Not stated,	Spencer,	Has been discharged.
Alexander Payne,	October 8, 1804,	Ceres,	Having no document to prove his citizenship, refused to be discharged.
Rowd. Peirce,	October 10, "	Cracker,	N. B. Pierce was mate of the Hannah. Has been discharged.
Barns. Norris,	October 10, "	Do.	Has been discharged.
Joseph L. Wilson,	1803,	Prince,	His protection was destroyed when impressed.
Thomas Wright,	August 6, 1804,	Ardent,	Having no document to prove his citizenship, refused to be discharged.
Rust Backer,	Not stated,	Blenheim,	His protection left on board the American vessel from which he was impressed. Having entered for His Majesty's service, refused to be discharged.
William Smith,	Not stated,	Zealand,	He had a protection.
John Smith,	1800,	Triumph,	Ordered to be discharged.
George Tabb,	September 22, 1804,	Hermes,	He had a custom house protection. Ordered to be discharged.
Enoch Roberts, }	September 13, 1804,	Boadicea,	Not having any documents, and there being reason to suppose they are subjects of Great Britain, refused to be discharged. They had custom house protections.
Joshua Small, }	Do.	Do.	
Joseph Duke,	October 29, 1804,	Enterprise,	Has been discharged. He had a protection from S. Williams.
—— Gobble,	Not stated,	Do.	Does not appear.
Robert Crosbie,	Not stated,	Neptune,	Protection taken from him by the regulating captain, when impressed. Having no document to prove his citizenship, refused to be discharged.
William Nugent,	Not stated,	Britannia,	Having no document to prove his citizenship, refused to be discharged.
Dower Carson,	September 24, 1804,	Dryad,	Having no document to prove his citizenship, refused to be discharged. He had a custom-house protection.
Philip Lyman,	Not stated,	Mercury,	Having entered, and received the bounty, refused to be discharged.
Abm. Hanaird,	October 27, 1804,	Royal William,	Refused to be discharged, but no reason was given for this answer. He had a protection, which was taken from him when impressed.
John Johnson,	October 29, 1804,	Enterprise,	Does not appear.
John White,	November 3, 1804,	Cygnet,	Not answering the description in his certificate, which has clearly been fraudulently obtained, refused to be discharged.
Robert Corbin,	Not stated,	Adamant,	Lost his protection when impressed. Having no document to prove his citizenship, and being delivered up by the civil power, refused to be discharged.
John Norris,	October 6, 1803,	Ganges,	Has been discharged. He had a custom-house protection.
John Morris,	November 5, 1804,	Enterprise,	Being a native of, and married at Bengal, refused to be discharged. Discharged as an invalid from the service.
George Gibson,	Not stated,	Salvador del Mundo	Has deserted. He had a protection.
William Buck,	August 5, 1804.	Thunderer,	Having no sufficient document to prove his citizenship, refused to be discharged. He had a custom house protection.

Thomas White, -	Not stated, -	Thunderer, -	This man was impressed by the Spaniards at Rio la Plata, and put on board the Mercudes Spanish ship, at the explosion of which his protection was destroyed. Ordered to be discharged, if no doubt remains of his being a citizen of the United States.
Joseph Masters, -	Not stated, -	Salvador del Mundo	Ordered to be discharged. He had a custom house protection.
Thomas Forbes, -	October 31, 1804,	Censor, - -	He had a custom house protection.
Peter Forrest, -	Not stated, -	Fisguard, - -	The Fisguard being on a foreign station, no steps can at present be taken respecting this man.
William Hunter, -	July, 1804, -	Blenheim, -	Having entered, refused to be discharged.
William Finlay, -	Not stated, -	Dreadnought, -	Having no document, and having, moreover, entered His Majesty's service, refused to be discharged. He was cast away.
John Thomson, -	November 8, 1804,	Enterprise, -	He had a protection from G. W. Erving.
Peter M'Caw, -	November 9, 1804,	Do. - -	Discharged by Ritchbell. Had a passport from Mr. Monroe, and certificate of naturalization.
George Withurn, -	Not stated, -	Salvador del Mundo	Ordered to be discharged, if no doubt remains of his being a citizen of the United States.
Josh. Thompson, -	November, 1804,	Bouncer, - -	Having no sufficient document to prove his citizenship, refused to be discharged. Protection taken from him when impressed.
Daniel Newbury, -	October 18, 1803,	Ganges, - -	Ordered to be discharged. He had a custom house protection.
Josh. Brown, -	Not stated, -	Leda.	
Andrew Mansfield,	August 7, 1799, -	Dragon, - -	Does not appear on board the Thisbe.
William Aiken, -	April 20, 1803, -	Cerberus, -	Ordered to be discharged.
Thomas Challis, -	Not stated, -	Prince, - -	Not having any document to prove his citizenship, refused to be discharged.
Geo. Hilbert or Starbert, -	Not stated, -	Tender at Swansia,	Not answering to the description in the document produced on his behalf, a custom house protection, refused to be discharged.
John Jackson, -	Not stated, -	Adder, - -	He had a custom house protection.
William Remmick, alias Gyer, -	November 12, 1804,	Acasta, - -	
John D. Swift, -	Not stated, -	Triumph, - -	His protection taken from him when impressed; not to be found.
Jettro Fowler, -	1803, - -	Dragon, - -	His protection taken from him. Refused to be discharged.
Esau Dominick, -	Mar. or April, 1804,	Castor, - -	Not on board the Castor.
Samuel M'Crea, -	Not stated, -	Royal Oak, -	Ordered to be discharged, if no doubt remains of his being an American citizen.
James Gesson, -	Not stated, -	Do. - -	Ordered to be discharged. He had a custom house protection.
Jonathan Cook, -	August 28, 1804, -	Salvador del Mundo	Having no document to prove his citizenship, refused to be discharged.
James Reid, -	Not stated, -	Alcmene, - -	Having voluntarily entered in St. Aubin's bay on board His Majesty's ship Alcmene, and confessed himself to be a native of Bristol, in England, and having no documents to prove his citizenship, refused to be discharged.
Liff Young, -	Not stated, -	Enterprise, -	Not having any document to prove his citizenship, refused to be discharged. He had a protection.
Gerard Harsins, -	Not stated, -	Sophie, - -	
Thomas Aikin, -	November 19, 1804,	Zealand, - -	Discharged from the Zealand as unserviceable.
George Wabby, -	November, 1804,	Ceres, - -	Having no document to prove his citizenship, refused to be discharged.
Richard Hiett,	November 13, 1804,	Enterprise, -	Discharged by the regulating captain. Protection from Mr. Erving.
Andrew Hyer, -	Not stated, -	Ganges, - -	Having voluntarily entered, refused to be discharged. He had a custom house protection.
John Edwards, -	Not stated, -	Salvador del Mundo	Ordered to be discharged. He had a custom house protection.
Joseph Melena, -	October 10, 1804,	Jason, - -	Having no document to prove his citizenship, refused to be discharged.
Samuel B. Spencer,	Not stated, -	Megora, - -	His certificate was taken from him when impressed. Being a British subject with a spurious certificate, refused to be discharged.
James Conolly, -	Not stated, -	Salvador del Mundo	Having no document to prove his citizenship, refused to be discharged. His certificate taken from him when impressed.
John Rendels, -	Not stated, -	Prince, - -	Does not appear on the books of the Prince.
John Bradley, -	Not stated, -	Not stated, -	This application was made merely to request that the protection belonging to Bradley, (granted to him by Mr. Williams, the former consul) taken from him at New Haven, by a lieutenant of the Rattler, might be returned to this office.
Peter Dolman, -	1795, - -	Not stated, -	Having entered and received the bounty, refused to be discharged.
Jno. or Thos. M'Donald, - -	July 27, 1803, -	Triumph, -	Having no document to prove his citizenship, refused to be discharged.
Reuben Bessell,	Not stated, -	Barfleur, - -	Having no document to prove his citizenship, refused to be discharged.
John Haniford, -	Not stated, -	Princess, - -	Having no document to prove his citizenship, refused to be discharged. He had a custom house protection.
James Brown, -	Not stated, -	Salvador del Mundo	Absented himself from duty in the dock yard, and had not returned. He had a custom house protection.
Thomas Earle, -	May 4, 1798, -	Kent, - -	Is not to be found on the books of the Ceres. Invalided from the Kent.
William Davis, -	January 17, 1804, -	Winchelsea, -	Ordered to be discharged. He had a custom house protection.
Peter Newlan, -	Not stated, -	Barfleur, - -	Lost his protection when shipwrecked in South America. Being a native of Ireland, refused to be discharged.
Richard Dawson, -	March 14, 1793, -	Do. - -	Having no document to prove his citizenship, refused to be discharged.
Blake Peircy, -	Not stated, -	Do. - -	Having no document to prove his citizenship, refused to be discharged.

STATEMENT—Continued.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
Thomas Jackson,	December 3, 1803,	Prince Federick,	Having entered with Captain Spicer, of the Foudryant, refused to be discharged.
Peter Coffin,	Not stated,	Hibernia,	Having no document to prove his citizenship, refused to be discharged.
Jno. Johnson or Jones,	May 16, 1804,	Haslar Hospital,	Ordered to be discharged. He had a custom-house protection.
William Barnes,	Not stated,	Dreadnought,	Having no document to prove his citizenship, refused to be discharged.
Thomas Sheffield,	Not stated,	Inconstant,	Having voluntarily entered, refused to be discharged. He had a protection.
Richard Reed,	Not stated,	Niger,	His protection taken from him last war, in the West Indies, by captain M. Dobson, when on board of the Queen. Having no document to prove his citizenship, refused to be discharged.
James Harris,	October 12, 1798,	Triumph,	Ordered to be discharged.
Jacob Abbin,	Not stated,	Sea Gull,	He had a protection from Mr. Jarvis, at Lisbon.
Robert Fielding,	Not stated,	Triumph,	Having no document to prove his citizenship, refused to be discharged.
Joseph Stack,	December 12, 1804,	Royal William,	His protection was delivered by him to the master of the vessel from which he was impressed.
Joseph Coles,	Not stated,	Inconstant,	Lost his protection (which was granted him by G. W. Erving,) when shipwrecked in Jamaica. Having voluntarily entered, refused to be discharged.
Eliphat Russel,	Not stated,	Royal William,	Not found on board the Royal William. He had a custom house protection.
William Shanks,	1802,	Hibernia,	On producing a sufficient document to prove his citizenship, refused to be discharged.
Richard Wilson,	October, 1804,	Sparkler,	Has been discharged. He had a protection from Mr. Erving.
William Bray,	July, 1803,	Salvador del Mundo	Ordered to be discharged. He had a custom house protection.
John M'Avoy,	August 7, 1803,	Hibernia,	Not answering the description of the certificate produced on his behalf, refused to be discharged.
George Watson,	December 20, 1804,	Texel,	His protection taken from him by the regulating captain at Leith, when impressed. Appearing to be a British subject, refused to be discharged.
William Greene,	January 3, 1805,	Enterprise,	Being married and settled in England, refused to be discharged. He had a custom house protection.
Edward Spencer,	Not stated,	Jason,	Being a native of Devonshire, and not an American, refused to be discharged. This man had a protection from Mr. Pitcairn, late American consul at Hamburg, and a discharge from His Majesty's ship Venerable, as an American citizen.
Dennis or Dan'l Carney,	Not stated,	Narcissus,	Being born in Ireland, refused to be discharged. He had a protection from the American consul at Leghorn.
James White,	October 9, 1804,	Pluto,	Document being insufficient to prove his citizenship, refused to be discharged. He had a certificate from a notary public.
P. Lauries, or Lewis,	December 2, 1804,	Viper,	Having no documents to prove his citizenship, refused to be discharged.
Samuel Mitchell,	December 2, 1804,	Windsor Castle,	Do. do. do.
Samuel Bailey,	November 18, 1804,	Wolf,	He had a protection. The Wolf being on a foreign station, no steps can at present be taken respecting him.
Thomas Knight, or Wright,	November 18, 1804,	Wolf,	Do. do. do.
John Edwards,	November 20, 1804,	Wolf,	Do. do. do.
James Long,	March 9, 1802,	Antelope, now in Deal hospital,	
Richard Shays,	September 4, 1804,	Yarmouth prison, or on board of the Eagle,	Will be considered as a prisoner of war, if it shall appear that he is an American.
Benedict A. Butler,	December 7, 1804,	Enterprise,	Not on board the Enterprise. He had a custom house protection.
Thomas Brown,	Not stated,	Louisa Tender,	He had a custom house protection.
James Thomas,	December 5, 1804,	Hibernia,	Having been sent from an American vessel for riotous behavior, the commander of which stated that they were not Americans, notwithstanding their documents, refused to be discharged. They had protections.
William Simpson,	December 5, 1804,	Hibernia,	
William Johnson,	Not stated,	Zealand,	Having entered and received the bounty, refused to be discharged. He had a protection.
Thomas Parsons,	Not stated,	Scourge.	
Joseph Trowbridge,	Not stated,	Busy,	The Busy being on a foreign station, no steps can at present be taken respecting this man.
William Taylor,	July 17, 1803,	Topaze,	Having entered and received the bounty, refused to be discharged.

Peter Wilson, -	Not stated, -	Ceres.	
Andrew Scott, -	Do. - -	Princess, - -	Being a British subject, and having served his apprenticeship in England, refused to be discharged.
William Johns, or Wilmuth Johnson,	Do. - -	Zealand, - -	Not having any document to prove his citizenship, refused to be discharged.
Benjamin Mosley,	1803, - -	Plymouth Hospital, or Temeraire, -	Lost his protection when shipwrecked.
Manuel Depra, -	Not stated, -	Zealand, - -	Having no document to prove his citizenship, refused to be discharged.
John Biercroft, -	Do. - -	Princess, - -	Do. do. do.
Christopher Docou -	December 24, 1804,	Hibernia, - -	Ordered to be discharged. He had a custom house protection.
George Robinson, -	Not stated, -	Northumberland.	
Charles Bushnell, -	December 1, 1804,	Dexterous, -	Having no document to prove his citizenship, refused to be discharged. He had a custom house protection.
John Pumus, -	December 8, 1804,	Salvador del Mundo	Is not to be found. He had a custom house protection.
John Greene, -	Not stated, -	Louisa Tender, -	Has been discharged. He had a custom house protection.
Nicholas Boylston,	August 4, 1803, -	Argus, - -	Having entered and received the bounty, refused to be discharged.
Thomas Jackson, -	Not stated, -	Malabar, - -	Having no document to prove his citizenship, refused to be discharged. Lost his protection.
Jno. Hayes, alias Jno. Williams,	1803, - -	Adamant, - -	Not appearing to be an American, and not having any document to prove his citizenship, refused to be discharged.
Robert Hudging, -	Not stated, -	Topaze, - -	Having entered and received the bounty, refused to be discharged.
Frederick Jones, -	February 4, 1805, -	Zealand, - -	Being a Prussian, and not an American, refused to be discharged. He had a protection.
John Davis, -	Not stated, -	Tourterelle, -	Having no document to prove his citizenship, refused to be discharged.
William Watts, -	February 7, 1805,	Utrecht, - -	Document being insufficient to prove his citizenship, refused to be discharged. He had a protection.
Philip Keg, -	Not stated, -	Loire, - -	Ordered to be discharged. He had a custom house protection.
John Finley, -	February 11, 1805,	Hindostan, -	Has been discharged. He had a custom house protection.
Robert Cook, -	Not stated, -	Do. - -	Do. do.
William Kegs, -	Do. - -	Tremendous. -	
William Cozzens,	Do. - -	Haslar Hosp. Ward,	He had a protection from Mr. Maury.
Henry Jackson, -	February 9, 1805,	Trusty, - -	Document produced in his behalf to prove his citizenship not being sufficient, refused to be discharged. He had a protection from Mr. Erving.
Charles T. Gould,	October, 1803, -	Ambuscade, -	As there is little doubt of his being an Irishman, and having no document to prove his citizenship, refused to be discharged. It is stated that there were sundry papers, and certificates of his citizenship in the possession of Lieutenant Gordon, of the United States' frigate Constitution, to which this man belonged when impressed.
William Hughes, -	Not stated, -	- - -	Not answering the description in the document, a custom-house protection, produced in his behalf, refused to be discharged. Ordered to be discharged.
Martin Hynes, -	December, 1803, -	La Sagesse, -	Ordered to be discharged. He had a custom house protection.
James Driskell, -	January 28, 1804, -	Do. - -	Do. do. do.
Lindsey Heady, -	Do. - -	Princess, - -	Do. do. do.
George Farrington, -	February, 1805, -	Salvador, - -	Not having any document to prove his citizenship, refused to be discharged. It is stated that his protection was in the hands of the captain of the vessel from which he was impressed. Ordered to be discharged.
Henry Jackson, -	Not stated, -	Detain'd at Plymouth as a pris'r of war,	Ordered to be discharged. He was taken out of a Spanish vessel captured by the British.
Ch. Bowen, or Brown,	Do. - -	Polyphemus,	The Polyphemus having sailed to a foreign station, no steps can at present be taken in these men's cases. They all are stated to have had custom house protections.
Benjamin Hatch, -	Do. - -	Do. -	
Thomas R. Green, -	Do. - -	Do. -	
John G. Olin, -	Do. - -	Do. -	
Seth Barton, -	Do. - -	Do. -	
Thomas Woods, -	Do. - -	Do. -	
George Buntick, -	Do. - -	Do. -	
Jos. Mucklewaine,	Do. - -	Do. -	
George A. Avery, -	Do. - -	Do. -	
Robert Elliott, -	Do. - -	La Sagesse, -	Document produced in his behalf to prove his citizenship being insufficient, refused to be discharged. Protection from Savage, Kingston, Jamaica.
Jerome Napivet, -	November 23, 1804,	Hound, - -	Ordered to be discharged. Mr. Napivet was seized at Jamaica, and sent to England as a prisoner. He had a passport from the Marquis of Casa Calvo, and a commission as the commander of a Spanish merchant ship.

STATEMENT--Continued.

Seamen's Names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
Matthew Brown, -	Not stated, -	Eliza, tender, -	As there are good grounds for supposing this man to be a native of Ireland, and being identified to have belonged to the impress gang at Bristol, refused to be discharged. He had a custom house protection.
Reuben McKinsey,	March 5, 1805, -	Tender at Bristol,	He had a protection.
Muffee Day, -	Not stated, -	Princess, - -	Being a native of Owyhee, refused to be discharged. He had a protection.
Simon Day, -	Do. - -	Do. - -	Having no document to prove his citizenship, refused to be discharged. He had lost his protection.
Peter Baker, al. Peter Scott,	1801, - -	Resolve, - -	Impressed into the Boston, the commander of which (Douglas) took from him his protection, in whose possession it still remains. Having no document to prove his citizenship, refused to be discharged.
George Smith, -	March 6, 1805, -	Blazer, or Flamer,	Having voluntarily entered, refused to be discharged. Custom house protection.
Christr. Tillinghast,	Not stated, -	Do. - -	Ordered to be discharged, provided he answers the description in his certificate. Custom house protection.
William Loosely, -	Do. - -	Polyphemus, -	The Polyphemus having sailed to a foreign station, no steps can at present be taken respecting this man. He had a protection.
Abram Williams, Edward Moodie, Michael Gill,	Do. - -	Do. - -	These men had custom house protections, which they lost when shipwrecked. The Polyphemus having sailed to a foreign station, no steps can at present be taken concerning them.
Samuel Tufts, -	February, 1805, -	Hazard, - -	Has been discharged. He had a custom house protection.
Ephraim McIntire, -	Not stated, -	Malabar, - -	Having entered and received the bounty, refused to be discharged. He had a custom house protection.
John Thomas, -	Do. - -	Princess, - -	This man is a slave, and the property of Captain Day, an American citizen; has volunteered for His Majesty's service, and was born at Curacoa. Having entered the service, and having no document to prove his citizenship, refused to be discharged.
James Carson, -	Do. - -	Triton armed ship,	Having entered, refused to be discharged.
Robert Dow, jun. -	March 7, 1805, -	Utrecht, - -	Ordered to be discharged.
Cuthbert Gill, -	March 10, 1805, -	Salvador del Mundo,	Ordered to be discharged. He had a custom house protection.
Samuel Hodges, -	Not stated, -	Windsor Castle, -	Having no document to prove his citizenship, refused to be discharged.
John Trusty, -	August, 1804, -	Wolf, - -	Having no document to prove his citizenship, refused to be discharged. He had a custom house protection.
John Williams, -	February 10, 1805,	Emerald, - -	Ordered to be discharged. He had a custom house protection.
George Collins, -	Not stated, -	Polyphemus, -	The Polyphemus being on a foreign station, no steps can at present be taken respecting him.
Dennis Welsh, -	Do. - -	Emerald, - -	Having no documents to prove his citizenship, refused to be discharged.
An application was made to the Admiralty for the discharge of the men impressed from the ships Dolly and Leander, of New York, on board the		Fortune, -	Directions have been given to inquire into and report the circumstances of the case, and to discharge such of the men as may be furnished with custom house certificates, &c.
Benjamin Roundy,	March 19, 1805, -	Ferriter, - -	Having no document to prove his citizenship, refused to be discharged, He had a custom house protection. Ordered to be discharged.
Augustus Lasarch, -	Not stated, -	Puissant, - -	Having no document to prove his citizenship, refused to be discharged. He had a custom house protection.
John Baker, -	1803, - -	Vanguard, - -	The Vanguard being on a foreign station, no steps can at present be taken respecting this man. He had a custom-house protection.
Clement Coffin, -	March 10, 1805, -	Hibernia, - -	Having no document to prove his citizenship, refused to be discharged.
James Neale, -	Not stated, -	Inflexible, - -	Having voluntarily entered on board the Gelykheid, refused to be discharged. He had a custom house protection.
Daniel Greene, -	April 3, 1805, -	El Carson, -	Discharged on the day he was impressed.
James Kelly, -	Not stated, -	Pallas, - -	Having no document to prove his citizenship, refused to be discharged. He had a custom house protection.
Jesse or John Gray, or Grayless,	March 20, 1805, -	Clinker, - -	Ordered to be discharged. He had a custom house protection.
Robert Coulson, -	March 28, 1804, -	Royal William, -	Having no document to prove his citizenship, refused to be discharged. He had a custom house protection. Ordered to be discharged.
Charles Lowe, alias Love,	Not stated, -	Do. - -	Having no document to prove his citizenship, refused to be discharged. The Mars having sailed to a foreign station, no steps can at present be taken, &c.
James Cox, - -	April, 1805, -	Princess, - -	Directions have been given for inquiring into his case.
William Smith, -	March 9, 1805, -	Malabar, - -	Not to be found on board the Zealand, into which he was sent from the Malabar. He was impressed from an English merchantman. Ordered to be discharged.

Charles Lobban,	April 5, 1805,	Argus,	Being by his own confession a British subject, refused to be discharged. He had a custom house protection.
Thomas Foreman,	April 8, 1805,	Dauntless,	Has been discharged.
George Weaver,	March 10, 1805,	Surinam,	Document being insufficient to prove his citizenship, refused to be discharged.
John Elliott,	1802,	Blenheim,	Having no document to prove his citizenship, refused to be discharged.
David Watts,	April 1, 1805,	Eliza tender,	Being a native of North Britain, and married in England, refused to be discharged.
William Hard,	Not stated,	Royal William,	Having entered for the service, refused to be discharged; was arrested at Calcutta, on suspicion of his being one of the crew of the Hermione, and sent to Great Britain as a prisoner, on board the Centurion.
John S. Murray,	Do.	Do.	Ordered to be discharged.
John Trainer, Robert Banentine, Joseph Namer, Alexander Adams, Alexander Waddy, B. S. Caldwell, Thomas Gauslin, Samuel Cooper, —— Gilbert,	April 1, 1805,	Princessa,	Discharged. These men had protections.
Abraham Morgan,	March 17, 1805,	Lively,	Ordered to be discharged. He had a protection.
Peter Smith,	Not stated,	Prince Frederick,	Document being insufficient to prove his citizenship, refused to be discharged. He had a notarial certificate.
Joseph Lewis,	April 15, 1805,	Vesuvius,	His protection taken from on board the Vesuvius.
Thomas Williams,	July 23, 1801,	Centurion,	Having no document to prove his citizenship, refused to be discharged.
William Thompson,	January 19, 1804,	Prince George,	Ordered to be discharged. He had no documents.
Thomas Fowley,	Not stated,	Eurydice,	Having no documents to prove his citizenship, refused to be discharged. He had a notarial certificate of citizenship.
James Gardner,	November 7, 1804,	Do.	Having no document to prove his citizenship, and, moreover, being a volunteer, refused to be discharged. He had a notarial certificate of citizenship.
Daniel Teal,	February 1, 1805,	Acasta,	Ordered to be discharged. He had a protection. Discharged.
George Williams,	January 31, 1805,	Do.	Ordered to be discharged. He had a custom house protection. Discharged.
John Joy,	March, 1805,	Lively,	He had a protection.
Benjamin Linsey,	Not stated,	Utrecht,	Ordered to be discharged.
William Clark,	March 14, 1805,	Ferriter,	Having been impressed out of a smuggling vessel, and having voluntarily entered, refused to be discharged.
Joseph Price,	Not stated,	Salvador del Mundo,	Ordered to be discharged, provided he has not entered.
John Childs,	Do.	Lark,	He had a protection.
John Major,	November 7, 1804,	Eurydice,	Having voluntarily entered, refused to be discharged.
Henry Niles,	April, 1805,	Vesuvius,	Refused to be discharged.
Henry Stone,	Not stated,	Enterprise,	The name of the ship in which he is confined not mentioned. Refused on that account to be discharged.
Jesse Emmons,	April, 1805,	Royal William,	This man states, in his letter to Mr. Erving, that the usage which he received on board the Despatch, of Philadelphia, Captain Benners, was so bad, that he was induced, on his arrival at Cowes, to enter on board the Royal William; that his protection was withheld from him by the said Benners. Having voluntarily entered, and having no document to prove his citizenship, refused to be discharged.
Ebenezer Carter,	April, 1805,	El Carso,	Having voluntarily entered, refused to be discharged.
William Hall,	Not stated,	Royal William,	He had a protection, but he states that he was sent from a British vessel, by the master of the Nile, into the English service.
Major Smith,	Do.	Enterprise,	Being an impostor, with a certificate that does not answer his description, refused to be discharged. He had a protection.
Peter Harvey,	April 9, 1805,	Tender at Bristol,	Having no document to prove his citizenship, refused to be discharged.
Abram Lott,	April 2, 1805,	Brilliant,	Ordered to be discharged. He had a custom house protection.
Bristow Jackson, or Johnson,	May 2, 1805,	Enterprise,	Having a spurious document, refused to be discharged.
Benjamin Rogers,	April 12, 1805,	Bloodhound,	Not to be found on board the Bloodhound. He had a protection.
William Townsend,	May 6, 1805,	Enterprise,	Being an impostor, a native of Plymouth, refused to be discharged.
Robert Craig,	Do.	Tender at Deptford,	Discharged.
Jacob Blake,	Do.	Utrecht,	Having no document to prove his citizenship, refused to be discharged. He had a protection from the Admiralty as an American citizen.
John Donaldson,	Not stated,	Prince,	Having no document to prove his citizenship, refused to be discharged. Having every reason to believe that he is an Irishman, refused to be discharged.
Joseph Thompson,	Do.	Windsor Castle,	Document insufficient to prove his citizenship. Refused to be discharged.

STATEMENT—Continued.

Seamen's Names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
Charles Lewis, -	Not stated, -	Neptune, - -	Not having a sufficient document to prove his citizenship, refused to be discharged. He had a certificate of manumission.
Levi Hall, - -	May 8, 1805, -	Namur, - -	Having no document to prove his citizenship, refused to be discharged. He had a protection. Has been discharged.
Joseph or Thos. Jiunichet,	Not stated, -	Puissant, - -	Having no document to prove his citizenship, refused to be discharged. He had a protection. Ordered to be discharged.
Middleton Bartley,	Do. - -	Inflexible, - -	Having entered and received the bounty, refused to be discharged.
James Pitcher, -	May 6, 1805, -	Salvador del Mundo,	Having no documents, &c. Has been discharged.
Caleb Smith, -	April 10, 1805, -	Euryalus, - -	Has been discharged. He had a custom house protection.
John Jackson, -	Not stated, -	El Carso, - -	Had lost his protection. Has been discharged.
John Reiley, -	Do. - -	Eolus, or Salvador del Mundo,	Was lately master of the ship Peggy and Owner's Good Will. Has been discharged.
Ebenezer Turner, -	November, 1804, -	Polyphemus, -	Having no document to prove his citizenship, refused to be discharged.
William Simpson, -	April 10, 1805, -	Euryalus, - -	Has been discharged. He had a protection.
Robert McGurdy, -	February, 1805, -	Ruby, - -	Ordered to be discharged. He had a custom house protection.
William Spencer, or Spence,	Not stated, -	Zealand, - -	Having no document to prove his citizenship, refused to be discharged.
John Arenberg, -	Do. - -	Ruby, - -	Has absented himself without leave. He had a custom house protection.
James Smithar, -	Do. - -	Do. - -	Has absented himself without leave. Has been discharged.
Eleazer D. Bray, -	Do. - -	Ethalion, - -	He had a custom house protection.
John Smith, -	May 18, 1805, -	Enterprise, -	He had a custom house protection.

Statement of applications to the British Government in cases of impressments, from the 18th May to the 26th September, 1805, by William Lyman, Esq.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
John Whitehead,	Not stated,	Cæsar,	Documents being insufficient, refused to be discharged.
Thomas Frazer,	April 24, 1805,	Cracker,	Ordered to be discharged.
Daniel M'Millan, William Bryant,	May 19, 1805,	Iris,	The officers who impressed these men declined giving to Captain Bunker the name of the ship they belonged to, but only told him that the commander's name was Paget or Bliss.
William M'Collister,	Not stated,	Salvador del Mundo,	Ordered to be discharged. He had a protection from the custom house in New York.
Thomas Lane,	Do.	Resolu,	Having no document, refused to be discharged.
John Baines,	Do.	Do.	Ordered to be discharged.
David Griffin,	Do.	Africaine,	Having no document, and having served His Majesty the greater part of last war, refused to be discharged.
John Rose or Ross,	May 30, 1805,	Enterprise,	Being, by his own account, a native of Argyleshire, which is corroborated by other circumstances, refused to be discharged,
Joseph Frazer,	March 15, 1805,	Eolus,	Has been discharged. He had a custom house protection.
David Newark,	May 22, 1805,	Charger.	
John Richie,	Not stated,	Arab,	Being an impostor, and recognized as a native of Scotland, whose real name is Mackie, refused to be discharged. He had a custom house protection.
William French,	Do.	Salvador del Mundo,	Discharged. He had a custom house protection.
John Lock,	April 22, 1805,	Amethyst,	Documents being insufficient, refused to be discharged. He had a certificate of protection from the American consul at Amsterdam.
William Pitt Oliver,	Not stated,	Cayenne,	The Cayenne being on a foreign station, their lordships cannot at present take any steps respecting this man.
John West,	May 10, 1805,	Utrecht,	Ordered to be discharged. He had a custom house protection.
Samuel Shepard, Samuel Larcbee, Martin Pain, James Kinsley,	Not stated,	Amelia,	The Amelia being on a foreign station, their lordships cannot at present take any steps respecting their discharge.
James Fowler,	September 10, 1803,	Roebuck,	Ordered to be discharged. He had a custom house protection.
John Smith,	Not stated,	Namur,	Not answering the description in his protection, and having voluntarily entered, refused to be discharged.
John Davis,	Do.	Zealous,	He had a custom house protection. Not answering the description in his protection, refused to be discharged.
John Dixon,	Do.	Namur,	Documents being insufficient, refused to be discharged. He had a custom house protection.
John Webster,	Do.	Do.	He had a custom house protection.
Daniel Robertson,	May 14, 1805,	Surinam,	Ordered to be discharged. He had a custom house protection.
William White,	Not stated,	Salvador del Mundo,	Ordered to be discharged. He had a custom house protection.
William Duay,	Do.	Argo or Anson,	This ship having sailed to a foreign station, no steps can at present be taken respecting this man.
John Hedrick,	Do.	Centaur,	Do. do. do.
Joseph Rowland,	Do.	Desirée,	Being an impostor, and an Irishman, refused to be discharged. He had a custom house protection.
John Rhoads,	Do.	Cæsar,	Documents insufficient, refused to be discharged. An affidavit made in the United States.
Marten Wolf,	Do.	Orion,	He had a custom house protection.
Thomas Griffiths,	February 18, 1804,	Do.	Has been discharged. He had a custom house protection.
Caleb Starkens,	Not stated,	Do.	He had a custom house protection.
James Smith,	Do.	Do.	Had a custom house protection. Ordered to be discharged.
William Gibbs,	July 6, 1805,	L'Espoir,	Ordered to be discharged. He had a protection from the consul at Brest.
James Murray,	May 20, 1805,	Charwell.	
Joseph Reid,	June, 1805,	Viper,	Being an impostor, and recognized as a native of Newcastle, refused to be discharged.
Samuel Bunker,	Not stated,	Do.	Not answering the description in his document, a custom house protection, refused, &c.
James Minzies,	Do.	Princess,	Ordered to be discharged. He had a custom house protection.

STATEMENT—Continued.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
Absalom Simkins, Daniel Paine,	June 20, 1805,	Iris,	Document, the protest of the American captain from whom they were taken, being insufficient to prove their citizenship, refused, &c.
Matthew Dawson,	February 21, 1804,	Orion,	Ordered to be discharged. He had a custom house protection.
Jonathan Medley,	July 9, 1805,	Haughty.	
Daniel Williams,	Not stated,	Avon,	Being unable to bring any proof of his being an American citizen, refused to be discharged.
James Dingey,	July, 1805,	Enterprise,	Being a native of Lowestoffe, refused to be discharged. He had a custom house protection.
Thomas Goodwin,	Not stated,	Do.	Being a native of Wales, refused to be discharged.
Cato Decasta,	July 5, 1805,	Astrea,	Ordered to be discharged.
John Connor,	July 25, 1805,	Arethusa,	Document insufficient, refused to be discharged. He had a notarial certificate.
James Burnes,	Not stated,	Belliqueux,	He had a certificate from the British consul at Norfolk, Virginia.
Alexander Downey,	Do.	Curieux,	Having been sent on board the Curieux by the captain of the American ship to which he belonged, for improper conduct, refused to be discharged. He had a custom house protection.
John Murray,	Do.	Do.	Being an Irishman, refused to be discharged. He had a protection from a notary public.
John Scheib,	Do.	Do.	Having entered, refused to be discharged.
John S. Colburn,	June 13, 1805,	Haughty,	Being a native of North Britain, refused to be discharged.
Jerahmul Williams, Enoch Newcomb,	- - -	- -	The vessels having sailed to foreign stations, no steps can, at present, be taken, &c.
William Clough,	Not stated,	Namur,	Has been discharged. He had a custom house protection.
Philip Conroy,	August, 1805,	Princess,	Being a native of Ireland, refused to be discharged.
Edward Billingsman, Daniel Patterson, James Smith,	Not stated,	Belliqueux,	The Belliqueux having sailed to a foreign station, no steps can at present be taken respecting these men.
John Davis,	Do.	Trompeuse,	Having entered, refused to be discharged.
Thomas Congdon,	July 23, 1805,	Lark,	Has been discharged. He had a protection.
Daniel French,	January 22, 1805,	Do.	Do. do.
Peter Sergeant,	Not stated,	Do.	Having entered, refused to be discharged.
William Witham, John Hatton,	January 22, 1805,	Do.	Have been discharged.
Richard Lisle, Benjamin Davidson, William Rhodes,	July 23, 1805, August 13, 1805,	Princess,	Ordered to be discharged. They had custom house protections.
Charles Kennedy,	August 14, 1805,	Do.	Being a native of Edinburg, refused to be discharged. He had a custom house protection.
Henry Manchester,	Not stated,	Do.	Ordered to be discharged. He had a custom house protection.
James Butler,	Do.	Mariner,	He had a custom house protection, but not agreeing with the description of his person, refused to be discharged.
John Hunt,	Not stated,	Audacious,	He had a custom house protection.
John Cook,	Not stated,	Captain,	Do. do.
William Ricraft,	Not stated,	Do.	Do. do.
John Dennis,	Not stated,	Do.	Do. do.
Christopher Beckman,	Not stated,	Audacious,	He had indentures of apprenticeship, as evidence of his citizenship.
Thomas Osborne,	Not stated,	Heron,	Document being insufficient, refused to be discharged. Affidavit made before the Lord Mayor of London of his citizenship.
William Breton,	December 25, 1804.	Malabar,	The Malabar having sailed to a foreign station, no steps can at present be taken respecting this man. He had a custom house protection.
William Stockdal,	Not stated,	Hearty,	Ordered to be discharged. Having since acknowledged himself to be a British subject, and entered for His Majesty's service, the order for his discharge has been revoked. He had a custom house protection.

William Atlen,	August 13, 1805,	Bold,	Being a North Briton, refused to be discharged. He had a custom house protection.
William Parrot,	August 23, 1805,	Enterprise,	Being a native of Wales, refused to be discharged.
William Weatherland,	Not stated,	Bold,	Being a native of Yorkshire, refused to be discharged.
John Handley,	Not stated,	Repulse,	Document insufficient, refused to be discharged. He had a custom house protection.
Robert Rogers,	August 24, 1805,	Champion,	He had a protection. Not answering the description in his document, refused to be discharged.
Edward Barry,	August 30, 1805,	Princess,	Being a native of Ireland, refused to be discharged. He had a custom house protection.
John Vincent,	Not stated,	Pallas,	The Pallas having sailed to a foreign station, no steps can at present be taken respecting this man.
Thomas Smith,	August 23, 1805,	Princess,	Not answering the description in his document, refused to be discharged. He had a custom house protection.
John Smith,	August 27, 1805,	Do.	Being an Irishman, refused to be discharged. He had a custom house protection.
Thomas Mooney,	August 22, 1805,	Do.	Having a spurious certificate, refused to be discharged. He had a custom house protection.
John Borney,	September 2, 1805,	Do.	Being a Scotchman, refused to be discharged. He had a custom house protection.
James Guy,	Not stated,	Blazer,	Has been discharged. He had a custom house protection.
John Luker,	August 7, 1805,	Watchful,	Document insufficient, refused to be discharged. He had a custom house protection.
Lemuel Beale,	September 7, 1805,	Princess,	Being a Scotchman, refused to be discharged. He had a custom house protection.
Robert Morris,	July 28, 1803,	Victory,	Ordered to be discharged. He had a custom house protection.
George Wood,	June 1, 1805,	Diligencia,	Not having a sufficient document to prove his citizenship, refused to be discharged. He had part of a protection.
John Rolla,	August, 1805,	Staunch,	Impressed from the American ship Belisarius by the Staunch gun-brig, from which they were returned, but their protections were withheld from them. This application was therefore made to the Admiralty, requesting that they might be returned. Protections returned.
Thomas Walds,	Do.	Do.	
Gilbert Lowen,	Do.	Do.	
Thomas Sanxton,	Do.	Do.	
*Thomas ——,	Do.	Do.	
John Thomas West,	August12, 1805,	Salvador del Mundo,	Ordered to be discharged. He had a custom house protection.
Jesse Boyd,	August 12, 1805,	Euryalus,	He had a custom house protection.
John Brown,	Not stated,	Diligence,	They had custom house protections. Not on board the Diligence.
Anthony Huisler,	Do.	Do.	
William Eaton,	Do.	Do.	
Richard P. Tongue,	Do.	Do.	
William Watts,	Do.	Flora,	Their lordships seeing no grounds for allowing this man's discharge, refused to be discharged. He had a custom house protection.
Thomas Bowyer,	Do.	Barbadoes,	Having been received in exchange as an English prisoner of war, refused to be discharged. He had a custom house protection.
Joseph Burnes,	Do.	Arethusa,	Documents insufficient, refused to be discharged. He had a notarial certificate of citizenship.
John Scott,	Do.	Vesuvius,	Being a native of Scotland, refused to be discharged. He had a custom house protection.
James Bannister,	August 15, 1805,	Blazer,	Not answering the description in his document, refused to be discharged. He had a custom house protection.
John Multhrop,	Not stated,	L'Athenienne,	Ordered to be discharged. He had a custom house protection.
John Gordon,	Not stated,	Desperate,	He had a custom house protection.
John Driscoll,	Not stated.		
Samuel L. Sherman,	March 2, 1805,	Sussex hospital ship,	Ordered to be discharged.
John Brown,	Not stated,	Africa,	Document insufficient, refused to be discharged. He had a protection from Mr. Maury, at Liverpool.
Wm. Shar, alias Shaw,	April 18, 1805,	Royal William,	Ordered to be discharged. He had a custom house protection.
Michael Hewitt,	Not stated,	Princess,	He had a custom house protection.
Robert Morney,	Not stated,	Alfred,	Do. do.
William Summers,	Not stated,	Porpoise,	Do. do.
Jonathan Curtis,	Not stated,	Amazon,	He had a custom house protection. Document being insufficient, refused to be discharged.
Adam Brown,	September 17, 1805,	Avon,	Ordered to be discharged. He had a custom house protection.
Thomas Boyd,	May, 1805,	Barbadoes,	Ordered to be discharged. He had a custom house protection.
Robert Warnock,	September, 1805,	Do.	
Wm. Burnham, Jun.	December, 1804,	Do.	Not having a sufficient document to prove his citizenship, refused to be discharged. He had a custom house protection.

* The captain of the Belisarius, the American vessel from which this man was impressed, did not recollect the surname of this man.

Statement of applications in cases of impressment, made immediately to the Department of State, and not before reported to the House of Representatives, or included in Mr. Erving's or Mr. Lyman's returns to this office.

Seamen's names.	Dates of impressment.	Vessels of war into which stated to be impressed or carried.	REMARKS.
John Atkinson,	Not stated,	The Driver,	This man had a protection.
Martin Akens,	February 25, 1805,	The name of the vessel concealed,	None.
Sylvanus Alford and Henry Kilburn,	December 19, 1804,	Imogene,	It does not appear whether they had protections.
Elijah Armstrong,	May, 1803,	Eolus,	Had lost his protection.
Atten John,	January 22, 1805,	The name of the vessel concealed,	Supposed to be a British subject, though he had a protection as an American.
James Allen,	Not stated,	Vanguard,	Protection.
Wm. Aubin,	Do.	St. Lucie,	Do.
Bennet Ashford and	August, 29, 1805,	Indian,	Danish do.
Antonio J. Rodgers,			American do.
James Allen,	August 20, 1805	Sloop of war Hawk,	Supposed to be British subjects. They were passengers in the American ship Augusta, from Belfast, in Ireland, to New York, and were impressed about nine miles from New York.
Edward Lowry,			
Thomas Allen,			
Jas. Davidson,			
Jenkin Killan,			
John Patterson,			
George Weir,			
Samuel Bishop,			
James Chambers,			
John Croit,			
John Beatty,			
Daniel Campbell,			
John M'Connagy,			
Andrew Anderson,	September 25, 1805,	Mercury,	Had a protection as an American, but was, in truth, a British subject.
Thomas Frost,	February 11, 15, 18, 1805,	Pitt frigate,	It is stated that all these men entered voluntarily into the British service.
Thomas Randal,			
John Patterson,			
William Bayle,			
John Outerside,			
Robert Blaway,	Not stated,	Leander,	He had a protection.
Samuel Bunker,	Not stated,	Armed vessel Viper.	
Amos Thop,	July 29, August 2, 1805,	A tender at Belfast,	They had protections. These men deserted.
John Woolridge,			
William Brown,	August 14, 1805,	Cambrian,	It does not appear whether he had a protection. Eighteen passengers, from Belfast, in Ireland, to New York, were taken at the same time from the American, by the frigate Cambrian.
John Buffinton,	March 20, 1805,	Tender Gysey,	This man had a protection, as an American citizen, but was a British subject, as is stated.
George Burns,	Not stated,	Franchise.	
James Barber,	Not stated,	La Revolutionnaire,	He had no protecti[illegible]
Joshua Baker,	Not stated,	Camel,	Had lost theirs.
Enoch Clark,			
Joshua Bartlett,	Not stated,	Not stated.	

John Blackburn, John Anderson, William Rysell,	June, 1805,	Press Gang at Hull,	These men had American protections, but acknowledged that they were British subjects, and voluntarily entered as such, after one had deserted from the American ship Adamant, and the two others were impressed.
John Bloomser,	September 1, 1800,	Cleopatra,	He was a British subject.
George Bradshaw,	July 30, 1804,	La Vertue,	Ditto.
James Brown, Thomas Born, Samuel Breede,	April 10, 1804,	Serapis,	These men appear to have been natives of England, but are stated to have been apprenticed in the United States.
Jost Butler, John Bishop, Nathan P. Brook, Abram Myers,	Not stated,	Galen,	They had custom house protections.
Jacob Beird,	Not stated,	Not stated,	He had a protection.
Henry Beauman,	May 26, 1805,	Tartar or Indian,	Protection.
Thomas Butler,	June 10, 1805,	Brig Cruiser,	Ditto.
George Bryant,	May 15, 1805,	Orpheus,	Protection.
John B. Brown,	June 21, 1805,	Tartar,	Prussian protection.
Malcolm Bruce,	Not stated,	Gun brig Vixen,	British subject.
John Bowman,	May 25, 1804,	Stork,	American citizen, without a protection.
Laurence Brown,	October 29, 1803,	Rackoon,	Naturalized ditto, with ditto.
John Blume, John Evans, Joseph L. Worthy, Thomas Knapp,	October 5, 1505,	Name of the vessel concealed,	Citizens of the United States.
David Brown,	Not stated,	Monarch,	Protection.
Robert Brown,	June 27, 1804,	Driver,	Ditto.
Noah Becks, William Gray,	September 5, 1804,	Leander,	Ditto.
Joseph Beal,	April 6, 1805,	Galatea,	British subject.
John Bar,	Not stated,	St. Lucie,	Protection.
Charles Brown,	Ditto,	Lazareth,	Does not appear whether he had one.
John Brown,	Ditto,	Duquesne,	Had lost his.
John Burk,	Ditto,	Not stated,	British subject.
William Brown,	February 9, 1804,	Eloisa.	
David Baxter,	November 7, 1804,	Sloop of war Fly,	Protection.
David Burk,	Not stated,	L'Oiseau,	It does not appear whether he had one.
John Bolt, James Brown, William Newton,	September 16, 1803,	Gunboat brig,	These men deserted.
John Courtney,	Not stated,	Cambrian,	Protection.
Francis Coffin, Jun.	Ditto,	Indefatigable,	It is not stated whether he had one.
Henry Cobb,	May 11, 1803,	La Loire,	Ditto ditto.
Andrew Clow,	Not stated,	Orestes,	Protection.
William Calvert, Hugh Harris, Robert Williams, John Harman,	May 8, 1805,	Diana,	These men were taken out of an American vessel captured by the French, and recaptured by the British vessel, Diana.
Jere. Culver,	Not stated,	Amelia.	
Robert Carther,	Ditto,	St. George,	He had lost his protection.
John Clark,	April 6, 1805,	Reynard,	Protection.
Thomas Cook, George Wilson,	October, 1803,	Perseverance,	Without protections. The first a citizen of the United States, and the last a British subject.

STATEMENT—Continued.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
Thomas Clark,	March 25, 1805,	The name of the vessel concealed.	
Joseph Clancy,	Not stated,	L'Hercule.	
Thomas Cox,	October 8, 1804,	Cutter Sandwich,	Protection.
Laurence Clark,	April 5, 1805,	Princess,	This man was mate of the American ship Savage, of New Bedford, was without a protection, and acknowledged that he was a Scotchman.
John Clark,	December 15, 1804,	Amelia,	This man was mate of the schooner Sperry, Baker, of New York, and was without a protection.
Henry Christ,	Ditto,	Theseus,	Protection.
William Cox,	August 20, 1800,	Renown,	It is not stated whether he had one.
Patrick Cunningham,	December 19, 1804,	Cambrian,	This man was chief mate of the American ship Juno, when impressed.
——— Croreston,	Not stated,	Not stated,	It does not appear whether he had a protection.
John Campbell,	Not stated,	Amarinth,	Ditto ditto.
Caleb Carr,	October 7, 1803,	Demerara.	
Peter Coyle,	November 9, 1804,	Impress gang at Leith,	It is not stated whether he had a protection.
John Coleman,	February 8, 1804,	Not stated,	British subject.
James Cuilimore,	Not stated,	Not stated,	Ditto.
Robert Thomson, Daniel Carmichael,	December 12, 1804,	Vanguard,	They had protections. The first was an American citizen, the last a British subject.
John Crawford,	September 2, 1804,	Hawk,	He had a protection.
James Deane,	Not stated,	Diana,	He had a protection.
Isaac Day,	July 4, 1805,	Proselyte,	Ditto.
Isaac Dick,	Not stated,	Cambrian,	Ditto.
Thomas Doyle, Ed. Ryly,	September 7, 1803,	Bittern,	Ditto.
John Dixon,	January 19, 1805,	Amsterdam,	Protection.
John Davis,	Not stated,	Galen brig,	Ditto.
Michael Davis,	April 13, 1804,	Desirée,	Ditto, as a Swede.
Michael Davis,	July 23, 1803,	Nemesis,	Ditto, as an American.
John Dixson, Peter Devering, James Maeray,	December 30, 1805,	Centaur,	Ditto ditto.
John Douglas,	April 21, 1804,	St. Lucie,	This man had a protection as an American citizen; but the officers of the St. Lucie would not look at it. They had the impressed man tied down, as it is stated, and, in that situation, carried to the St. Lucie.
Josiah Doane,	February 1, 1805,	By a press gang,	Protection.
James Davis and Henry Wood, Thomas Denney,	September 1, 1803,	By a press gang,	Ditto.
John Chamberlain, John Thomson,	December 22, 1804,	Privateer Anna and Maria,	They had protections. They deserted to and entered voluntarily into the British service.
John Eaton,	March 20, 1805,	Diana,	Protection.
John Edwards,	August 25, 1804,	Castor,	Ditto.
John Erving.			
Joseph Ellingwood,	Not stated,	Armed sloop Derby,	It is not stated whether he had one.
John Edwards,	November 20, 1804,	Wolf,	Ditto ditto.

John English, William Shepperd,	Not stated,	Espray,	Ditto, ditto.
John Frazer,	October 8, 1805,	Unicorn,	Ditto.
John Francis,	Not stated,	Cambrian,	Protection.
George Fisher,	December 24, 1804,	Carysford,	It does not appear whether he had one.
John Flenny,	Not stated,	Not stated,	Ditto.
Amos Follansbee,	Ditto,	Ditto.	Ditto.
Barnet Foland,	November 21, 1803,	Press gang at Liverpool,	Ditto.
George Frazeer and Richard Thomas,	September 10, 1803,	At the island of Goree,	The first of these men was an apprentice to Captain M'Clure, of the American ship Houson, and the last had a protection, as an American citizen. The captain of the American vessel offered to deposite with Governor Frazer, at whose instance they were impressed, any sum that might be thought reasonable for two other seamen to supply the places of those impressed; but he did not succeed.
John Manuel,	August 14, 1803,	At Liverpool,	It does not appear whether he had a protection.
Martin George,	February 19, 1805,	Brig Busy,	He had a protection. Captain Byam, the sailingmaster of the Busy, is stated to have said, in reply to the remonstrances of the captain of the American vessel Henrietta, of Alexandria, from which George was taken, that they had orders to impress all seamen, claiming to be American, whose protections were dated since May, 1804.
James Giles,	September 25, 1803,	Cambrian,	He had a protection.
Ed. Girrells Griggs,	August 27, 1805,	Hawk,	He had a protection as a citizen of the Batavian republic.
James Garven,	June 10, 1804,	Centaur,	Protection.
John Neal,	May 29, 1804,	Alligator,	Had lost his protection.
Walter Holliday,	September 8, 1805,	Demarara cutter,	It does not appear whether he had one.
John Holmes,	March 24, 1804,	Neptune,	He had a protection.
Henry Hall,	August 10, 1805,	Pelican,	Do.
John Howard,	Not stated,	Do.	Do.
William Hopkins,	Do.	Druid,	Do.
Samuel Hodges,	Do.	Windsor Castle,	Do.
William Hall,	November 7, 1804,	At Liverpool,	British subject.
Thomas Holland,	Not stated,	Decade,	It does not appear whether he had a protection.
Josh. Hunt,	July 17, 1803,	Emerald,	Do. do.
Thomas Hutton,	December 20, 1804,	Vanguard,	No protection.
George Hutton,	Do.	Do.	Do.
James Hart,	June 27, 1804,	Name of the ship not stated	Protection. Impressed from a Spanish ship.
Caleb Hastings,	June, 1804,	Revolutionnaire,	This man had no protection, and for that reason is stated to have been impressed.
D. M. Hogan,	Not stated,	Penguin,	It does not appear whether he had one.
John Harlam,	Do.	Petterell,	Do. do.
Patrick Hollohan,	August 5, 1804,	Cambrian,	British subject.
Hyer Godfrey,	Not stated,	Not stated.	
Patrick Hogarty,	May 16, 1804,	Lynx,	This man was a native of Ireland, but at the time of the impressment was an apprentice to Captain Paddock, of the American ship Thames, from which he was impressed.
Samuel D. Hayle,	January 1, 1805,	Penguin,	It does not appear whether this man had a protection.
Jacob Heller,	March 29, 1805,	Mosambique,	Swedish protection.
Edward Killum,	Not stated,	Not stated,	Had lost his protection.
Frederick Kline,	July 28, 1801,	A launch from Commodore Hood's ship.	No protection. A subject of Prussia.
James Kennard,	Not stated,	Fortune,	Not stated whether he had a protection.
James Kennedy,	April 6, 1804,	Mignonne,	Protection.
D. H. Ketcham,	Not stated,	Beaulieu,	Do.
George Manning,	Do.	Cleopatra,	Do.
Leonard Johnston,	Do.	Do.	Do.
James Love,	Do.	Do.	Do.
Nathaniel York,	Do.	Do.	Do.
Jacob Connel,	Do.	Do.	Do.
John Shaw,	Do.	Do.	Do.

STATEMENT—Continued.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
George Atkinson,	Not stated	Cleopatra,	Protection.
Ed. Simpson,	Do.	Do.	Do.
Nathaniel Moore,	Do.	Leander,	It does not appear whether he had one.
Elisha Markam,	Do.	Cambrian,	Protection.
James Matthews,	Do.	Driver,	It does not appear.
James Mash,	August 23, 1805,	Surveillante,	Do.
Ed. Mooney,	Not stated,	Proselyte,	Do.
Philip Miligan,	Do.	Alligator,	Protection.
Richard F. Moore,	Do.	Diligencia,	It does not appear.
George Manning,	February 17, 1805,	Aruba,	Protection.
William Mount,	Not stated,	Swift,	Do.
Elisha Morris,	February 11, 1805,	Busy,	These men had regular protections. The commander of the Busy is stated, in the protest of Benjamin M. Smith, master of the American brig Traveller, from which they were impressed, to have been extremely abusive to him, Captain Smith, on his reclaiming his men, to have threatened to tie him to the gangway, &c.
Peter Douglas,	Do.	Do.	
Henry Matthews,	December 13, 1804,	Redbridge,	Protection.
William Morrow,	August 18, 1804,	Cambrian,	Do.
Nathaniel Mosher,	Not stated,	Vanguard,	It does not appear.
John M'Donald,	May 7, 1804,	Cambrian,	Protection.
Andrew M'Donald,	Not stated,	Boston,	Do.
John M'Evoy,	August 9, 1803,	Do.	British subject.
William Moore,	October 21, 1805,	Galen,	Moore had a protection.
Matthew Barton,	Do.	Do.	It is not stated whether Barton had one.
William Mason,	July 4, 1805,	Proselyte,	Mason had a protection.
John Webster,	Do.	Do.	Webster had none.
Henry Mayo,	Not stated,	Surveillante,	With protections.
George Sterving,	Do.	Do.	Do.
Jos. Cornelius,	Do.	Do.	Do.
Benjamin Moales,	Do.	Do.	Do.
John Martin,	Do.	Do.	Do.
William Clark,	Do.	Do.	Do.
William Orr,	Do.	Do.	Do.
Peter Lawless,	Do.	Do.	Do.
William M'Clure,	August 14, 1805,	Cambrian,	Notarial certificate of citizenship.
Peter Anderson,	July 25, 1803,	Ajax,	Protection.
James Jones,	October 6, 1805,	Swift,	Jones was mate of the American vessel Regulator.
James Johnson,			
Abel Siscol,			
William Jones,	September 9, 1804,	Indian.	
James Johnson,	June 24, 1804,	At Demarara,	British subject.
Samuel Johnson,	September 3, 1805,	Press gang at London,	British subject. He had a protection.
Richard Johnson,	Not stated,	Vessel not stated,	Protection.
Leonard Johnson,	August 29, 1805,	Cleopatra,	Do.
George Atkins,	Do.	Do.	Do.
John Dixon,	Not stated,	Amsterdam,	Do.
John Smith,	Do.	Do.	Do.

William Warner,	Do.	Do.	Do.
Azor, an indented servant,	Do.	Do.	Do.
Jn. C. Davis,	Do.	Do.	Do.
John Westerby,	Do.	Do.	Do.
John Shelton,	Do.	Do.	Do.
Samuel Ingle,	April 24, 1805,	Tartar,	Do.
John Johnson,	August 7, 1804,	Lucifer,	Do.
Samuel Jackson,	Not stated,	Franchise,	Do.
Thomas Jones,	Do.	Do.	Do.
Oliver Blackwith,	Do.	Do.	Do.
John Taylor,	Do.	Do.	Do.
Thomas Jackson,	Do.	King Fisher,	Do.
John Jackson,	July, 1805,	Tartar,	Do.
Gridley Lewis,	August 19, 1805,	Indian,	Do.
Daniel Landerkin, Jun.	Not stated,	Cambrian,	Do.
William Leeman,	Do.	Emerald,	Do.
William Liddle,	August 3, 1803,	Thetis,	Do.
G. H. Christian, Jos. Anthony,	June 23, 1803,	-	Prussian and Portuguese.
Charles Thompson,	November 16, 1803,	Trent,	It is not stated whether he had a protection.
Samuel Litchfield,	February 22, 1805,	Tobago,	He had a protection.
John Little,	January 24, 1805,	Brig Port Mahon,	Protection.
James Whitney,	Do.	Do.	Do.
Abrm. Linard,	Not stated,	Press gang at Cowes,	Do.
Eugene Elmstead,	December 26, 1804,	Carysford,	Do.
Russel Davenport,	Do.	Do.	Do.
Robert Allan,	Do.	Do.	Do.
John Jacobs,	September 18, 1804,	Flying Fish,	It does not appear whether he had.
John Odlin,	Do.	Do.	Do. do.
Anthony Powers,	Not stated,	Iris,	Protection.
George Pinder,	Do.	Not stated,	Not stated whether he had one.
James Pointer,	November 28, 1805,	Redbridge,	Protection.
John Prin,	Not stated,	Defiance,	Do.
John Planton,	Do.	Galatia,	None.
William Pitman,	April 1, 1804,	L'Hercule,	Do.
John Potter,	September 27, 1803,	Princess,	Do.
John Portland,	April 25, 1803,	Dryad,	Do.
James Robbins,	Not stated,	Cambrian,	Protection.
Henry Pearson,	Do.	Not stated,	It does not appear whether he had.
Josh. Pearson,	Do.	Blenheim,	Do.
John Parker,	January 28, 1804,	Zealand,	Do.
Henry Palmatre,	Not stated,	At Hull,	British subject.
Robert Deighton,	Do.	Do.	Do. He had a protection as an American.
George Fleming,	Do.	Do.	Without a protection.
William Park,	Do.	Le Corvette,	Does not appear.
George Pender,	August 7, 1803,	Hunter,	None.
John Peters, jun.	December, 1804,	Carysford,	It does not appear.
David Porter,	December 28, 1804,	Reynard,	Do.
John H. Rictout,	April 25, 1805,	Penguin,	Do.
Samuel Robinson,	September 5, 1803,	Cambrian,	He was not permitted to go or send to the vessel from which he was impressed for his protection.
Christian Moldenham, Christian Lowman,	September 5, 1803,	Cambrian,	Danes, with protections as such.
Richard Rimmer,	May 1, 1805,	Flying Fish,	Protection.

STATEMENT—Continued.

Seamen's names.	Dates of impressment.	Ships of war into which stated to be impressed or carried.	REMARKS.
John Rudemaker,	June 28, 1805,	La Fortenelle,	Batavian citizen.
Stephen Rumsey,	Not stated,	Amelia,	Protection.
Thomas Rodgers, } Ole Hanson, }	February 13, 1804,	L'Oiseau,	The first is stated to be an American citizen, the last a Dane.
Johan Lozawat, } Hans Davidson, }	February 18, 1804,	Hunter,	Danes.
William Robbins,	September 17, 1804,	Rattler,	Protection.
Thomas Robinson,	January 3, 1805,	Diamond Rock boat,	Not stated.
James Overton,	Not stated,	Fortunée,	Do.
Thomas Weeks,	Do.	Echo,	Do.
John Simoonson,	September 10, 1805,	Nimble,	Do.
John Sheany,	January 19, 1805,	Express,	This man had a protection which was produced; but the commander of the Express observed, that he did not regard American protections, and was determined to impress forty more American seamen on the Grenada station.
Josh. Snow, a mate, } William Smith, }	February 18, 1805,	Hippomenes,	Not stated whether they had protections.
Daniel Talmadge,	August, 1805,	Hawk,	This man had no protection; but the American captain, in claiming him, informed the commander of the Hawk that he was acquainted with Talmadge's parents, and knew that he was a native American.
Andrew Stagpole,	May 27, 1805,	Rackoon,	Protection.
John Andrews,	August 16, 1805,	Echo,	Do.
John Tillinghast,	Not stated,	A privateer,	It does not appear whether he had one.
Charles Smith,	September 15, 1804,	Press gang at Limerick,	Do.
William Smith,	Not stated,	Carysford,	Do.
Charles Stewart,	Do.	Mosambique,	Do.
John Shaw,	October 30, 1804,	Barbadoes,	Do.
John Backam,	May 25, 1803,	Amelia,	He was a Swede.
John Roberts,	Do.	Do.	Dane.
William Cole,	Not stated,	Argo,	Does not appear whether he had a protection.
James Jones,	October 6, 1805,	Swift,	Protection.
Thomas Wood,	February 8, 1805,	Polyphemus,	Do.
Thomas Wise, } Robert Smith, }	February 16, 1805,	L'Eclair,	Do.
John G. Zenas,	September 28, 1803,	Advice,	A Dane.
William Watson,	September 25, 1803,	Cambrian,	Protection.
Luke White,	January, 1801,	A press gang at Belfast,	Not stated.
——— Wallace,	November 29, 1805,	Do. at Montego Bay,	Protection.
Hans Loverty,	December 20, 1803,	Rackoon,	A Dane.
Samuel Wells, } John White, }	January 20, 1804,	Do.	A Dane and Englishman.
John Williams, } Philip Squires, }	Not stated,	Hunter,	Does not appear whether they had protections
Francis Cox, } Leonard Findley, }	February 15, 1804,	Brig Betsey,	Without protections.
Thomas R. Green,	February 8, 1805,	Polyphemus,	Not stated whether he had a protection
Jesse Cadwell,	Not stated,	L'Eclair,	With a protection.

Andrew Ewell,	September 2, 1805,	Otter,	With a protection.
Ed. Averell,	December 31, 1805,	Cleopatra,	The first mentioned person had a protection, and the other is said to belong to New York. Captain Wright, commander of the Cleopatra, is stated to have informed Captain Samson, master of the American vessel, from which these seamen were impressed, that he intended to cruise off Bermuda till he had made up, by impressments, his complement of men, and that he wanted one hundred and ten. At the time of the impressment of Averell and Hayes, he sent on board the American vessel, Captain John Larmes, a citizen of the United States, who had been previously impressed.
Ed. Hayes,			
Joshua Wright,	August 4, 1804,	Snake.	
William Brown,			
Robert Williams,	May 7, 1805,	Diana,	He had a protection. The vessel from which he was impressed was re-captured by a British vessel of war from a French privateer.
John Ward,	Not stated,	Explosion Bomb,	He had a protection.
James White,	October 9, 1804,	Pluto,	It does not appear.
William Stanley,	November 29, 1804,	Sandwich,	Protection.
John Williams,	May 22, 1805,	Galatea,	Do.
Joseph White,	August, 1804,	Leander,	Do.
John H. Swinns,	December 7, 1804,	Zealand,	Not stated.
John Spiers,	Not stated,	La Franchise,	Do.
Tristham Spencer,	December 23, 1804,	Terpsichore and Sheerness,	Do.
Alexander Stanton,			
Otrick Barnwell,			
Luther Tracy,	Not stated,	Vanguard,	Do.
Andrew Moore,	November 18, 1804,	Boston,	Protection.
Samuel Moore,	Not stated,	Leander,	Do.
Francis Davis,	Do.	Not stated,	Not stated.
William Thomas,	Do.	Do.	Do.
John Schneider, Jun.	Do.	Carysford,	Do.
John Sebaston,	December 26, 1804,	Do.	Do.
William Tucker,	Not stated,	Ethalon,	Do.
Henry Pearson,	Do.	Do.	Do.
George Alho,	Do.	Do.	Do.
John Bell,	Do.	Do.	Do.
Charles Davis,	Do.	Do.	Do.
Freeman Swain,	January, 1805,	Galatea,	Swain was mate of the American vessel from which he was impressed, and Welsh was the apprentice of the captain of the said vessel.
Patrick Welsh,			
William Skinner,	May 3, 1805,	Fort Diamond,	He had a protection.
William Smith,	August 29, 1805,	Leander,	Do.
Robert Brown,	May 3, 1804,	Driver,	Do.
Samuel Howard,	August 4, 1804,	Leander,	Protection.
Andrew Richee,	Do.	Do.	Do.
William Right,	Do.	Do.	Do.
Jack Bowier,	Do.	Do.	Do.
Samuel Gain,	Do.	Do.	Do.
Thomas Auld,	Do.	Do.	Do.
Thomas Williams,	August 27, 1804,	Do.	Do.
Joseph Murrall,			
James Cornish,	September 6, 1804,	Cambrian,	No protection.
John Williams,	Do.	Do.	Do.

Statement of impressed seamen, who claim to be citizens of the United States, made by William Savage, Esq. to the Department of State.

Seamen's Names.	Dates of Impressment.	Vessels of war into which stated to be impressed or carried.	Seamen's Names.	Dates of Impressment.	Vessels of war into which stated to be impressed or carried.
James Stanford, -	Not stated,	Brig Hunter.	William Byroft, -	Not stated,	Fairé.
Thomas Crammer, -	Do.	Surveillante.	John Hunt, -	Do.	Do.
John Pearson, -	Do.	Do.	Littleton Warren,	Do.	Do.
William Brown, -	Do.	Papillon.	John Dennis, -	Do.	Do.
Wm. Anthony, jun.	Do.	Do.	Thomas Flour, -	Do.	Do.
John G. Seraston, -	Do.	Do.	John Cook, -	Do.	Do.
Nathaniel Huston, -	Do.	Reynard.	—— Burns, -	Do.	La Franchise.
Joshua L. Worthy,	Do.	La Franchise.	Christr. Beekman,	Do.	Fairé.
John Marshall, -	Do.	Diana.	Thomas Ratcliff, -	Do.	Blanche.
William Pickering,	Do.	Not stated.	Peter Holmes, -	Do.	Diana.
John Murray, -	Do.	Do.	Peter Ribble, -	Do.	Theseus.
James Morgan, -	Do.	Cayenne.	William Cripps, -	Do.	Do.
Edw. Buckingham,	Do.	Le Seine.	Archibald Fisher, -	Do.	Do.
William Robbins, -	Do.		John Smith, -	Do.	Do.
John Steward, -	Do.	Reynard.	Stephen Hall, -	Do.	Do.
Michael Wales, -	Do.	Becant.	Robert Masters, -	Do.	Do.
William McDonald,	Do.	Galen.	Freeman Swain, -	Do.	Galatea.
John Davis, -	Do.	Do.	Silas Dickinson, -	Do.	Amelia.
Martin Woolfe, -	Do.	Desirée.	Thomas Behell, -	Do.	Centaur.
Robert Thomson, -	Do.	Vanguard.	Holster Fowle, -	Do.	Amelia.
Daniel Teill, -	Do.	Fortunée.	James Smith, -	Do.	Centaur.
Daniel Whitehouse,	Do.	Do.	Stephen Bradbury,	Do.	Do.
Gordon Minet, -	Do.	Do.	Aaron Dill, -	Do.	Diana.
John Thomson, -	Do.	Do.			

9th CONGRESS.] No. 198. [1st SESSION.

SPAIN.

COMMUNICATED TO CONGRESS, MARCH 20, 1806.

To the Senate and House of Representatives of the United States: MARCH 19, 1806.

It was reasonably expected that, while the limits between the territories of the United States and of Spain were unsettled, neither party would have innovated on the existing state of their respective positions. Some time since, however, we learned that the Spanish authorities were advancing into the disputed country to occupy new posts and make new settlements. Unwilling to take any measure which might preclude a peaceable accommodation of differences, the officers of the United States were ordered to confine themselves within the country on this side of the Sabine river, which, by delivery of its principal post, Natchitoches, was understood to have been itself delivered up by Spain; and, at the same time, to permit no adverse post to be taken, nor armed men to remain within it. In consequence of these orders, the commanding officer at Natchitoches, learning that a party of Spanish troops had crossed the Sabine river, and were posting themselves on this side the Adies, sent a detachment of his force to require them to withdraw to the other side of the Sabine, which they accordingly did.

I have thought it proper to communicate to Congress the letters detailing this incident, that they may fully understand the state of things in that quarter, and be enabled to make such provision for its security as, in their wisdom, they shall deem sufficient.

TH: JEFFERSON.

Extract of a letter from Major Porter to the Secretary of War, dated

NATCHITOCHES, *February* 8, 1806.

SIR:

Your letter of the 20th November was received on the 24th ultimo, and the request therein mentioned was, without loss of time, forwarded to the commandant at Nacogdoches, from whom I received, on the 4th instant, an answer, in which he refused to give the assurance required.

Deeming this reply decisive, I immediately detached Captain Turner, with sixty men, to remove a party of Spaniards that had, a few days before, passed and taken post on this side of the Adies, and to patrol the country between this post and the river Sabine; the former he easily accomplished, and is now performing the latter.

The report of preparations, making by our Spanish neighbors, for war, are various, but generally agree that considerable numbers of troops are progressing from the interior to the eastward; that near three hundred of them were, a few weeks since, at the great crossing of the Trinity, where there were near two hundred beeves, five hundred horses, and a considerable magazine of flour; that they have ten guns now mounting at Nacogdoches, where most of them have been lately received; and that, immediately after Lieutenant Piatt, the bearer of my letter to the commandant of Nacogdoches, left that place on his return, a Spanish officer was despatched to Bayou aux Pierre to impress on the minds of the inhabitants of that settlement the allegiance that they owed to His Catholic Majesty; ordered them to join his standard whenever required; and informed them that the Red river would be the boundary line between the Spanish country and the United States.

NATCHITOCHES, *February* 1, 1806.

SIR:

You are immediately to proceed with the detachment now under your command to the neighborhood of Adies, where, if you should fall in with a stationary party of armed Spaniards, you will command them, or any other armed

party of foreigners which you may discover, to withdraw beyond the Sabine river. In case of their refusing to comply, you are to treat them agreeably to the orders of the Secretary of War, (a certified extract of which accompanies these instructions,) as far as relates to the pursuit, capture, and detention, of invaders or aggressors, and avoiding the spilling of blood, but when these orders cannot otherwise be executed. You are to patrol, if practicable, the country between this and Sabine. Be on your guard against surprise, and communicate to me, by express, from time to time, any occurrence worthy of note.

M. PORTER,
Major Artillerists, Commanding.

Captain EDWARD D. TURNER, *Second Regiment Infantry.*

ADIES, *February* 6, 1806.

SIR:

After a tedious march we arrived in front of the Spanish post yesterday morning about half past eleven o'clock; found the Dons in some confusion, in consequence of their patrol having discovered us an hour before, (owing to our pilot bringing us in sight of the road.) I took a position which would have carried their camp, if there had been ten times their number, which was twenty. They saddled, mounted, and formed. At the Bayou le Glese, their patrol or picket halted our vanguard, and demanded the reason we were violating or invading His Majesty's territory. I requested him to withdraw with his guard inside his camp, where I would presently be, and inform his officer of my business. He implicitly obeyed. Upon my arrival at my position, I sent Mr. Duforest to tell the officer I wished a conference. Mr. Duforest was informed, in consequence of some information the corporal of the advanced guard had given, the officer had gone down the road to meet me. I waited some time his return, but not seeing him, I suspected he had purposely put himself out of the way to gain time. I, therefore, after sending another message to the camp, formed my men, and marched through the thicket within forty yards, where I halted, and told the non-commissioned officer commanding that I should wait fifteen minutes for his officer, provided he made no movements in the interim. The officer soon after appeared, when I delivered him my commands. He readily agreed to abandon his position, but he said he could go no further than a creek *San Jose.* After a good deal of altercation, he consented to move to the other side of the Sabine, and I gave him three hours to prepare to march. He begged I would not insist upon his crossing the Sabine within five days, alleging that, in the miserable condition of his horses, it would be impossible without losing them, and requested that he might be allowed to look up some that were missing. I replied that, after reaching the other side the Sabine, he might send in two or three of his men without arms to hunt them; and that he must get them as soon as possible. He replied he would, but it would necessarily take him four or five days. This morning I commenced my march for *La Nan*, and fell in with him in three miles. I signifying my surprise at his being no further, he made the old excuse of the impossibility of his horses to travel faster; and observed that he had been detained in trying to find some of his horses, two of which he had got, and four were yet missing. Not thinking it proper to rely exactly on his word, after again falling in with him, I made him subscribe to the enclosed terms, (which I hope may meet your approbation,) and shall follow his footsteps till my provisions are out.

Respectfully yours, &c.

E. D. TURNER.

Major MOSES PORTER.

AT THE ADIES, *February* 6, 1806.

I, Joseph Maria Gonzalez, ensign, commandant of His Most Catholic Majesty's troops on this side of the river Sabinas, hereby have agreed with Captain Edward D. Turner, captain in the United States army, to return all said troops of His Catholic Majesty to the other side of the said river Sabinas, as soon as my horses will permit it, or in five days, or, at furthest, six, and to take my march this day; and I also oblige myself not to send any patroles on this side of the river Sabinas.

JOSEPH MARIA GONZALEZ, *Ensign.*

Witness: JOHN V. DUFOREST.

9th CONGRESS.] **No. 199.** [1st SESSION.

TUNIS.

COMMUNICATED TO CONGRESS, APRIL 14, 1806.

APRIL 14, 1806.

To the Senate and House of Representatives of the United States:

During the blockade of Tripoli by the squadron of the United States, a small cruiser, under the flag of Tunis, with two prizes, (all of trifling value) attempted to enter Tripoli, was turned back, warned; and attempting again to enter, was taken, and detained as prize by the squadron. Her restitution was claimed by the Bey of Tunis, with a threat of war in terms so serious, that, on withdrawing from the blockade of Tripoli, the commanding officer of the squadron thought it his duty to repair to Tunis with his squadron, and to require a categorical declaration whether peace or war was intended. The Bey preferred explaining himself by an ambassador to the United States, who, on his arrival, renewed the request that the vessel and her prizes should be restored. It was deemed proper to give this proof of friendship to the Bey; and the ambassador was informed the vessels would be restored. Afterwards he made a requisition of naval stores, to be sent to the Bey, in order to secure a peace for the term of three years, with a threat of war if refused. It has been refused, and the ambassador is about to depart without receding from his threat or demand.

Under these circumstances, and considering that the several provisions of the act of March 25, 1804, will cease in consequence of the ratification of the treaty of peace with Tripoli, now advised and consented to by the Senate, I have thought it my duty to communicate these facts, in order that Congress may consider the expediency of continuing the same provisions for a limited time, or making others equivalent.

TH: JEFFERSON.

9th CONGRESS.] No. 200. [1st SESSION.

GREAT BRITAIN—IRA ALLEN.

REPORTED APRIL 17, 1806.

DEPARTMENT OF STATE, *April* 17, 1806.

The Secretary of State, to whom was referred, on the 11th instant, the memorial of Ira Allen, has the honor to make the following report to the Senate:

That the Executive of the United States, with a view to promote the justice claimed by the memorialists, has heretofore interposed in his behalf with the British Government; but that a decree of restitution of the captured property was not pronounced by the court of appeals, until the month of February, 1804, though the capture was made towards the close of the year 1796; that it appears, that in this interval, the sureties of the memorialists on the return of the arms, and to whom he mortgaged and was compelled to deliver them as a counter security, failed, after having sold them; whereby the memorialist is deprived of the effect of the sentence, of the restitution. That on the application of the memorialist, his case was again recommended to the attention of the ministers of the United States, in London, by a letter from the Department of State, dated on the 15th March, 1805, in order that due compensation for the loss might be sought from the British Government, so far as the circumstances of the case (some of which are very peculiar) rendered them responsible; but owing probably to the absence of that minister in Spain, and to other occurrences of a more pressing nature since his return, he has not reported any proceedings under those instructions.

All of which is respectfully submitted.

JAMES MADISON.

To the President of the United States, the honorable the Senate and House of Representatives, convened in Washington. The memorial of Ira Allen, late of Colchester in Vermont, now of Philadelphia, humbly showeth:

That in consequence of a scarcity of arms in Vermont, and after repeated legislative inquiries, and measures taken by the late Thomas Chittenden, Esquire, Governor of said State, to purchase arms to supply the militia of said State; and arms not being to be purchased in the United States, or borrowed from the Government thereof, to supply the militia aforesaid; that, in 1795, the late Thomas Chittenden, Esquire, then Governor of Vermont, gave written instructions under his signature, that of the secretary, and seal of State, to your memorialist, to purchase arms, for the supply of said militia, in Europe. Your memorialist proceeded to Great Britain, and inquired the price of arms and terms of purchase there, when he was informed that the price of arms was thirty-two shillings sterling per gun and bayonet, without any credit; he then proceeded to France, and in Paris completed a written contract with the then French Minister at War, for twenty thousand stand of arms furnished with bayonets, and twenty-four brass four pound field-pieces, with utensils for their use; which contracts were more than fifty thousand dollars better in Paris than the terms of purchase proposed in England, with the advantage of seven years credit, at five per cent. interest, for four-fifths of the purchase money. This contract in France, was equally consistent with the laws of nations and treaties, as if it had been made in England. The advantage in the contracts determined the place of purchase.

Your memorialist further states, that, on his way for New York, with a cargo of said cannon and arms, he was captured by an English seventy-four gun ship, and carried to England, where a tedious litigation took place in the high court of admiralty; and notwithstanding the most unquestionable evidence was exhibited in every stage of the cause, supported by the executive, Senators and Representatives of Vermont in Congress, Executive of the United States at different periods, and ministers thereof in London; and though your memorialist often urged a final decision of his cause, on the evidence and arguments before the court, yet the court of appeal restored the property on bail, and required further proofs on the part of your memorialist from France. This order necessitated your memorialist to consign his property to British merchants to procure them as bail, and to go to France for such proofs, where he experienced many evils, too lengthy to state, for which, and copies of proofs, he refers to the second volume of the book concerning the case of the Olive Branch.

That the capture and proceedings in the court of admiralty, are, in many particulars, a violation of the laws of nations and treaty of 1794, and a flagrant insult on the Government of the United States, in not respecting the interference of the Executive thereof; and an insult on the Government of Vermont, for the British Government to attempt to deprive the militia thereof of military stores, because the State was bounded on British America, and because her sons were active in the revolution of the United States. And these assertions were the more extraordinary, because Judge Marriott had in 1797 condemned said cargo, suggesting that it was destined to arm the rebels of Ireland.

That continuing this cause near eight years, without one syllable of evidence in court in support of the captors until the bail (to whom your memorialist was necessitated to consign his cargo,) became bankrupts, and then to decide the cause in favor of your memorialist, on the evidence that had been some years before the court, and on which the court declined to act until in 1804, is acknowledging the justice of the claim, without compensation for losses and injuries received.

Your memorialist, therefore, claims justice of the British Government for all his losses, both at home and abroad, and injuries that were in consequence of said capture and detention in Europe; that, in addition to justice under the laws of nations and treaty of 1794, a precedent has been established by the convention under said treaty in the United States, stipulating to pay to British creditors six hundred thousand pounds sterling, in consequence of legal obstructions to their collecting debts in the United States, until their debtors were bankrupts.

Your memorialist submits that his claims are much better founded than that of said British creditors; for his capture and detention has been by the immediate order of the British Government, its courts, officers, or agents.

Your memorialist, therefore, solicits the interference of the Government of the United States, to sequester the remaining two hundred thousand pounds sterling, payable to British merchants as aforesaid, that it may be paid over to your memorialist in compensation for the immense losses and evils experienced, in consequence of the capture aforesaid, or take such other measures as may be most consistent with the wisdom of Government to obtain justice for your memorialist of the British Government.

Your memorialist, &c.

IRA ALLEN.

PHILADELPHIA, *February* 22, 1805.

9th CONGRESS.] No. 201. [2d SESSION.

SPAIN.

COMMUNICATED DECEMBER 2, 1806,

With the annual message at the commencement of the session.

NATCHITOCHES, *August* 5, 1806.

SIR:

It has been reported to me, for several days past, that a large body of the troops of the King of Spain had assembled near the Sabine, and were about to cross that river, and I am just informed that this body has crossed the said river, and taken post within the territory of the United States; it has therefore become my duty to address you on this subject, to demand an explicit avowal of the object of this movement, to insist on this body of troops being immediately withdrawn, and to warn you of the consequences which may result from its continuance within the territory of the United States.

It is well known that the Government of the United States and the King of Spain are at this moment negotiating on the subject of the boundaries of Louisiana, and there cannot be a doubt but an amicable adjustment of existing differences will soon take place.

The reinforcements which have lately reached this post are only intended as a security to the territory actually surrendered to us, and which we consider as extending to the Sabine. There is no disposition on the part of the United States to commit hostilities on the troops or possessions of Spain; but we cannot suffer aggressions on our territory, and should you persist in making them, you will be justly chargeable with all the consequences which such conduct is calculated to produce. I have only to add, that, if you should think proper to remove the Spanish troops to the west side of the Sabine, and continue them there, no attempt will be made, on the part of the United States, to interrupt that friendship and harmony which ought to subsist between neighboring nations. But if you should attempt to continue these troops within the territory of the United States after this explicit and friendly warning, it will be my duty to consider you as an invader of our territory, and to act accordingly.

This letter will be handed to you by Major Moses Porter, of the artillerists of the United States, who will wait a reasonable time for your reply; which, if convenient, I hope may be accompanied by an English or French translation, to enable me to ascertain its contents with greater certainty. The Major will be attended by one non-commissioned officer, and one private soldier, of the army of the United States.

I avail myself of this opportunity of tendering my best wishes for your health, happiness, and honor, and am, sir, with respectful consideration, your obedient servant,

T. H. CUSHING,
Colonel commanding a detachment of the army of the United States.

To Col. HERRERA, *or Officer commanding the troops of the King of Spain on the east side of the Sabine.*

PLANTATION OF MR. PRUDHOMME, *August* 6, 1806.

SIR:

With all possible respect I answer your excellency's letter which was delivered to me, at this place, by Moses Porter, Major of Artillery of the United States.

It is true that I have crossed the Sabine river with a detachment of troops belonging to the King with orders from the Captain General (by whom I am governed) to keep this territory from all hostile attempts, as belonging, from time immemorial, to the King, and which is a dependence of the province of Texas. The inhabitants still acknowledge obedience to our Government, notwithstanding the violence committed on a small detachment of our troops by those of the United States.

From this moment I hold myself responsible to the real letter of the orders that govern me, which are, by no pretext whatsoever, to interrupt or break the good intelligence which subsists between His Majesty and the United States; but I cannot permit, without violating my duty, any usurpation upon the land he possesses. If your excellency makes any infringement, you, alone, will be answerable to the two courts, and may interrupt the amicable convention, perhaps, now on foot, but of which I have no knowledge.

I did not send a translation of this in French or English, not having any person capable of translating, with purity, a thing of so serious a nature.

I felicitate myself of this opportunity in offering my best services. Your very humble servant,

SIMON DE HERRERA.

Senor Don THOMAS CUSHING,
Commander of a detachment of the army of the United States.

NATCHITOCHES, *August* 26, 1806.

SIR:

On my arrival at this post, I learned, with certainty, that a considerable Spanish force had crossed the Sabine, and advanced within the territory claimed by the United States. It was hoped, sir, that, pending the negotiations between our respective Governments for an amicable adjustment of the limits of Louisiana, no additional settlements would be formed, or new military positions assumed, by either Power within the disputed territory; a policy which a conciliatory disposition would have suggested, and justice sanctioned; but, since a contrary conduct has been observed on the part of certain officers of His Catholic Majesty, they alone will be answerable for the consequences which may ensue.

The above proceeding, sir, is not the only evidence of an unfriendly disposition which certain officers of Spain have afforded. I have to complain of the outrage lately committed by a detachment of Spanish troops, acting under your instructions, towards Mr. Freeman and his party, who were ascending the Red river under the orders of the President of the United States. Mr. Freeman and his associates were navigating waters which pass through the territory ceded by France to the United States; they were navigating a river on which the French had formerly made settlements far beyond the place where they were arrested; a fact of great notoriety, and in support of which the testimony of several citizens, residing at and near the post of Natchitoches, can be adduced.

But, nevertheless, Mr. Freeman and his party were assailed by a battalion of Spanish troops, and commanded to return: a proceeding the more exceptionable, since the objects of Mr. Freeman were merely scientific, having in view nothing hostile to Spain; objects which were long since communicated by me to his excellency the Marquis of Casa Calvo, and which, through him, I presume, must have been made known to the Governor General of the province of Texas.

This detachment of Spanish troops, whose movements, I learn, are directed by your excellency, did, on their march, commit another outrage towards the United States, and of which it is my duty to ask an explanation. In the Caddo nation of Indians the flag of the United States was displayed, and commanded from the chief and warriors all the respectful veneration to which it is entitled; but your troops are stated to have cut down the staff on which the pavilion waved, and to have menaced the peace and safety of the Caddos should they continue their respect for the American Government, or their friendly intercourse with the citizens of the United States.

I experience the more difficulty in accounting for this transaction, since it cannot be unknown to your excellency, that while Louisiana appertained to France, that the Caddo Indians were under the protection of the French Government, and that a French garrison was actually established in one of their villages: hence, it follows, sir, that the cession of Louisiana to the United States, "with the same extent which it had when France possessed it," is sufficient authority for the display of the American flag in the Caddo village, and that the disrespect which that flag has experienced, subjects your excellency to a serious responsibility.

I am unwilling to render this communication unnecessarily lengthy, but I must complain of another outrage, which has been committed under the eyes of your excellency. Three citizens of the United States, of the names of Shaw, Irvine, and Brewster, were seized by Spanish soldiers, within twelve miles of Natchitoches, and have been sent prisoners to Nacogdoches. I cannot suppose that this proceeding is unknown to your excellency, and I should be wanting in duty, did I not avail myself of the present occasion to demand information as to the cause of their arrest and detention. There is still another subject on which I must address your excellency. It is reported to me, that several slaves, the property of citizens of the United States, have lately escaped from the service of their masters, and sought and found an asylum at Nacogdoches. I have seen the correspondence between your excellency and Judge Turner upon this subject, and I learn your determination to await the orders of the Governor General of the province of Texas. I will forbear, therefore, for the present, to press their immediate delivery to the orders of their masters; but I must urge your excellency to discourage, for the future, the escape of slaves from this to your territory, and I request that such as may repair to the bounds of your command may be forthwith returned. Your excellency will readily perceive the cause of my solicitude on this subject. If fugitive slaves are to receive the protection of the Spanish authorities, the property of the citizens of this territory is indeed insecure, and a good understanding between our two Governments ought not, and cannot, be preserved. During the last year, I had a correspondence with his excellency the Marquis of Casa Calvo, (who was then at New Orleans,) relative to some negroes who had escaped to Nacogdoches; and, in consequence of the interference of the Marquis, I am led to believe that they were restored. I was since officially informed by the Marquis, that his conduct on the occasion was approved by His Catholic Majesty, and I consequently concluded that the mischief was at an end. It cannot, I presume, be unknown to the officers of His Catholic Majesty, that ministers from the United States have repaired to Spain for the avowed purpose of amicably adjusting the existing differences. I should greatly regret, therefore, if any occurrences in this quarter should prevent that amicable arrangement which the interest of each nation would advise. But if the officers of Spain should persist in their acts of aggression, your excellency will readily anticipate the consequences, and if the sword must be drawn, let those be responsible whose unfriendly conduct has rendered it indispensable.

Colonel Henry Hopkins, the Adjutant General of the militia of this territory, will have the honor to deliver to your excellency this communication, and to await your answer.

I tender to your excellency the assurances of my great respect and high consideration.

WILLIAM C. C. CLAIBORNE.

His Excellency Governor HERRERA,
or the Officer commanding a detachment of Spanish troops
at or near the settlement of Bayou Pierre.

SPANISH CAMP, *August* 28, 1806.

SIR:

The troops of the King my master, which I have the honor to command on this side of the Sabine, have no other object but to maintain good harmony between the United States and His Majesty, and to preserve inviolate the territory which belongs to him.

Major Freeman was navigating the Red river, on that part of the territory which never belonged to the province of Lousiana, now appertaining to the United States; for which reason he was notified by the commandant of the troops to retrograde as far back as the country that did belong to them. I agree with your excellency, that all the territory which His Catholic Majesty ceded to France belongs to the United States, but the Caddo Indians are not on that land, but at a great distance from it, and live now on the territory of Spain. For which reason it was notified to them, that if they chose to live under the Government of the United States, they must go to the territory under their jurisdiction; but if they desired to remain where they were, it was required of them to take down the American flag. They consented not to abandon their village; but being more tardy than was conceived they might have been in pulling down the flag, they (the Spaniards) were obliged to do it by force.

The reason why I detained the three citizens of the United States, was because they were found twice, and on different days, observing our positions and movements; and three several times that I questioned them, I observed they did not agree as to the motives of their visiting the place; but, finally, one of them told me they wished to establish themselves under the Government of the King at St. Antoine, which determined me to send them to the Governor of the province with an escort, as well on account of the distance of the road, as for having rendered themselves suspected persons. The detention of the runaway negroes of Louisiana at Nacogdoches, is an affair in suspense before the Captain General of this province, who likewise will have knowledge of the motives why these were sent back whom your excellency cited. And for the better security of the matter, I shall send your letter which I received by Colonel Hopkins, and who likewise will be the bearer of this.

The troops of the King, neither from disposition nor character, will ever co-operate directly or indirectly in encouraging the emigration of negro slaves. For my part, I assure your excellency that those I command will commit no hostility which can frustrate the negotiations now pending between our courts; but if I am provoked to it I shall endeavor to preserve the honor of my troops, and to fulfil the obligations with which I am invested; a duty which my character and that of my subalterns demands.

I avail myself of this opportunity to offer your excellency my respect and consideration.

SIMON M. HERRERA.

His Excellency Governor WM. C. C. CLAIBORNE.

NATCHITOCHES, *August* 31, 1806.

SIR:

By the return of Colonel Hopkins I am honored with your excellency's reply to my communication of the 28th instant. I continue of opinion that the advance of Spanish troops within a territory claimed by the United States, is evidence of an unfriendly disposition; nor can I perceive any thing in your excellency's letter which can justify or extenuate the offensive conduct observed towards Mr. Freeman and his associates, or the indignity offered in the Caddo nation to the American flag.

You have not denied, sir, that the French, when in possession of Louisiana, had established a garrison on Red river, far beyond the place where Mr. Freeman and his associates were arrested on their voyage, or that the Caddo Indians were formerly considered as under the protection of the French Government. The silence of your excellency on these points proceeds probably from a knowledge, on your part, of the correctness of my statements. I shall, however, touch no further on these transactions, in my correspondence with your excellency, but will hasten to lay the same before the President of the United States, who will know what measures to direct when wrongs are offered to the American nation. I cannot, however, refrain from expressing my displeasure at the arrest and detention, under your excellency's orders, of three citizens of the United States, Shaw, Irvin, and Brewster; they are charged with no offence that would warrant imprisonment and transportation to St. Antonio. A state of actual war between our two nations could not have justified your conduct towards those unoffending citizens. I can venture to assert, that the suspicions of your excellency as to the objects of Shaw, Irvine, and Brewster, are unfounded.

They certainly would have no particular inducements to notice the positions or movements of your troops. The fact, I believe, is, that these men were desirous of gratifying their curiosity, and wished your excellency's passports to visit St. Antonio. Under this impression, and from the circumstance that they were within the territory claimed by the United States, I deem it my duty to demand their release and speedy restoration to their country. It cannot be supposed that the distance to St. Antonio, or their personal convenience, occasioned the escort which attended them. They appear, on the contrary, to have been treated by your excellency as State prisoners, and as such, I have information of their having passed through Nacogdoches under a strong guard. Your excellency will recollect that the subjects of His Catholic Majesty are daily in the habit of visiting the post of Natchitoches, and cannot but observe the positions and movements of the American troops. They, however, are permitted to pass without molestation. A friendly and innocent intercourse between the citizens of the one, and the subjects of the other Power, has not, as yet, been interdicted by this Government. I am persuaded, therefore, that your excellency will see that the arrest of Shaw, Irvine, and Brewster, was premature, and that their detention is highly improper. I have no personal knowledge of these three men; they are American citizens, and, of course, under the protection of the Government of the United States. In the name of that Government, therefore, I do now demand their release, and that they be restored to their country as soon as possible.

Pending the negotiations between our respective Governments, I could wish that hostilities should not commence in this quarter; but, if provoked to it, by the unjust aggressions of the forces of His Catholic Majesty, the troops of the United States will endeavor to maintain their own and their country's honor.

Lieutenant Duforest, of the American army, is charged with the delivery of this letter to your excellency, and to bear me such answer as you may think proper to return.

I renew to your excellency the assurances of my respectful consideration.

WILLIAM C. C. CLAIBORNE.

His Excellency Governor HERRERA.

Extract of a letter from General Wilkinson to the Secretary of War, dated

HEAD QUARTERS, NATCHITOCHES, *October* 4, 1806.

I yesterday morning received Governor Cordero's answer to my address of the 24th ultimo, copies of which you have under cover.

The varied style of this letter, when contrasted with those of Governor Herrera to Colonel Cushing and Governor Claiborne, combined with the circumstance of the Spanish troops having recrossed the Sabine to a man, has induced me, on the ground of economy and of expediency, also, to discharge the militia who had reached this place, and to countermand those under march, excepting about one hundred dragoons and mounted infantry, whom I shall retain in service (until I am apprised of the determination of the Captain General Salcedo,) to watch the movements of our neighbors.

HEAD QUARTERS OF THE ARMY OF THE UNITED STATES,
NATCHITOCHES, *September* 24, 1806.

SIR:

After the recent communications which have passed between his Excellency Governor Herrera, Colonel Cushing, and Governor Claiborne, and his reiterated repulsion of their reasonable and rightful demands, I will confess to your excellency, that naught but the very high and solemn obligations which I owe to humanity, could vanquish the repugnance with which I now have the honor to address you, on a topic profoundly interesting to our respective nations, inasmuch as it may involve a question of peace or war.

The differences of opinion which have prevailed concerning the contested limits of Louisiana, having been submitted to amicable negotiation by our respective sovereigns, the appeal to rational inquiry is an admission of the dubiosity of the right, and therefore should prevent any change of military positions posterior to the delivery of the province of Louisiana to the United States.

The Government of the American Union, founded in right and conducted by reason, has been instructed by the history of other times how to value the blessings of peace, and being unambitious of conquest or military fame, is desirous to preserve a fair and friendly understanding with all the Powers of the earth.

Thus circumstanced, and under daily expectation of a favorable issue to the depending negotiations, it would mark a sanguinary spirit, and be a most ungracious and unwarrantable deed, were the military officers of either Government, by an act of precipitancy, to frustrate the benevolent views of a pacific discussion, and make way for the commencement of hostilities, whose final issue may baffle human foresight, but whose probable consequences would be scenes of revolution and bloodshed, offensive to humanity, and subversive of the general policy of nations.

In this state of things, I am ready to pledge myself that, pending the negotiations of the two countries, nothing shall be attempted against His Catholic Majesty's subjects or territories by the troops under my command, unless his officers should attempt, as they have already done, to innovate the "statu quo" at the surrender of the province, by occupying new ground, or erecting new posts, or unless they should trespass on the rights of the citizens, or violate the sovereignty of these States: the former conduct will compel counter movements and occupancies, and the latter will not only justify recrimination, but will infallibly excite it, and thus hostilities may be produced, notwithstanding the peaceful dispositions of the high Powers to whom we are respectively accountable.

When the troops of the United States took possession of this post, the Spanish commandant from whom it was received, did not define the limits of his jurisdiction; yet it was notorious that Nacogdoches formed the barrier post of the approximate province of Texas. It was known also that controversies had existed between France and Spain, respecting the western limits of Louisiana, and we had been assured by Monsieur Laussatt, the French commissioner who delivered the province to the United States, that the pretensions of France went as far west as the Rio del Norte; but we were not informed that any line of demarcation had ever been traced to partition these provinces.

Whether such a line of territorial jurisdiction had ever been established or not between the provinces of Louisiana and Texas, one had been rendered indispensable, by the sale of the former to the United States, for the administration of justice, the security of property, and the prevention of hostile collisions; and these States, with pretensions far more extensive, adopted the Sabine river as the most obvious, most convenient, most natural, and *least* exceptionable, temporary boundary.

I am, therefore, sir, commanded by the President of the United States to inform you "that the actual quiet possession of the country by the United States, east of the river Sabine, ought and will be considered as fully within the limits of the country surrendered to the United States on taking possession of this place; and, therefore, any attempt on the part of His Catholic Majesty's officers, to disturb the existing state of things, by endeavoring to occupy any new post east of the Sabine, or westward or northward of the former boundaries, of what has been called West Florida, must be considered by the Government of the United States as an actual invasion of their territorial rights, and will be resisted accordingly." And while I submit these commands to your grave consideration, in the hope they may have due weight, it becomes my duty to demand from you the withdrawal of the troops of Spain to the west of the Sabine.

My sense of the high respect which is due from one old soldier to another, prohibits the idea of menace; but, as our honor forbids stratagem or deception before our swords have been drawn; I owe it to my own fame, and to the national character, to warn you, that the ultimate decision of the competent authority has been taken; that my orders are absolute, and my determination fixed, to assert, and, under God, to sustain the jurisdiction of the United States to the Sabine river against any force which may be opposed to me.

Retire then, sir, I conjure you, the troops of your command from the ground in controversy, and spare the effusion of human blood, without prejudicing your own honor, or the substantial interest of His Majesty your Royal master.

Colonel Thomas H. Cushing, chef-des-etats-major of the army of the United States, has my orders to deliver this letter to you, and to wait a reasonable time for your answer.

I pray God to keep your Excellency in his holy protection for many years, and have the honor to be your most obedient and humble servant.

JAMES WILKINSON.

His Excellency GOVERNOR CORDERO,
Chief in command of the troops of Spain on the western frontier of the province of Texas.

NACOGDOCHES CAMP, *September* 29, 1806.

EXCELLENT SIR:

By the hands of Colonel Thomas Cushing, chief of the General Staff of the United States army, I have had the honor, yesterday, to receive your excellency's letter, written from your head quarters at Natchitoches.

Being authorized to enter into a discussion of the serious and interesting matters on which you treat, I hope your excellency will excuse me, for transmitting your letter, with the utmost celerity, to the hands of the Captain General Brigadier Nimesio Salcedo, under whose orders I act, and I shall transmit to your excellency his answer in the same manner by the hands of an officer of my staff.

While thus acting I have the honor to offer to your excellency my respects and consideration, praying God to keep you alive many years.

I am, sir, your excellency's most humble and obedient servant,

ANTONIO CORDERO.

His Excellency Don JAMES WILKINSON, *Governor of Louisiana, and General of the army of the United States of America.*

Extract of a letter from General Wilkinson to the Secretary of War, dated

NATCHITOCHES, *October* 21, 1806.

Accidental causes having detained the bearer, I am enabled to transmit you under cover the answer of Governor Cordero to my note of the 4th instant, of which a copy has been forwarded, and a duplicate will accompany this.

I send you a literal copy of the Governor's letter, in place of a very imperfect translation, which, however, serves to remove all doubts of the continued pretensions of the Spaniards to extend their jurisdiction to the Arroya Fonda, within seven miles of this post, and confirms my determination to advance to the Sabine, for which point, my arrangements being completed, I shall march to-morrow morning; but agreeably to the idea expressed in a former letter, I intend to propose to the Spanish commander the withdrawal of our troops, respectively, to the points of occupancy at the period of the surrender of the province to the United States, and in case of his refusal I shall be governed by circumstances.

I am informed the Captain General Salcedo was to be at Nacogdoches on the 22d proximo.

HEAD QUARTERS, NATCHITOCHES, *October* 4, 1806.

SIR:

I have had the honor to receive your excellency's letter of the 29th ultimo, by Colonel Cushing, and shall expect the answer of his excellency the Captain General Salcedo with solicitude.

In the mean time I shall move forward towards the Sabine, and, to prevent the misinterpretation of my motives I consider it proper to apprize you, that this movement is made solely to demonstrate the pretensions of the United States to the territory east of that river, and with no hostile intentions against the troops or realms of Spain.

This step has been rendered essential to the honor of the United States, by the late movements and occupancy of his excellency Governor Herrera, and it is also justified by the position which the troops of your excellency's command have recently taken, immediately on the western bank of the Sabine, sixty miles advanced of Nacogdoches.

I avail myself of a casual but certain conveyance to transmit this letter to your excellency, and I pray God to keep you in his holy protection for many years.

JAMES WILKINSON.

His Excellency ANTONIO CORDERO,
Commander in chief of the troops of Spain on the eastern frontier of the province of Texas.

9th CONGRESS.] No. 202. [2d SESSION.

GREAT BRITAIN.

COMMUNICATED TO CONGRESS, DECEMBER 3, 1806.

To the Senate and House of Representatives of the United States of America:

I have the satisfaction to inform you that the negotiation depending between the United States and the Government of Great Britain, is proceeding in a spirit of friendship and accommodation which promises a result of mutual advantage: delays, indeed, have taken place, occasioned by the long illness and subsequent death of the British minister charged with that duty. But the commissioners appointed by that Government to resume the negotiation have shown every disposition to hasten its progress. It, is however, a work of time; as many arrangements are necessary to place our future harmony on stable grounds. In the mean time, we find, by the communications of our plenipotentiaries, that a temporary suspension of the act of the last session, prohibiting certain importations, would, as a mark of candid disposition on our part and of confidence in the temper and views with which they have been met, have a happy effect on its course. A step so friendly will afford further evidence that all our proceedings have flowed from views of justice and conciliation; and that we give them willingly that form which may best meet corresponding dispositions.

Add to this that the same motives which produced the postponement of the act till the 15th of November last, are in favor of its further suspension: and as we have reason to hope that it may soon yield to arrangements of mutual consent and convenience, justice seems to require that the same measure may be dealt out to the few cases which may fall within its short course, as to all others preceding and following it. I cannot therefore but recommend the suspension of this act for a reasonable time, on considerations of justice, amity, and the public interests.

TH: JEFFERSON.

DECEMBER 3, 1806.

9th CONGRESS.] No. 203. [2d SESSION.

GREAT BRITAIN AND FRANCE.

COMMUNICATED TO CONGRESS, ON THE 19TH OF FEBRUARY, 1807.

FEBRUARY 19, 1807.

To the Senate and House of Representatives:

I transmit to Congress a letter from our ministers plenipotentiary at London, informing us that they have agreed with the British commissioners to conclude a treaty, on all the points which had formed the object of their negotiation, and on terms which they trusted we would approve.

Also a letter from our minister plenipotentiary at Paris, covering one to him from the Minister of Marine of that Government, assuring him that the imperial decree lately passed was not to affect our commerce, which would still be governed by the rules of the treaty established between the two countries.

TH: JEFFERSON.

LONDON, *December* 27, 1806.

SIR:

We have the pleasure to acquaint you that we have this day agreed with the British commissioners to conclude a treaty on all the points which have formed the object of our negotiation, and on terms which, we trust, our Government will approve. It will require only a few days to reduce it to form. When that is done, we shall transmit it to you by a special messenger. We hasten to communicate to you this interesting intelligence, for the information and guidance of our Government, in such measures as may have reference to the subject.

We have the honor to be, &c.

JAMES MONROE,
WM. PINKNEY.

JAMES MADISON, *Secretary of State, Washington.*

PARIS, *December* 24, 1806.

SIR:

I have the honor of transmitting the copy enclosed of a letter from His Majesty's Minister of Marine and Colonies, in answer to mine of the 10th instant, on the subject of the imperial arrêt of the 21st of November, 1806.

An additional explanation which it may be well to communicate is, that neutral vessels coming from England or her colonies into the ports of France, &c. since the date of the aforesaid arrêt, will not be received; and that if any person or persons, charged with the ship, or other vessel, and cargo, shall be detected in evading this regulation, by means of *false declarations*, they shall forfeit the said ship, or other vessel, and cargo.

I am, sir, &c.

JOHN ARMSTRONG.

Mr. MADISON, *Washington.*

General Armstrong to the Minister of Marine and Colonies.

PARIS, *December* 10, 1806.

The undersigned minister plenipotentiary of the United States of America has the honor of demanding from his excellency the Minister of Marine and Colonies the official explanation which may have been given to the imperial decree of the 21st November, 1806, so far as that decree involves the rights of neutral nations.

The undersigned would more particularly wish to be informed, whether by "British islands," mentioned in article one, are to be understood *all islands* in the possession of His Britannic Majesty, and *islands merely*, or, whether the rule will be so construed as to extend the blockade to the continental possessions also of his said Majesty?

Whether it be meant that the arrêt shall operate from its date, and that seizures made under it, before notice shall have been given, shall be considered legal?

Whether American vessels, navigating the high or narrow seas, shall be liable to seizure, on evidence only that they are going to, or returning from, a port or ports of His Britannic Majesty?

And whether the articles two and five shall operate only as domestic regulations, or whether their injunctions shall extend to citizens of foreign and independent nations?

His excellency the Minister of Marine is sufficiently aware of the interest of the United States in the interpretation which shall be given to those articles, and will readily and justly appreciate the motives of the undersigned, in requesting that his excellency's answer may be given as promptly as possible.

The undersigned has the honor of renewing, &c. &c.

JOHN ARMSTRONG.

[TRANSLATION.]

The Minister of Marine and Colonies to the Minister Plenipotentiary of the United States.

PARIS, *December* 24, 1806.

Mr. MINISTER PLENIPOTENTIARY:

I hasten to answer the note you did me the honor to address to me on the 10th of this month.

I consider the imperial decree of the 21st of November last as, thus far, conveying no modification of the regulations at present observed in France, with regard to neutral navigators, nor consequently of the convention of the 30th of September, 1800, (8th Vendemiaire, 9th year,) with the United States of America.

But although, by this answer, the four questions upon which your excellency has desired to know my opinion have been implicitly resolved, I think I can add,

1st. That the declaration expressed by the first article of the decree of the 21st November, not at all changing the present French laws concerning maritime captures, there is no reason for inquiring what interpretation, or restriction, or extension, may be given to this article.

2d. That seizures, contrary to the present regulations concerning cruising, shall not be allowed to the captors.

3d. That an American vessel cannot be taken at sea, for the mere reason that she is going to a port in England, or is returning from one; because, conformably with the seventh article of the said decree, we are limited in France not to admit vessels coming from England or the English colonies.

4th. That the provisions of articles second and fifth of the said decree, naturally apply to foreign citizens domiciliated in France, or in the countries occupied by the troops of His Majesty the Emperor and King, inasmuch

as they have the character of a general law; but, that it will be proper that your excellency should communicate with the Minister of Exterior Relations as to what concerns the correspondence of the citizens of the United States of America with England.

I pray your excellency, Mr. Minister Plenipotentiary, to receive the assurance of my high consideration.

The Minister of Marine and of the Colonies,

DECRES.

It will not escape General Armstrong, that my answers cannot have the development which they would receive from the Minister of Exterior Relations, and that it is naturally to him that he ought to address himself for these explanations, which I am very happy to give him, because he wishes them, but upon which I have much less positive information than the Prince of Benevento.

DECRES.

[TRANSLATION.]

Imperial Decree of the 21st November, 1806.

ART. 1. The British islands are declared in a state of blockade.

ART. 2. All commerce and correspondence with the British islands are prohibited. In consequence, letters or packets, addressed either to England, to an Englishman, or in the English language, shall not pass through the post office, and shall be seized.

ART. 3. Every subject of England, of whatever rank and condition soever, who shall be found in the countries occupied by our troops, or by those of our allies, shall be made a prisoner of war.

ART. 4. All magazines, merchandise, or property, whatever, belonging to a subject of England, shall be declared lawful prize.

ART. 5. The trade in English merchandise is forbidden; all merchandise belonging to England, or coming from its manufactories and colonies, is declared lawful prize.

ART. 6. One half the proceeds of the confiscation of the merchandise and property, declared good prize by the preceding articles, shall be applied to indemnify the merchants for the losses which they have suffered by the capture of merchant vessels by English cruisers.

ART. 7. No vessel coming directly from England, or from the English colonies, or having been there since the publication of the present decree, shall be received into any port.

ART. 8. Every vessel contravening the above clause, by means of a false declaration, shall be seized, and the vessel and cargo confiscated, as if they were English property.

ART. 9. Our Tribunal of Prizes at Paris is charged with the definitive adjudication of all the controversies which may arise within our empire, or in the countries occupied by the French army, relative to the execution of the present decree. Our Tribunal of Prizes at Milan shall be charged with the definitive adjudication of the said controversies, which may arise within the extent of our kingdom of Italy.

ART. 10. The present decree shall be communicated, by our Minister of Exterior Relations, to the Kings of Spain, of Naples, of Holland, and of Etruria, and to our allies, whose subjects, like ours, are the victims of the injustice and the barbarism of the English maritime laws. Our Ministers of Exterior Relations, of War, of Marine, of Finances, of Police, and our Postmasters General, are charged, each in what concerns him, with the execution of the present decree.